

FBI LAW
ENFORCEMENT
BULLETIN

SEPTEMBER 1982

Nuclear Security

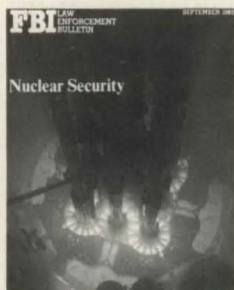


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SEPTEMBER 1982, VOLUME 51, NUMBER 9

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**Federal Bureau of Investigation
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Crime Problems

**"The past 30 years
have shown that one of
man's most awesome
technologies
—atomic energy—
can blossom among
the oldest of nature's
developments
—sagebrush and lava
rock. . . ."**

By
HAROLD J. ARGYLE
*Director
Safeguards and Security
Department of Energy
Idaho Falls, Idaho*

Nuclear Security in a Sagebrush Environment



Mr. Argyle

Even to the untrained eye, the stagecoach trails are still visible. Yet, a short sagebrush-covered distance away is a nuclear reactor complex where electrical power is being generated from a liquid metal-cooled breeder reactor. This is a facility where unused, highly enriched U-235 nuclear material used in the nuclear Navy is being chemically separated and concentrated from "spent fuel elements" behind massive barriers of metal, earth, water, and concrete and where irradiation effects experiments, which would normally take years to accomplish, are being conducted on materials in days to weeks in a test reactor. The antelope, rabbits, coyote, eagles, rattlesnakes, and a myriad of other large and small animals and birds, along with grazing cattle and sheep, continue their unending quest for existence with hardly a second glance to these additions to their environment. They are oftentimes seen grazing along the fence or even on the lawns of the reactor and support facilities. An environmental park designation permits these animals and birds to continue this unusual, but totally compatible, paradox, with little inconvenience. Some sage grouse are tagged with red-wing ribbons to study their migration, and instrument collars are put on a few antelope and coyote to record their travels and locate their dens. Continuing studies have revealed how well the animals have adapted to this altered environment. As hazardous as this nuclear laboratory environment may seem, the biggest danger to the animals are the vehicles driven by site employees.

The Idaho National Engineering Laboratory (INEL) was established by the Federal Government in 1949, on the Snake River Plain between Idaho Falls and Arco, Idaho. Occupying a land mass of 270 square miles, it was first known as the National Reactor Testing Station and was specifically selected as a remote location where new kinds of nuclear reactors could be built and tested without jeopardizing any major populated areas. Atomic reactors were a new technology, and such an isolated and large land area was desirable as a safety precaution for operating new design reactors. Success of the program is evidenced by the fact that initially, no more than four or five reactor facilities were scheduled to be built. Today, 33 years later, of the 52 reactors at INEL, only 15 are still operable. The others have been shutdown and phased out of their research missions. Many of their components have been "cannibalized" for use in new projects or for maintenance or modifications to existing ones. There have been more nuclear reactors and more different types of reactors built at the INEL than in any other place in the world, involving some of the most advanced research programs known to mankind. The significant engineering and scientific achievements and breakthroughs are numerous and are recognized worldwide. In 1966, President Johnson dedicated the first reactor facility built at the INEL as a historical landmark because it was the first in the world to generate electricity.

The relatively flat, remote location of the Snake River Plain was ideal for the necessary security precautions. The primary reasons for selecting this area were the existing headquarters

area, a railhead, a Marine barracks, and Navy housing. These facilities supported a Navy program to test fire newly relined 16-inch gun barrels from the U.S. fleet battleships during World War II. Several years later, additional desert land was acquired to provide the testing "buffer" for the INEL nuclear facility until the present total of 890 square miles was involved.

The initial security program needed to protect various kinds and types of reactors was similar to that required for the protection of both classified documents and materials. This required well-trained guards, 8-foot chain link fences with barbed wire selvage to define the operating area perimeters, security lighting, guard-controlled entrances, picture identification badges (to indicate authorized access and any limitations of such access), combination-locked repositories, safes and vaults for storage and key control, alarm systems, and special vehicles. Idaho also had clearance program requirements to verify that permitting access to the classified matter would not endanger the common defense and security. Security education programs were designed to keep employees constantly aware of their responsibilities and the potential consequences of straying from policies and procedures. Document controls required marking, storage, accounting, transmitting, and destruction procedures. We also had a general administrative security program to control the entire INEL land mass (exclusive of the individually fenced reactor areas) for employee and government property controls, area overflights, and contraband, etc. Access within our boundaries off the public thoroughfares was limited to "official business," and all

persons were required to have an identification device issued by the Department of Energy (DOE) security to verify this fact. All of these procedures are still in effect.

The isolation of the testing site has been dramatically reduced by the availability of helicopters and all-terrain vehicles, including trail bikes and snowmobiles. Also, many of the programs that were highly classified in the 1950's have been declassified. The "Atoms for Peace" program shared many of our previously "secret" technologies, including the special nuclear materials used in the reactor operations, with not only private U.S. interests but also with international concerns.

Today, unless the fuel is in a classified configuration or is still associated with a classified program, it is unclassified. Because of the strategic importance of this material, security procedures often exceeding those required for classification have been initiated. It is painfully evident that there are elements in our worldwide society who will pay almost any price or go to any length to obtain this material. Possession of this material by malevolent and irresponsible persons could be catastrophic—entire nations could be held at ransom or blackmailed.

Accordingly, security programs have undergone dramatic upgrading during the past few years. A combina-



Not too friendly citizen



V-100 (war wagon) used by response officers

tion of multiple barriers and fencing is used, and improved alarms and lighting, together with closed-circuit TV, provide improved assessment capabilities. To minimize the unauthorized introduction of prohibitive items or removal of nuclear material, highly sophisticated personnel monitoring and X-ray equipment have been installed to check employees and their lunch boxes, briefcases, etc., when they enter or leave work or material access areas. Plant entrance guardhouses, communications centers, and monitoring control locations are being "hardened" to ensure a secure and uninterrupted operation. Computerized access controls using key card systems record all accesses for emergency situations, as well as for information and investigative purposes. They also permit a more positive control to authorized areas for a given employee and those periods of the day such access is permitted. Two-man rules are enforced, and additional background clearance investigations are being made on employees who use, control, or protect nuclear material, and on employees, such as guards and reactor operators, whose work assignments require the utmost confidence. Alarm systems involving

the latest "state of the art" are replacing older models to improve coverage and ensure operation under all conditions. Guard forces are receiving intensive training in the use of special weapons, special armored vehicles, night vision devices, and technical communications equipment. Vaults are being upgraded to better protect material and control access. In general, while protection and control of classified matter is still a major concern, the basic thrust is now toward nuclear material protection, and we're making it as tough and as costly as possible for someone to gain unauthorized access.

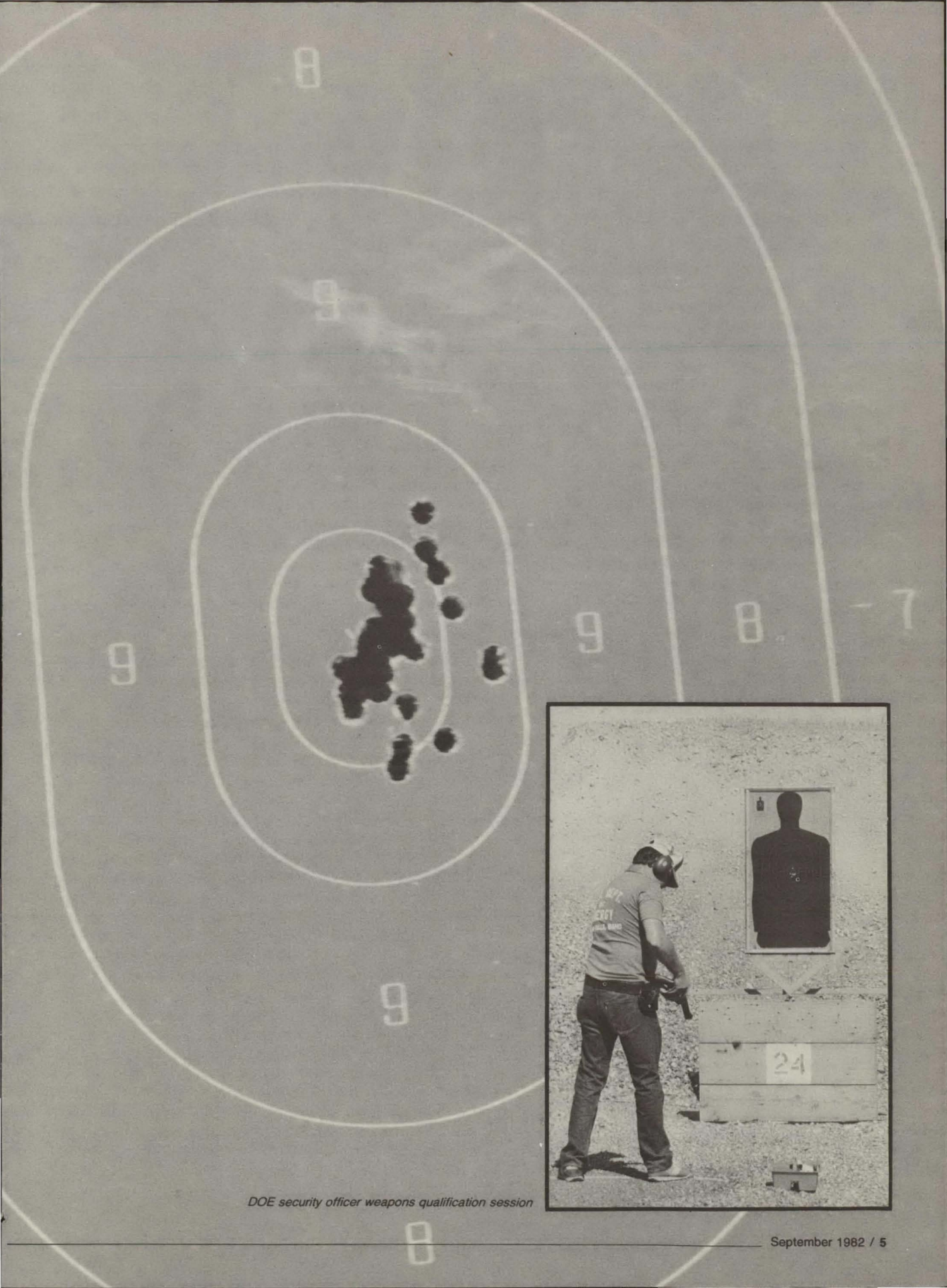
Administrative security problems have also increased. With approximately 8,800 operational and construction people now on site, we experience the same common thefts, misuse of property, traffic problems, etc., as most municipal and county law enforcement organizations. "Antinuclear" activities, while not yet a major problem, are also increasing.

The "isolated" INEL location has also provided a few unique problems in the area of administrative security controls. For instance, there is a security problem with hang gliders being both an unauthorized air flight over our property and the glider operators being unauthorized entries. The big Southern

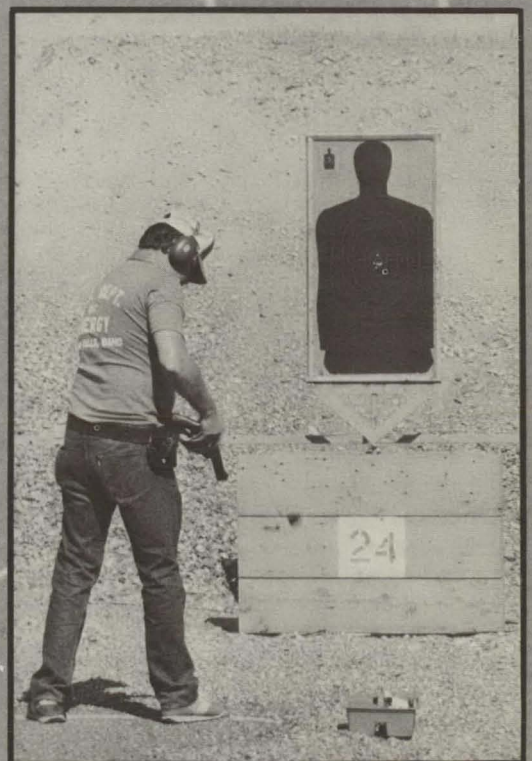
Butte, adjacent to the south boundaries of the INEL, is sometimes used as an excellent launching point by hang glider pilots, and it has not been uncommon for the INEL guard forces to stop several friends of a glider pilot who was last seen going "up" over INEL property. Indians from various tribes also have been apprehended in the area, exercising what they consider to be tribal treaty rights to hunt antelope and other animals.

Both contract and DOE uniformed forces are involved in the INEL security program. Generally, the contractor guards control access within the individual plant facilities, while the Federal force is responsible for the control of the entire land mass outside of the individually fenced reactor plant areas and is responsible for backup or emergency response to any facility. As a result, the Federal forces are specifically trained in Special Weapons and Tactics (SWAT).

The INEL falls within the provisions of the State of Idaho emergency plan. The Idaho State Police are called upon for assistance when a situation is beyond control of the onsite forces. With their authority for deputization, we depend heavily upon them as a major source of emergency assistance. The FBI also responds to emergencies.



DOE security officer weapons qualification session





Warning Communications Center (WCC) Control Panel

The DOE response officers work a 4-platoon industrial work schedule. All must meet rigid physical qualifications, and some officers are subject to psychological testing as a means of ensuring their capabilities to react under hostile conditions. All response officers are armed with a .357-caliber handgun as their personal weapon with which they must qualify annually.

In addition, response officers must qualify with 12-gage riot guns, M-16 rifles, 37-mm. gas launchers, .30-caliber machineguns (mounted both on emergency vehicles and land ground mounts), and the American 180 .22-caliber laser beam sighted machinegun. Soon, these officers will use M-60 and .50-caliber machineguns on both vehicle and ground mounts. Each officer also carries mace and a 3-frequency radio on the security net. In addition to firearms training, officers also receive instruction in public relations, report writing, first aid, and laws of arrest, as well as special radiological monitoring and emergency response requirements. The DOE force is deputized in the Idaho State Police to permit enforcement of State traffic regulations on our site roadways, trespass laws, etc. There are five separate Idaho

counties involved in the INEL land mass, and violators of non-Federal laws are normally sent to the county seat where the arrest or citing occur.

Another vital part of the INEL operations and security program is a Warning Communications Center. This center, operated around-the-clock by DOE-IE Federal uniformed personnel, is considered the nerve center of the Idaho Operations Office during any emergency situation. Those responsible for the site actions during severe weather, fire, flood, radiological or industrial incidents, civil disturbance or national defense emergency report to this emergency center to assume control. The center monitors and controls 19 radio nets and can "tie" any or all together as necessary. They have State police, city police, State Highway Department, National Warning System (NAWAS), and Radio Amateur Civil Emergency Service (RACES) monitoring the radio capabilities and all communications to the center can be recorded.

Extensive employee lists are maintained along with lists of agencies to be notified in event of an incident or emergency. Personnel at the center assist by calling wreckers, ambulances, employers, etc., in case of an accident.

The FBI was woven into the tapestry in the INEL security program from the beginning. Until the last few years, the Bureau performed all of the background investigations for our clearance program. The Office of Personnel Management now provides these for the less than critically sensitive positions—the critically sensitive positions still remain a Bureau responsibility. The Bureau has also provided valuable assistance in investigations of government property thefts, suspected sabotage, and other violations of Federal law, along with training for emergency response and SWAT training.

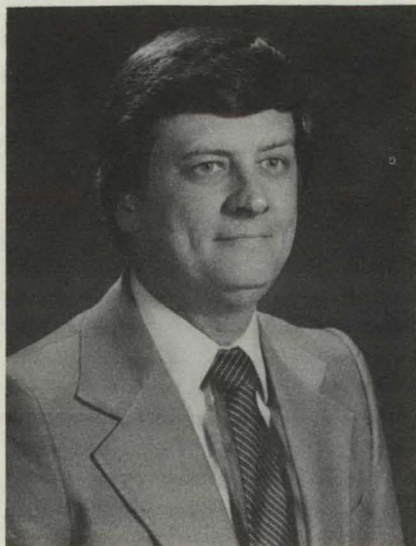
The past 30 years have shown that one of man's most awesome technologies—atomic energy—can blossom among the oldest of nature's developments—sagebrush and lava rock—in a most unusual but surprisingly compatible environment. While the responsibility for INEL programs has evolved from the Atomic Energy Commission, to the Energy Research and Development Administration, to the Department of Energy, and very probably to some other Federal entity within the next year, some things remain constant: The new bloom of sagebrush each spring, a new supply of coyote pups and antelope fawns, and the phasing out of certain nuclear programs and the development of new ones.

FBI

Family Therapy in Law Enforcement

A New Approach to an Old Problem

By
JAMES T. REESE
*Special Agent
Behavioral Science Unit
FBI Academy
Quantico, Va.*



Special Agent Reese

Much has been written about the law enforcement occupation. The stress of being a police officer has been researched and the major stressors identified.¹ Just as these various stressors affect the officer, they can subsequently impact upon the family as well.² All families have plans for achieving certain goals. Family therapists Kantor and Lehr define these family plans or strategies as "a purposive pattern of moves toward a target or goal made by two or more people who are systematically bound in a social-biological arrangement."³ The family of a police officer is no exception. In many instances, the law enforcement occupation can upset, alter, or destroy this family strategy. It is important, therefore, to view the family as a whole, to consider the police officer (husband/father or wife/mother) as a part of this whole, and to consider the timeliness and usefulness of family therapy for the police family.

The Police Family

While the police family has been the subject of numerous written works, family therapy has not yet surfaced or been suggested as a possible remedy for problems within the police family. Increasingly, Americans are becoming aware that the family in America is changing.⁴ Institutions such as schools and churches, which once had substantial influence on adults and children alike, are often no longer revered by either. The influence of these traditional institutions appear minimal, at best. There are those who even believe that the family, as we know it, is not just changing, but disappearing.⁵

Society has not totally ignored this changing character of families. Special groups, such as Alcoholics Anonymous, drug rehabilitation centers, and homes for unwed mothers, are attempting to save families by helping to solve family problems. Based solely on the vast number of these groups and the large size of their clientele, however, it seems that just treating symptoms and reacting to the tragedies of individuals is not enough. For many, perhaps all family members seeking help, their symptoms have a meaning only when considered in the larger context of the entire family.

Police families differ in makeup as much as any other family. Thus, there is no stereotypic police family. Efforts have been made, however, to determine whether there is a stereotypic police officer. Dr. Michael Roberts, Director of Psychological Services, San Jose, Calif., Police Department, has determined in his studies that the majority of male officers are only sons or first-born sons. His theory of the stereotypic male officer revolves around the concept of "responsibility absorption" behavior; that is, the only or oldest son is always given the responsibility to "look after things" in the father's absence. As early as age 5, the son may be told, "Take care of mom while I'm gone."⁶ It has long been recognized that as adults, people recapitulate experiences they had as children.⁷

Dr. Martin Reiser, Director of the Los Angeles, Calif., Police Department's Psychological Services, is a pioneer in the field of police psychology and police stress. Reiser contends that there is an inculturation process in police academies which "shapes" young officers. In essence, he states that recruits learn more than just skills for policing. They also learn behavior

"Family therapy is a new and different concept which takes into account the philosophy and orientation of the human condition in a family context."

and attitudes in keeping with the police image. Still later in their careers, they succumb to the "John Wayne Syndrome," which leads officers to exhibit "macho" behavior, lose sensitivity for the public they serve, and become very authoritarian.

As there are some definable officer traits and stresses, so are there comparable family experiences and stresses which are stereotypic to police families. Police work continually calls upon the resources of all family members. The wife resents the term "pig" and defends her husband's career in the face of all odds. The daughter worries about returning home late from a date because she knows her dad, "the cop," will be waiting to interrogate her boyfriend. The 14-year-old son's friends dare him to sneak into a circus, telling him he won't because his dad is a policeman. Thus, the officer's job comes home regardless of his efforts to leave the problems of the day at work. And when the stress of the officer's job gets to be excessive, help is in order for the entire family.

Psychotherapy has long been the suggested remedy whenever any member of a family experiences mental difficulties. Sigmund Freud, the father of psychotherapy, emphasized certain types of expression in mental illness, such as intrapsychic events, defense mechanisms, conflict, and the subconscious. Although psychotherapists since Freud have varied in their approaches, the theme continues to be treatment of the *individual*. Family therapy is a new and different concept which takes into account the philosophy and orientation of the human condition in a family context.

In a traditional psychotherapeutic approach, the person designated as the "patient" begins therapy sessions with a mental health professional, i.e., psychiatrist, psychologist, or other counselor. Unfortunately, however, the patient may only present to the doctor selected behaviors from his environment. Behavior does not occur in a vacuum.

Mental health professionals are now beginning to look at the family as a system and as an extremely influential variable in the behavior of individuals. Law enforcement is also beginning to view its officers in the family setting. Although an integral part of any law enforcement agency has long been thought to be the individual police officer, this concept has undergone some modification in the recent past.⁸

The FBI has taken significant steps through its psychological services program to view the working unit in the Bureau on more than just an individual basis. Rather, the Agent and his family are of group importance.⁹ Instituting this concept and attempting to apply it on a national level is a formidable task. It necessitates that the needs of the Bureau be met in conjunction with family considerations whenever feasible. It is a progressive and challenging step.

Family therapy views the family as a system in which each member is an integral part of the functioning whole. The family system has been defined as an organizationally complex, open, adaptive, information-processing system.¹⁰ In family therapy, the focus is not so much on the relationship between the therapist and the patient, but rather

on the relationships between the various members of the family. Because the symptoms are viewed as byproducts of relationship events, the processes within the family unit become of paramount importance.

Human beings are products of their environments. It seems logical, therefore, that no other environment would have greater impact on an individual than the family. When problems arise, whether mental, behavioral, or emotional, it seems wise to treat the environment—the family—not merely the one who exhibits the behavior. After all, in the final analysis, the individual will eventually have to return to the system.

It would be worthwhile, therefore, for police departments to consider the option of family therapy. Numerous departments now have in-house psychological services programs; other departments have mental health professionals on call. These services are accessible, by choice, to officers who believe they are in need of help. There are also specific instances when an officer may be ordered to have a session or sessions with a psychologist or psychiatrist. These sessions are usually mandatory when an officer has been traumatized in conjunction with his job. He may be experiencing trauma or survivor's guilt, or his behavior and/or decisionmaking may have been challenged regarding his suitability to continue his career in law enforcement. Some of these same departments have realized the effects of the police profession on officers' spouses. Many departments have spouse programs which provide special instruction in the unique stresses of police work.¹¹ Since

"Continually existent stressors, such as role conflict and role ambiguity, affect the officer."

many departments already have some psychological services available, it would be advisable to consider expanding services to incorporate family therapy.

Officer Trauma

The following scenario provides an example of how the family therapy concept can work. While based on purely fictitious events, occurrences of this type are not uncommon to law enforcement in America.

John Lewis is a police officer. He has been on the force for 14 years, is 35 years old, has been married for 17 years, and has two children, Mark, 14 years old, and Alice, 16 years old.

One particular evening, not unlike any other evening on the traffic detail, Officer Lewis observed a car with a rear red lens missing. He pulled the vehicle over, got out of his patrol car, and began to approach the other car. The vehicle appeared to be occupied by two males. It was dark—10:05 p.m.—and further identification was not possible during his approach. When Officer Lewis was approximately 10 feet from the vehicle, the driver brandished what appeared to be a small handgun. Lewis, out of options, drew his service revolver and fatally wounded the driver. He then arrested the other male and called for assistance.

Officer Lewis remained at the scene for approximately 90 minutes, during which time he was questioned extensively by the backup unit. He was then ordered to return to the department, where he was again questioned, once by the homicide unit, in the event it was a "bad shooting" and thus prosecutable, and once by the internal affairs unit to determine whether Lewis had acted within departmental guidelines.

Following this grueling experience, Lewis was sent home. With him went the memory that for approximately an hour he stood by the man he killed. He also believes that the department is no longer supportive of him. Rather, it appears to be seeking his indictment in order to avoid vicarious liability. The impact of such an event on an officer can be devastating. In only some departments will he see a mental health professional before his release. But the impact does not end there. The effects on the family may be even greater. One part of the family system has undergone some serious alterations; in systems theory, the entire family system will be affected.

Communication may be one of the first areas of the family system that is affected. Consider the case of Officer Lewis. Communication in his family may be nonexistent at this point. Lewis has told the story so many times, he is tired of it. He does not care to sit down with his wife or other family members to discuss it. The media floods the airwaves with their version of what happened or what their sources say happened. This may be the only version the family hears. The phone begins to ring at the officer's home. Callers include other officers offering congratulations, friends seeking the story firsthand, and friends of the deceased saying "we'll get even." Thus, this event has had an impact on the entire family. While the officer may be offered assistance, the family is typically ignored.

"Obviously many of the job stressors from within and outside the organization impinge not only on the officer, but also on his wife and family."¹² Many officers make the decision not to communicate the details of their job to their families. They believe that only another officer can understand what they are experiencing or feeling. A comment by Virginia Satir is therefore relevant. She states that it is impossible to *not* communicate. In fact, she places the spoken word toward the bottom of the list of effective ways to communicate.¹³ Thus, even silence or the withdrawal or isolation of an officer is powerful communication and has great influence upon the family system.

It is not necessary for an officer to be involved in something as serious as an armed confrontation for this lack of communication to occur. Officers are confronted daily with frustrating situations and untold departmental pressures. "These pressures affect their relationship with their wives and children as well as the difficulties subsequently encountered."¹⁴ Continually existent stressors, such as role conflict and role ambiguity, affect the officer. Due to the paramilitary structure of the police profession and the inculturation process to which the officer has been subjected, there is no place on the job to vent anger or show pain. When anger is vented on the job, it is occasionally aimed against the public the officer serves or is in the form of a "grumble session" over a cup of coffee with fellow officers. These officers are just a few steps closer to succumbing to burnout.

"Because there is no place at work to disperse the anger and frustration of the job, it is often carried home, and the wife and family may 'get it' without provocation. After a rough day, an officer may arrive home and snap at

his wife because she is the first one to greet him."¹⁵ Murray Bowen, a noted family therapist, refers to this type of activity within a family as "triangulation."¹⁶ He notes that the pressure need not be from an external source but can be created within the family configuration. The best-known triangle is that of the husband/wife/mother-in-law. Using this same concept, the job can become the third corner of the triangle, along with the husband and wife. It is not unthinkable that the husband, due to lack of support and positive reinforcement at work, will unnecessarily scold his children. He may merely be attempting to determine whether his wife is supportive. Thus, he scolds his children and looks to his wife to see if she will support him or counter his efforts. Usually, no one in this family is aware that the purpose of this intense triangulation is to gain support, not to punish the children. Family therapy clarifies this issue.

In all these situations, the family must be viewed as a system. Systems of all kinds work on an "input-output" basis. If, as in the earlier example, the output, or behavior, is a shooting, it is not a solved problem if, through therapy, only the officer's feedback is clarified and subsequent input is altered. Family therapy ensures that all the parts are informed and gets the *process* back into synchronized movement.

Systems have homeostasis (staying power), communication between parts, and a circulating feedback mechanism. They must all work together in balance and harmony. The therapist in family counseling is a facilitator assisting the family in resolving differences, clarifying issues, solving problems, and taking the pressure off the

"identified patient." In this sense, the therapist is a coach—one who keeps the clients from getting caught in an emotional system that assigns blame or guilt.

It is important to note that while the concept of family therapy is somewhat consistent, the various therapists engaged in this field of practice have varying opinions and individual styles. Much like the many forms of psychotherapy, family therapies differ. While some therapists will deal with the husband and wife,¹⁷ others will include the children and any other adult significant to the family.¹⁸ The concept is innovative—the first "whole family" treatment was only in the mid-1950's—therefore, more changes can be expected.

Conclusion

Families are significant systems of paramount importance to individuals. The family system should be balanced and a state of homeostasis should be maintained.¹⁹

Regardless of the style of therapy, the importance lies in the fact that the *family*, not just an individual in the family, is treated. This concept of therapy has very special applicability for dealing with stress within the police family.

"Change is inevitable, but the radical changes are behind us and not ahead of us. We now possess a family system congruent in many ways with our urban-industry society."²⁰ Efforts must continue to be focused on the police family as a system, for this is the environment in which we all live and find our greatest support.

FBI

Footnotes

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INCERT

The Citizen/Police Connection

By
1st SGT. KENNETH L.
HOLLINGSWORTH

*Indiana State Police
Indianapolis, Ind.*





First Sergeant Hollingsworth



*John T. Shettle
Superintendent*

During the height of a recent snowstorm that reached blizzard proportions, the post commander of a northern Indiana State Police district received a telephone call from an obviously frightened young woman. She explained that she desperately needed assistance—she was in labor. Knowing that a trooper could not get to the residence in a patrol vehicle, the post commander informed her that two civilians operating a four-wheel drive vehicle would render her assistance. He further explained that her rescuers would identify themselves by showing identification cards with the word "INCERT" imprinted on them. They arrived a short time later, properly identified themselves, and placed her in a four-wheel drive vehicle. Enroute to the hospital, the woman noticed that one of her rescuers was using an amateur 2-meter hand radio to tell someone at the State police post that she had been picked up and to give their estimated time of arrival at the hospital. As the woman was going inside the hospital, she noticed hospital emergency personnel disembark from two more four-wheel drive vehicles.

Twenty minutes after her safe arrival at the hospital, the patient gave birth to a baby daughter. The new mother recognized one of the attending nurses as one of the persons who had gotten out of a four-wheel drive vehicle when she was arriving at the hospital. If she had inquired further, she would have discovered that the 3 four-wheel drive vehicles were part of a group of 18 that had been rendering service that morning to citizens in need. The vehicles were used to deliver emergency personnel and patients to local hospitals, pickup and deliver food and medicine, and rescue stranded motorists, taking them to National Guard Armories and Red Cross shelters.

These 18 four-wheel drive vehicle operators had three things in common. They were dedicated, responsible citizens who wanted to assist others, they belonged to organized four-wheel drive vehicle clubs, and they were all working with the Indiana State Police and other agencies in the area as part of "INCERT"—the Indiana Council of Emergency Response Teams.

The birth of INCERT occurred immediately after the great blizzard of January 1978, which blanketed Indiana. As in other States, the Indiana State Police had difficulty in coping with the demands that were created by the magnitude of the blizzard. The department, along with other Indiana enforcement agencies, attempted to respond to the crisis by committing all available resources. However, there were not enough officers to answer the thousands of calls for assistance, and many of our personnel were further limited by their inability to get out of their own driveways. Thus, the Indiana State Police found itself unable to respond in an emergency situation as it should have because of a basic lack of preparation in the areas of interagency communications, transportation, equipment, and personnel. Our salvation was the hundreds of citizen volunteers who managed to get through jammed telephone lines at all 19 State police districts and into local law enforcement and other emergency response agencies to offer their assistance. This assistance generally came from existing organized civilian clubs, such as four-wheel drive vehicle clubs, amateur and citizens' band radio organizations, and snowmobile organizations. With the invaluable assistance of these groups, we were able to survive the crisis.

"INCERT is the statewide establishment of a giant spiderweb of people, communications, and transportation directed toward reacting to and resolving emergency or situational problems that may arise."

After the 1978 blizzard, the Indiana State Police recognized the need to address three basic areas in attempting to deal with such emergencies. First, there was difficulty in meeting service demands—gone was the idea that we could handle any such situation without assistance. Second, all response organizations needed to get together to formulate a unified response plan. Third, the blizzard had revealed the outstanding capabilities to assist law enforcement already existing within the volunteer citizen organizations.

In light of the proven benefits of working with such individuals and organizations, it was decided that the department should attempt to organize and coordinate the activities of the many citizens' groups that had the capability of offering their services, equipment, facilities, and expertise during a time of crisis.

Officers in the northwest section of the State had already established a very positive working relationship with various volunteer groups. It was possible that their accomplishments in organization and development might serve as the prototype for the proposed State program. In October 1977, they formed a civilian volunteer group to work with their officers in providing emergency services. They first sought to establish contact and rapport with various citizens' band (CB) radio clubs which could perform an "eyes and ears" service in reporting traffic problems. This original contact with the CB clubs brought forth individuals representing other volunteer groups who wanted to participate. The result was

the establishment of a volunteer organization that worked with police personnel in the discharge of their emergency functions during the blizzard and the flooding of some of the rivers in the area. Prior to the blizzard, they had been formed into teams composed primarily of individuals from the four-wheel drive vehicle clubs, amateur radio groups, and CB organizations. Lines of communications which bypassed the use of the telephone had already been established, since telephone lines could be tied up during adverse conditions. A 2-meter band amateur radio base station, along with a CB base station, had already been installed at the local State police headquarters facility for use in emergency situations.

When the blizzard struck, one phone call from the district post commander to selected volunteer personnel started the ball rolling. Civilians owning four-wheel drive vehicles with CB radios picked up assigned amateur radio personnel who plugged 2-meter band radios into the cigarette lighters in the vehicles and proceeded to headquarters. Once there, predesignated amateurs and CB personnel manned their respective base stations within the post, while other "teams" proceeded to the homes of troopers who could not get their police cars on the road. These troopers used the now fully manned four-wheel drive vehicles to answer calls given them on the 2-meter band radio by the volunteers at the post, allowing them to provide police services that might otherwise have been impossible to provide.

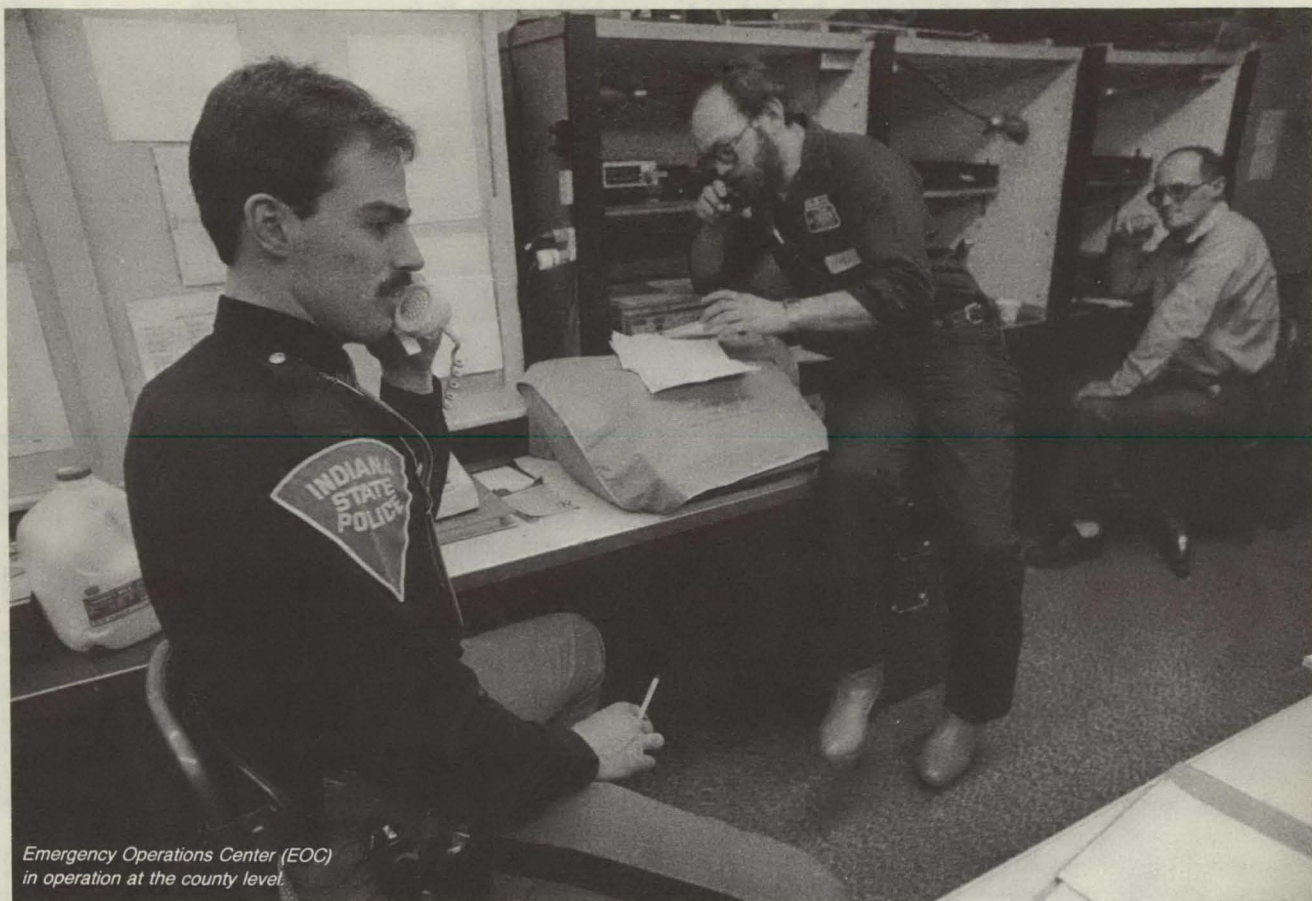
After consulting with the department's executive staff and reviewing the progress made at our test district, it was decided to expand the program statewide. The objective was to organize and coordinate the activities of CB

clubs, amateur radio clubs, four-wheel drive vehicle clubs, snowmobile clubs, flying organizations, volunteer fire departments, and any other citizen group willing to contribute their time.

In many instances, the participating organizations would be working very closely with representatives of the State Civil Defense Department. Under the guidelines of the Indiana Civil Defense Act of 1975, in the event of a proclaimed disaster, the organizations would function under the direction of this department. In such a situation, the volunteer organizations would be able to enhance the activities of the civil defense department.

INCERT can be viewed as an umbrella organization. It does not attempt to usurp the duties of existing groups or organizations already involved in local emergency response plans. Instead, it attempts to develop and coordinate their capabilities in order to work together to the advantage of all. INCERT has also sought to expand the horizons of the clubs to include not only local or county participation but also statewide involvement. By working together toward a common goal, each group is able to draw upon and complement the activities of the other groups, while at the same time, retain its own separate and distinct identity.

INCERT is the statewide establishment of a giant spiderweb of people, communications, and transportation directed toward reacting to and resolving emergency or situational problems that may arise. It is a citizen/police connection to be activated locally or throughout the State, when and where the services offered by the various citizen volunteer organizations involved are needed.



*Emergency Operations Center (EOC)
in operation at the county level.*

In terms of structure, INCERT is a civilian organization whose members interface with State and local governmental entities. Initially, State police personnel provided the administrative leadership for the operational activities conducted at the local level. Later, in an effort to further the organizational process and to enhance and solidify the development of the INCERT program as a true civilian entity, the program was incorporated under the laws of the State as a nonprofit corporation with a board of directors. This action served the dual purpose of promoting the desired unity in volunteer/governmental services for the citizens and allowed the organization to be in a position to accept legally offers of support and assistance in terms of materials and financing of INCERT operations.

The proposal to incorporate was presented to representatives of several of the civilian organizations already participating at the local level. These civilian organizations, all having statewide group affiliations, are now represented on the INCERT Board of Directors. The present board consists of representatives from the Indiana Volunteer Firemen's Association, the Indiana REACT Council, the American Radio Relay League of Indiana, the National Four-Wheel Vehicle Association, the Indiana Wing of the Civil Air Patrol, the Indiana Snowmobile Association, the State Office of Civil Defense and Emergency Management, and two persons from the Indiana State Police.

State police department personnel serve as a catalyst in providing the necessary coordination for communication between the administrative and operational levels of the program. The department's deputy superintendent for field operations serves as the program director. He, along with the depart-

ment's chief communications engineer, also represents the State police on the corporate board of directors. The INCERT State coordinator, located at general headquarters, functions within the operations section of the Enforcement Division. The department's Executive Division provides any necessary legal services required and responds to any liability considerations.

Emergency Operations Centers

Administratively, the Indiana State Police is broken down into five geographic "areas" in the field. In each of these areas, a trooper has been designated as the INCERT coordinator. The coordinator, part of the area command staff, is responsible for organizing and coordinating INCERT activities in his area. In most cases, each area is administratively responsible for four districts. At the district level, troopers and communications officers are selected, (generally one per county, and a district may have as many as eight counties) to

"Citizen volunteers are not police officers and should not exhibit any actions that would lead the general public to believe otherwise."

function as county INCERT liaison officers. These officers, in addition to their regular duties, have the added responsibility of being the liaison between district personnel, other law enforcement organizations, local governmental agencies, and the participating citizen groups. Typically, these officers, along with the area INCERT coordinators, have been instrumental in locating and establishing county emergency operations centers (EOC's) from which county INCERT activities are coordinated when activated. EOC's were developed to alleviate the lack of coordination between agencies that existed during the blizzard of 1978.

There is at least one EOC in each county. It is usually located in the local police department, sheriff's office, civil defense building, or volunteer fire department, although it could be any place where representatives of the various

governmental and civilian organizations can meet.

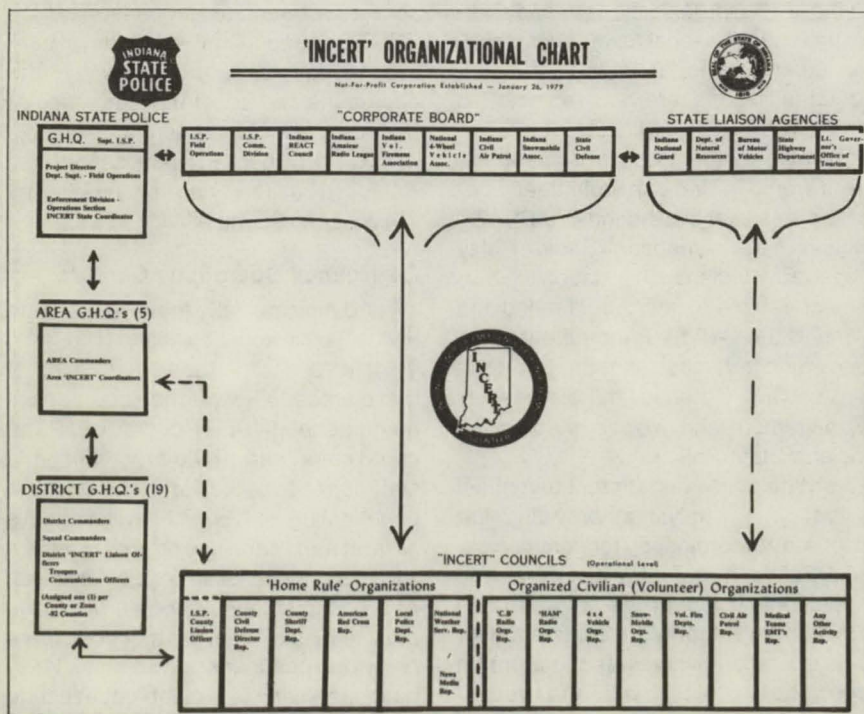
The three primary requirements to be met in choosing an EOC site are geographic location, availability to all involved groups, and suitable communications facilities already established or lending themselves to the placement of all necessary systems. Emergency electrical power and extra telephone facilities should also be available. Communication links should be established from all EOC's to their respective State police districts and other response agencies via CB and amateur radio equipment, which is usually donated to INCERT for use in the EOC's by the volunteer organizations or business and industry. During times of emergency, the media services in the area advise citizens to direct their requests for assistance to the EOC's. Requests received by the response agencies are also gen-

erally referred to the EOC's for action.

It is necessary that representatives from local law enforcement and other government agencies be alongside the trooper liaison officer to assist in the coordination and direction of INCERT activities. Ideally, the offices of the county civil defense, sheriff, local police, Red Cross, and perhaps the mayor and/or county council should be represented. Representatives from these offices, plus representatives from each of the civilian organizations, generally meet once a month, or as needed, to plan future service activities and prepare for possible emergency situations.

Identification cards are issued to all participating citizens and a master list of INCERT identification numbers is maintained. Each volunteer is assigned a different identification number which remains his as long as he remains in good standing within his club/organization and conforms to the criteria established by the board of directors and the bylaws of the corporation. An identifying symbol of participation in INCERT, such as a uniform logo on an armband, a hat patch, or a shield on their clothing or vehicle, indicates to the general public that they are participating in an INCERT operation under the authority of the Indiana State Police or other cooperating law enforcement agencies.

Citizen volunteers are not police officers and should not exhibit any actions that would lead the general public to believe otherwise. In many instances, though, they have performed traffic control or communication functions. In other instances, citizen volunteers have assisted in closing roads in the interest of motorist safety.



As a new group enters the program, an INCERT organizational survey is completed. This survey lists the name of the group, the State police district and county of origin, three "key contact" personnel within the group, individual names and social security numbers, INCERT identification numbers assigned each new member, and the various expertise and equipment that is available. This survey is completed in duplicate, with the original being kept at the appropriate area headquarters and a copy being kept at the district in which the new group is located. Updating such files allows a given area or district to determine what organizations are available to assist law enforcement in their respective regions of the State.

Since its conception in early 1978, INCERT volunteers have performed many valuable services while working with Indiana enforcement agencies and other governmental entities around the State. They have been activated numerous times to assist in severe weather emergencies, such as tornadoes when they have assisted in securing areas where homes and articles have been scattered. During flood emergencies, volunteers have loaded sandbags and assisted in the evacuation of victims driven from their homes. In the winter months when heavy snows have restricted movement on some of the major highways, the volunteers have rescued stranded motorists, taking them to shelters. They have delivered food and medicine and have transported emergency hospital and media personnel so their vital services could be maintained. They have also participated in certain activities geared toward promoting traffic safety and crime prevention.

On major holiday weekends, INCERT volunteers set up "travelers aid stations" at selected State rest areas in conjunction with the Indiana State Highway Department and the Department of Tourism. Coffee, cookies, and soft drinks are available to travelers as a safety wake-up. Those volunteers involved with amateur and CB radios establish their radio "net" at these sites to assist motorists who have become separated from fellow travelers by sending out "attempts to locate." Many amateur radio and CB volunteers have also assisted with the Indianapolis 500 for the last 4 years in keeping motorists with CB and amateur capabilities aware of traffic and crowd control conditions on the way to the track.

Volunteers have performed an "eyes and ears" service by witnessing and reporting criminal offenses. In many instances, these reports were made directly to our State police posts via amateur and CB radios. "Pumpkin patrols" have also been extremely successful the last 4 years in reducing vandalism from highway overpasses during Halloween. This again is a reporting service only. The volunteers do not stop citizens or vehicles engaged in suspicious activity—they simply report it. The mere presence of several vehicles with antennas in a neighborhood can act as a deterrent to criminal activity.

There have been several instances in which, under the close guidance and direction of sworn officers, INCERT volunteers have assisted in criminal investigations. Volunteers assist by searching for missing persons, stolen property, and evidence at crime scenes. At one homicide investigation, valuable evidence was located by INCERT personnel using their own metal detectors.

There are many different types of service INCERT volunteers are able to perform. These services can take many forms—emergency service, situation service, human service, and community service. Volunteers are probably law enforcement's greatest resource and are certainly the most cost-effective.

INCERT is the vehicle that has coordinated the activities of these organizations in the interests of public welfare. The flexibility of the program, the number of volunteers participating (over 16,000), and the diversity of the volunteer services lend themselves to something as normal as a few volunteers assisting with a local search-and-rescue mission to something of the magnitude of the blizzard of 1978.

The potential effectiveness of the INCERT program is unlimited in scope. There is every reason to believe that it will continue to play a very active and vital part in responding to conditional and/or emergency situations that may strike our State. It may also serve as a model for the rest of the Nation.

FBI

The Police Role in the Case of the Mentally Retarded Child

By

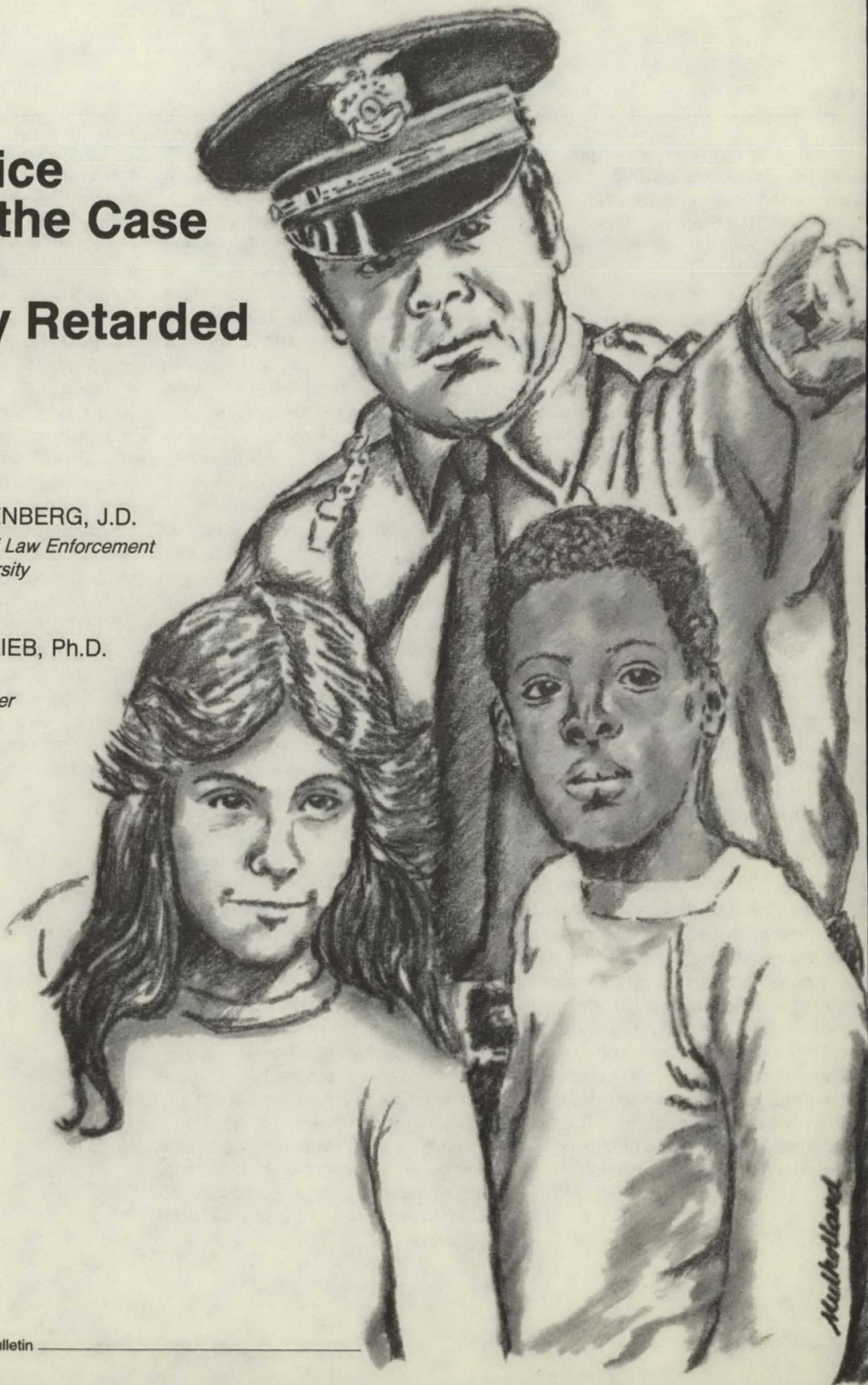
MARTIN A. GREENBERG, J.D.

*Assistant Professor of Law Enforcement
Arkansas State University
State University, Ark.*

and

ELLEN C. WERTLIEB, Ph.D.

*Assistant Director
Special Learning Center
College of the Ozarks
Clarksville, Ark.*





Dr. Greenberg



Dr. Wertlieb

Evidence for the existence of mental retardation has been dated as far back as prehistoric times. However, the recognition, understanding, and treatment of mentally retarded individuals has slowly evolved through millions of years.¹ History demonstrates that a better understanding of these individuals leads to more humane treatment.

Since World War II, there has been a progressive deemphasis in the need to institutionalize retarded children, thus increasing the number of families who rear these children in their homes. In conjunction with this trend, two recent statutes have mandated considerable procedural and substantive protections for children in need of special education programs and services. According to Section 504 of the Rehabilitation Act of 1973, physical access to public buildings and grounds must be made available by agencies receiving any type of Federal assistance; the Education of All Handicapped Children Act of 1975 requires that federally aided school systems provide every handicapped child with a free public education. These regulations provide more of an opportunity for retarded children to interact with the rest of the public sector than ever before. Consequently, police personnel have an increased likelihood of making contact with these children.

When a troublesome incident regarding the conduct of a mentally retarded child occurs, police officers can expect to be the first person called upon to help resolve the problem. While mentally retarded persons represent approximately 3 percent of the people in the United States, "such persons reportedly comprise about ten percent of the population which is confined in jails and prisons";² and "an overwhelming majority of adult retarded offenders experience their first difficulty with the law as juveniles."³

The police mission in juvenile work includes rendering service to the mentally retarded individual. The police officer's effectiveness is principally a function of two factors—the quality of police training and a sincere concern for retarded individuals and their families. An array of manpower is needed to prevent retardation and to cope with it when it does occur. Police can strategically aid in these endeavors through an understanding of the problems associated with mental retardation and a willingness to implement the laws that entitle all handicapped children to certain benefits and procedural due process protections.

Today's police officer is required to enforce the law in situations that are more and more complex. Such complications arise whenever a mentally retarded person violates the law. However, low intelligence alone does not play an important role in causing delinquency, unless this factor combines with other factors such as poor home environment, mental disease, alcoholism, parental or guardian discord, low socioeconomic status, or community rejection toward children.

"History demonstrates that a better understanding of these individuals leads to more humane treatment."

In 1976, President Gerald Ford stated that "the treatment we have accorded mentally retarded and other handicapped members of our society tests our success and challenges our ideals. Only recently we have sought to assure the right of mentally retarded citizens to develop their full potential, to share in the bounty of our land and to receive equal justice under the law."⁴

In 1978, the Report of the Liaison Task Panel on Mental Retardation submitted to the President's Commission on Mental Health urged that all "help-giving persons who are in frequent contact with mentally retarded people . . . be offered training and supportive services in basic mental health skills to better help mentally retarded people cope with their problems of living."⁵

The importance of the police role cannot be overemphasized because their contacts are often the first steps in the community's treatment system for dealing with the retarded offender. Police come into contact with the retarded child for the same reasons they come into contact with the average child. The child might be lost, confused, or in need of special help. The child might be the victim or suspected offender of a crime. Mentally retarded offenders frequently repeat their crimes. They are often easily arrested because they make no attempt to run or disguise what they have done.

Moreover, they are often quickly sentenced and required to serve full terms. Law enforcement personnel can prevent mentally retarded children from becoming convicts by being familiar with the symptoms of mental retardation and helping these individuals get the resources they need.

Identification

There are many problems associated with identifying an individual with mental retardation. In fact, the precise definition of mental retardation differs among the various experts in the field. Whereas some experts emphasize causation, others emphasize performance level. In addition, the definition is colored by a given society's sociocultural standards.

The most widely used definition in the United States is that given by the American Association on Mental Deficiency:

"Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior (i.e., ability to care for oneself and get along with others in a manner appropriate for one's age), and manifested during the development period (i.e., from 1-18 years old)."⁶

Given the problems associated with the definition of mental retardation, one, then, is confronted with the problem of identifying those individuals who are mentally retarded. There is a great deal of controversy concerning the diagnostic tests used to determine

intellectual functioning. The tests are considered to be biased in favor of the white middle class population. Consequently, the administration and interpretation of these tests by a person who is not sufficiently skilled can result in tragic misdiagnoses. If a child's intellectual functioning is found to be significantly below-average, he or she might be described as having mild, moderate, severe, or profound retardation based on the level of deficiency. The police officer is most likely to come into contact with mildly retarded individuals since they comprise the bulk of this special population.

Those children diagnosed as mentally retarded are supposed to be given services within the public school system. However, the harsh reality is that many of these children are not adequately served.⁷ Implications surrounding the diagnosis of mental retardation in court cases becomes increasingly problematic. While the testimony of the police as well as various specialists, such as psychologists and educators, is considered, the disposition of a case is often governed by the available treatment facilities. Consequently, a mentally retarded individual might be placed in an institution for the mentally ill simply because a more appropriate facility has no available space.

Characteristics

Before police officers can know how to handle cases involving mentally retarded children, they must be familiar with the characteristics of mental retardation. However, precise characteristics are difficult to present since the label covers a broad range of ability deficits from mild to profound retardation. In addition, the retarded child is like any other child with his or her individual traits. Whereas some retarded persons have physical abnormali-

ties, others have the physical appearance of the average person.

It is important to emphasize that mental retardation is not synonymous with mental illness. It is true that some retarded individuals might develop mental illness, but similarly, some people in the average population might develop this problem.

The following list of characteristics associated with mentally retarded children is necessarily broad in scope. However, it can provide the police officer with a general understanding of this special population.

- 1) Retarded children often have difficulty in expressing themselves verbally. They may also have difficulty in understanding what they are told, especially when the sentences are long and express complex ideas.
- 2) Retarded individuals may have difficulty in making judgments. They may not be able to foresee the consequences of their actions. Consequently, it may be very easy for them to fall victim to a criminal's schemes.
- 3) These children may not be able to concentrate on any one task for a long period of time. In addition, they may be distracted from a task very easily.
- 4) Retarded children may have difficulty in remembering what they have seen or events that have just occurred.
- 5) Physical abnormalities are common among moderately, severely, and profoundly retarded children. However, such abnormalities are uncommon among the mildly retarded—these children look "normal."

Special Factors Affecting Personality Development

Up until this point, no question has been raised as to the need to identify and label individuals as mentally retarded. In fact, the present article is based on the premise that an accurate picture of an individual will aid the police officer in making appropriate discretionary decisions concerning that individual. Such an understanding cannot be reached without first labeling the person. Labeling also enables agencies to obtain funds and establish appropriate programs. However, these gains do not come without cost. The labeled children are viewed as different from the average population. In essence, they can be considered as members of a minority group. As with other minority groups, they may be subject to prejudice and are likely to be rejected. It is unlikely that they receive positive feedback on many occasions. The difficulties encountered as a result of their minority group status may contribute to feelings of insecurity and low self-worth. There is an additional danger that the label will lower teacher and parent expectations. While it is important to maintain realistic expectations so as not to overly frustrate the person, demands must be made on these children so that they can develop to their fullest potentials.

All of these children will develop their own means of coping with the frustrations encountered due to their slowness. Some children may become timid and shy, while others may become very hostile and aggressive. The means with which the parents of these children cope also varies. Unfortunately, some of these parents may resort to punishing themselves or victimizing their children. In fact, statistics indicate that the child who is handicapped is more likely to be abused than the child who is not handicapped.⁸

Causes

Mental retardation can be caused by genetic and/or environmental factors. Those cases which are genetically caused are often associated with a specific syndrome (i.e., group of characteristics). Fortunately, our advanced medical technology has made it possible to oftentimes determine a couple's risk of producing a child with such a syndrome.

The most common genetic cause of moderate to severe mental retardation is Down's syndrome. This abnormality was formerly called "Mongolism" because of the characteristic slanting eyes of the affected individuals. However, the resemblance to the Mongoloid people is slight; therefore, this latter term was dropped because of the negative connotation it brought to the Mongoloid race.⁹ Another disorder frequently heard about is Phenylketonuria (PKU). It is a disorder in metabolism that can lead to mental retardation if not detected and treated through a special diet begun shortly after birth.¹⁰

There are a variety of other abnormalities linked to the sex of the individual. For example, Turner's syndrome can only be found among females. It is

"The importance of the police role cannot be overemphasized because their contacts are often the first steps in the community's treatment system for dealing with the retarded offender."

only sometimes associated with mental retardation. Individuals afflicted with this abnormality have difficulties in space/form perception—a problem which becomes quite apparent when faced with the task of reading a map.¹¹ In contrast to Turner's syndrome, Klinefelter's syndrome can only be found among males. It, also, is not always associated with mental retardation. Although this syndrome has sometimes been associated with criminal records involving sexual offenses and arson, such behavior is likely to be caused by the individual's immaturity rather than any "criminal personality."¹² The group of genetically abnormal males labeled as XYY males do not display any distinct group of characteristics. They may or may not be mentally retarded. There has been much controversy concerning the criminal tendencies of these individuals. Research has indicated that XYY male prisoners have family histories similar to the typical prisoner.¹³ However, a French study conducted with non-criminals indicated that XYY males could be more easily provoked to display aggression in frustrating situations as compared to those males without such a genetic abnormality.¹⁴

Unlike genetic conditions, environmental factors associated with mental retardation are more controllable. These factors are potentially hazardous to the fetus in utero as well as to the developing child. The unborn child is especially at risk of being retarded if a pregnant woman is undernourished, exposed to radiation, or ingests specific drugs. Infections such as rubella, chicken pox, and syphilis in the expectant woman will also raise the risk of retardation. In addition, noninfectious conditions, such as diabetes, will place the unborn infant at risk.

Some hazards to the developing child include severe head injury, poisoning, and lack of oxygen from delayed resuscitation. In addition, specific infections, such as meningitis, can be the precipitant of mental retardation. Factors associated with psychosocial disadvantage also place the developing child in danger. These could include inadequate nutrition, low achievement motivation, overcrowded home, inappropriate school instruction, instability of the parents, poor medical care, and poor childrearing practices.

The Retarded Child and the Juvenile Justice System

Recognizing the immaturity of young people, the policy of family courts has been to consider the antisocial acts of average children as behavior problems rather than as criminal behavior. Mentally retarded children should certainly be subject to the same treatment philosophy. Police are encouraged to use discretion in referring cases to family court based on the principle that the home is usually the best place to rear a child. However, when it seems clear that the parents are unable to cope with a child's problem, referral can be made to local youth-oriented social agencies. Mentally retarded children are especially deserving of this diversion opportunity prior to court referral.

In conjunction with the trend to seek diversion opportunities, a Federal mandate has been passed to deinstitutionalize status offenders such as runaways or truants. The use of special group home facilities or short term foster homes may be appropriate alternatives in the case of mentally retarded children. Departmental rules governing the questioning, searching, and "arresting" of juveniles differ among the various jurisdictions. However, some specific generalizations can be drawn. The major premise held at every stage of police and court processing is that the particular action is "fundamentally fair," and consequently, withstands the constitutional test of affording the individual his rights. As with the average child, care must be exercised by the police and court attachés in ascertaining the voluntariness of admissions of involvement or plea statements, inasmuch as some mentally retarded children may be desirous of pleasing authority figures or may acquiesce to forms of coercion more readily than other persons. The same care must be exercised when receiving the juvenile's consent to search. The child may waive his rights without actually comprehending what has occurred. The presence of counsel or a parent may be very important in order to avoid such an incident.¹⁵ Without this assistance, the police officer is faced with the very difficult task of judging the retarded child's level of comprehension.

Although the Supreme Court has not yet held that the retention of an advisory counsel for mentally retarded accused persons is required at every stage in police and court processing, it would appear to be appropriate. In addition, some retarded individuals might need interpreters or aides similar to those required by deaf persons or foreign language clients.

Without the appropriate accommodations, a retarded child is clearly handicapped if he becomes a case in the juvenile justice system. In fact, the 1976 National Task Force on Juvenile Justice and Delinquency Prevention recommended that after the filing of a delinquency petition, the family court should hold a hearing when there is evidence that the juvenile may be mentally retarded.¹⁶ Civil commitment proceedings could then be initiated. This places the mentally retarded person in the tenuous position of possibly being indefinitely institutionalized if extreme caution is not taken—a possibility which exists simply because the person is mentally retarded. However, such an action would be in violation of the principle of the presumption of innocence and the right to trial. In this regard, the Supreme Court ruled in the case of *Jackson v. Indiana* that indefinite commitment to a mental institution could not follow automatically from a finding of unfitness to stand trial.¹⁷

The Retarded Child and the Civil Law

We have stated that the mentally retarded person may be unjustly committed to an institution if caution is not exercised. However, constitutional civil law has been interpreted in a manner so as to prevent such a travesty from occurring. The concepts of basic due process and equal protection are appli-

cable to cases involving civil commitment of a mentally retarded person. In addition to being entitled to a hearing, such an individual is entitled to counsel and adequate notice to prepare for the hearing. The person is also entitled to be present at the hearing and to put on a defense.¹⁸

Historically, the law has reflected the desire to protect the young from the possible results of their own immaturity. Consequently, there are many restrictions on the activities of all children under the age of 18. For example, all children are bound by the will of their parents concerning where and how to live. In addition, they are required to get their parents' consent before marrying or learning how to drive. Along with these restrictions, children are entitled to such rights as support and education.

While the average child looks forward to broader rights upon assuming the age of majority, the retarded child's future rights may be in doubt. For example, the areas of marrying, raising a family, entering into contracts, suing, holding office, voting, and holding a job are controversial with regard to the mentally retarded population. However, the law provides that such rights cannot be interfered with unless a test of "compelling justification" is satisfied.¹⁹

Public statements are often made to communicate a particular minority group's plight. In 1972, the United Nation's Declaration on the Rights of Mentally Retarded Persons was adopted to make the public aware of the rights of mentally retarded persons. Of special interest, it was declared that the mentally retarded person is entitled "... to the maximum degree of feasibility, the same rights as other human beings." The mentally retarded person is entitled "... to proper medical care and physical therapy and to such education, training, rehabilitation and guidance as will enable him to develop his ability and maximum potential." The mentally retarded person is entitled "... to protection from exploitation, abuse and degrading treatment." And "... if care in an institution becomes necessary, it should be provided in surroundings and other circumstances as close as possible to those of normal life."

The mere statement of rights which are deserved is often not enough. Consequently, laws are often passed to prevent an infringement of these rights. Two laws which are aimed at safeguarding the rights of mentally retarded children are Public Law (P.L.) 94-142, the Education for All Handicapped Children Act and Section 504 of P.L. 93-112, the Vocational Rehabilitation Act Amendments of 1973. P.L. 94-142 assures the availability of a free, appropriate education for all handicapped children between the ages of 3 and 21 at no cost to parents or guardians. However, this mandate

"Before police officers can know how to handle cases involving mentally retarded children, they must be familiar with the characteristics of mental retardation."

does not apply to children within the age ranges of 3 to 5 and 18 to 21, if such requirement is inconsistent with State law. In order to ensure appropriate education, the law mandates non-discriminatory testing and evaluation, the maintenance of an individualized education program for all handicapped children, consultation with parent or guardian, and educational placement of the child in the "least restrictive" environment.²⁰ It is assured that each of these requirements are carried out with complete procedural safeguards.

Section 504 is much broader in scope. It is a basic civil rights statute which prohibits discrimination against the handicapped by educational or noneducational (e.g., employment, health care, social services) programs receiving any type of Federal assistance. Such issues as accessibility to buildings and grounds are covered under this statute.

These regulations are highlights of the various regulations that apply to the mentally retarded child on a national scope. The police officer should also be aware of the local statutes which are applicable only in his State.

Techniques for Handling Mentally Retarded Children

It is essential that police officers be equipped with the knowledge of local, and in some cases, national resources for the proper referral and disposition of cases regarding mentally retarded children. In addition, there are published materials that can give police officers further insight into mental retardation and consequently aid in their future interactions with this special population.

The following techniques are also helpful in this regard:

1) A positive and direct response to each subject will enhance the overall ability to cope successfully with the mentally retarded child. An officer can best prepare himself for undertaking such a response through an understanding and appreciation of the difficulties faced by the retarded child.

2) The police officer should be very clear and specific in any directions given. For example, if the child is told not to display certain behavior on a street corner, the retarded child might go to another street corner and display the same behavior if it is not clearly explained that the behavior is not appropriate at any public location.

3) Simple language should be used when talking to the retarded child. In addition, the child should be asked to explain what was just said. Although the child might respond in the affirmative when asked if everything was understood, this might not be the case—he might respond with the word "yes" to almost anything that is asked.

4) Since retarded children often have difficulty in expressing themselves verbally, insistence on such a response might be very frustrating and frightening. Consequently, the use of visual aids, such as pictures, might be very helpful in explaining things, as well as in obtaining responses.

5) Retarded children should be given the same respect as other children. They should not be treated with ridicule or pity. In addition, they should not be treated as if they were not present when a third party is being consulted.

6) Expect the mentally retarded individual to act in a manner which would be more appropriate to someone younger than his age, such as sudden temper tantrums, or the refusal to respond because of fear or shyness. The level of immaturity will depend upon the degree of retardation.

7) When a police officer must make contact with the child's parents or guardians, he should not hold any preconceived notions as to the type of care given the child. The parents should be approached in a positive and direct manner regarding the specific incident. When appropriate, the officer should provide the parents with the names of local agencies that provide supportive services to the retarded and their families.

Conclusion

Police officers are charged with the control of juvenile delinquency. At times, they will encounter youngsters with special conditions. If such an offender is to be helped and the ends of justice served, police officers must understand the nature of the problem. By knowing some of the characteristics and causes of mental retardation, as well as the laws involving the retarded individual's basic civil rights, future encounters will be made easier. It is important to stress that these individuals have the same needs as other individuals. They have pride and need to feel a sense of worth and human dignity. However, due to their limited ability to cope in some situations, retarded individuals are often among the citizens most in need of a police officer's services.

In the past, the mentally retarded person has not been "very well cared for by mental health programs, and even less so by the criminal justice system."²¹ These individuals have often been shuttled back and forth between agencies sharing overlapping jurisdictions. However, the police can begin to break this cycle through insight and the use of the most effective response for a given situation. The result will be a savings of time for the police officer, fewer taxes for the community, and justice for the mentally retarded citizen.

Mentally retarded children do not have to become delinquents, nor can we explain delinquency as a manifestation of the retardation. It is not surprising that some of these children become delinquents; it is amazing that more do not. Society must recognize the need for psychiatric and social services, realistic education, and vocational counseling for all its citizens.

More importantly, we must cease looking with derision at those in a different cultural milieu.²² **FBI**

Footnotes

- ¹ See R.C. Scheerenberger, *A History of Mental Retardation* (Baltimore: Brookes Publishing Co., 1982).
- ² A. Talent and R. Kelgord, "The Mentally Retarded Probationer," *Federal Probation*, vol. 39, No. 3, 1975, p. 39.
- ³ *Ibid.*, p. 41.
- ⁴ M. Kindred, J. Cohen, D. Penrod, and T. Shaffer, *The Mentally Retarded Citizen and the Law* (New York: The Free Press, 1976), p. iii.
- ⁵ President's Commission on Mental Health, *Report of the Liaison Task Panel on Mental Retardation: Volume IV* (Washington, D.C.: U.S. Government Printing Office, 1978), p. 2011.
- ⁶ E. Grossman, ed., *Manual on Terminology and Classification in Mental Retardation* (Washington, D.C.: American Association on Mental Deficiency, 1973), p. 11.
- ⁷ See Dena Kleiman, "Many Disabled Still Not Placed by City Schools," *New York Times*, August 31, 1981, pp. 1 and D10.
- ⁸ M. Soeffing, "Abused Children are Exceptional Children," *Exceptional Children*, 42, 1975, pp. 126-133.
- ⁹ N. Robinson and H. Robinson, *The Mentally Retarded Child* (New York: McGraw-Hill, 1976), pp. 77-88.
- ¹⁰ *Ibid.*, pp. 97-100.
- ¹¹ *Ibid.*, pp. 90-92.
- ¹² *Ibid.*, p. 92.
- ¹³ *Ibid.*, pp. 92-93.
- ¹⁴ B. Noel, J. Duport, D. Revel, I. Dussuyer, and B. Quack, "The XYY Syndrome: Reality or Myth?" *Clinical Genetics*, 5, 1974, pp. 387-394.
- ¹⁵ See *In re Thompson*, 241 N.W. 2d 2 (1976).
- ¹⁶ See National Advisory Committee on Criminal Justice Standards and Goals, *Task Force Report on Juvenile Justice and Delinquency Prevention* (Washington, D.C.: U.S. Government Printing Office, 1976).
- ¹⁷ See *In re Gault*, 387 U.S. 1 (1967) for the rights of juveniles in delinquency proceedings.
- ¹⁸ See *Lessard v. Schmidt*, 349 F. Supp. 1078 (1972).
- ¹⁹ Kindred, et al., *supra* note 4.
- ²⁰ See Section 612 (5) (B) of this Act.
- ²¹ L. Radelet, *The Police and the Community*, 3d ed. (Encino, Calif.: Glencoe, 1980), p. 388.
- ²² B. Blatt, "Some Persistently Recurring Assumptions Concerning Education of the Mentally Retarded," in *Mental Retardation: Readings and Resources*, ed. J. Rothstein, (New York: Holt, Rinehart and Winston, 1971), pp. 44-45.

REASONABLE EXPECTATION OF PRIVACY, THE EMPLOYEE-INFORMANT, AND DOCUMENT SEIZURES (CONCLUSION)

By
MICHAEL CALLAHAN
*Special Agent
Legal Counsel Division
FBI Academy
Federal Bureau of Investigation
Quantico, Va.*

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

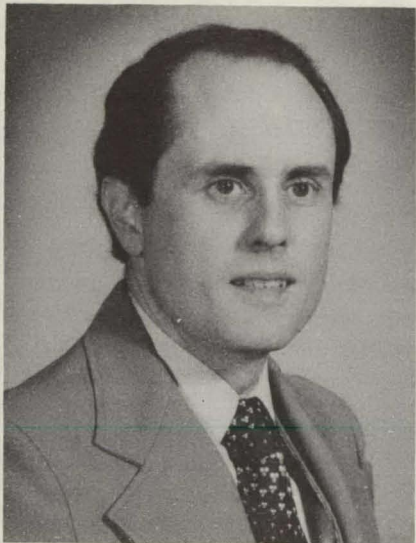
Part one of this article proposed a hypothetical situation in which an employee, identified as B, acting as a police informant, turned over to police incriminating records which belonged to A, her employer. Part one concluded that such conduct was lawful in that A gave B access to and control over the records by virtue of her employment duties. Since A voluntarily exposed criminal conduct to B in the form of documents, A retained no reasonable expectation of privacy in the records with respect to B. A was held to have misplaced his trust in B and to have assumed the risk that B might provide the records to the police. Inasmuch as A lacked a reasonable expectation of privacy, no search took place, and the fourth amendment was not implicated by B's conduct.

Search By Consent

A footnote in *United States v. Ziperstein* suggests that an alternative argument can be made by the Government under circumstances wherein an employee-informant had access to and control over certain incriminating documents. In such cases, if a court were to reject the absence of reasonable expectation of privacy analysis set forth in part one of this article and character-

ize the employee's conduct as a search, the Government could argue that the employee-informant had the authority to consent to a search and seizure of the materials. Specifically, the seventh circuit in *Ziperstein* stated: "We also note that the government's use of this evidence can be justified under the Fourth Amendment on a consent theory."²⁵ The circuit court cited the U.S. Supreme Court's opinion in *United States v. Matlock*²⁶ as authority for the proposition that employees, like the pharmacist in *Ziperstein*, possess sufficient control over items relating to their employment to consent to their search.

In *Matlock*, the defendant was arrested by local police for robbery of a federally insured bank. The police obtained consent from the defendant's girlfriend to search a room he shared with her. The district court suppressed the evidence, holding that the Government could not produce sufficient admissible testimony that Matlock's paramour had actual authority to consent to the search. A Federal appellate court affirmed, and the Government appealed. The Supreme Court determined that the issue in the case was whether the evidence presented by the United States was legally sufficient for the Court to conclude that the police obtained from a third party voluntary consent to search. The Court observed that the Government is not limited to proving consent to search was obtained from the defendant, but may show such consent was received from a third party who possessed common authority or other sufficient relationship to the area or things searched. In a footnote, the Court defined common authority as:



Special Agent Callahan

"... mutual use of the property by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right and that the others have assumed the risk that one of their number might permit the common area to be searched."²⁷

The Court found there was ample factual basis for the police to conclude that the defendant's girlfriend had common authority over the room she shared with the defendant, which gave her the ability to consent. She told the police she shared the room with the defendant and led the officers to the room, shared a dresser in the room with him, and identified clothing inside the room as hers. The decisions of the lower courts were reversed.

The rationale of *Matlock* was applied in the employer-employee context by the Supreme Judicial Court of Massachusetts in *Commonwealth v. Grasso*.²⁸ Grasso was suspected of selling untaxed cigarettes in his store. State authorities went to the store in an effort to confirm these suspicions. A clerk who was in control of the entire store permitted the officers to conduct a search after they informed him of the purpose of their visit. Untaxed cigarettes were discovered behind the store's counter which could not be seen from the public area of the store. Grasso was convicted of possession of untaxed cigarettes and appealed. The court affirmed the conviction and found that the store clerk had sufficient authority to consent to the search. The court explained that the items seized were located in an area accessible to the clerk and under his control.

Third party consent, obtained from one having common authority to furnish it, has been used in several cases to justify the Government's coming into possession of incriminating records. In *United States v. Antonelli Fireworks Co.*,²⁹ Antonelli, president of the corporation, was convicted of fraud in a U.S. district court. On appeal, he claimed that certain corporate records turned over to the FBI by the corporation's office manager, Simon, and later offered in evidence, should have been suppressed, since Simon was not in a position to consent on behalf of the corporation. The appellate court affirmed Antonelli's conviction, holding that the office manager was in sole control of the office and the records and clearly had the right to turn the records over to the FBI.

In *United States v. Curtis*,³⁰ a corporate office manager was held to have sufficient authority to allow State officials to examine and take with them corporate records which were ultimately instrumental in the conviction of a high-level company officer for mail fraud.

A more recent Federal decision is also instructive on this point. In *United States v. Allison*,³¹ FBI Agents appeared at the offices of the Laborers International Union of North America, Local 1282, and were allowed to take with them certain union records which incriminated Allison, a union officer. The district court ordered the records suppressed, holding that Greer, the union's secretary-treasurer and records custodian, did not voluntarily

"An employee-informant must have access to and control over the records and the place from which they are obtained in order to turn them over lawfully to the Government under either an absence of a reasonable expectation of privacy rationale or a consent theory."

consent to the Government's taking of the records. On appeal, the order was reversed. The appellate court determined that the search was conducted on the authority of the consenting party, Greer, who was the person with legal custody of the records.

In the hypothetical situation, it seems clear that B, the employee, could lawfully turn over to police the documents which incriminate A, the employer, either because A has no expectation of privacy in the documents with respect to B or because B has sufficient common authority over the documents and the place they are stored to voluntarily consent to their search or seizure by the Government.

Access and Control Critical

An employee-informant must have access to and control over the records and the place from which they are obtained in order to turn them over lawfully to the Government under either an absence of a reasonable expectation of privacy rationale or a consent theory. Suppose, for example, that the records are kept in a locked safe in A's office and B has access to and control over them only during normal business hours. Suppose further that B enters A's office after business hours and by means of a sophisticated device is able to enter the safe surreptitiously and take the documents. A's reasonable expectation of privacy with respect to a safe in his own office would likely defeat an assertion by the Government that the fourth amendment was inapplicable.

Consider altering the facts of the hypothetical. Suppose B's employment status is reduced and is limited to that of a messenger. Assume that A hands B a closed briefcase with instructions to deliver same to a third party. B suspects that it contains incriminating documents. Could B lawfully open the closed briefcase and turn over the incriminating papers to the police or consent to a police opening of the briefcase?

A recent decision of a Federal court in *United States v. Humphrey*³² considers this issue. In *Humphrey*, the defendant furnished to an FBI informant a sealed envelope with instructions to deliver the envelope to certain individuals outside the United States. Instead, the informant delivered the envelope to the FBI. It was opened without a warrant. Evidence of espionage was found and seized. The district court ruled such warrantless conduct unlawful, in that the defendant had a reasonable expectation of privacy in the contents of a sealed envelope and this interest continued even after he furnished the envelope to the informant for delivery. The court rejected the Government's consent argument by holding that the warrantless opening of the sealed envelope exceeded the scope of the consent furnished to the informant. The informant arguably

had common authority over the envelope itself, but had no right of access to its contents.

Applying this conclusion to the hypothetical case, if B had access to and control over the records during business hours, but after hours could obtain them only from A's private office safe, such conduct would likely violate the fourth amendment. Nor could this action be supported under a consent analysis because, although B would have common authority over the documents during regular working hours because of access and control, obtaining them from A's private office safe after normal working hours would require B to enter an area not commonly controlled, i.e., a place reserved for A's exclusive use.

Plain View Seizures

Another argument that the Government might make to support B's taking of the incriminating documents in the original hypothetical is based upon the "plain view" doctrine. The plain view concept was examined by the Supreme Court in *Coolidge v. New Hampshire*.³³ Reduced to its basic terms, the plain view doctrine requires three conditions. First, the officer making the plain view discovery must be lawfully present in the place where the evidence is discovered. Second, the discovery of the evidence must be inadvertent. Finally, the item seized must be immediately apparent as evidence of a crime. The usefulness of this principle to support the legality of B's taking the documents in the original hypothetical is illustrated in *United States v. Baldwin*.³⁴

In *Baldwin*, Hoing, an undercover police officer, was hired by Baldwin to act as his chauffeur. The defendant subsequently allowed the officer to move into his home and occupy a

downstairs bedroom. Baldwin gave him free access to all parts of the house, including his bedroom. While staying in the house, Hoing observed and seized two samples of white powder from a table top in Baldwin's bedroom. He found a third sample of the white powder while cleaning the interior of Baldwin's car as part of his job as chauffeur. Hoing seized the samples because he suspected that the substance observed was cocaine. A fourth sample was seized from Baldwin's bedroom dresser drawer after Hoing was instructed to bring cocaine from the drawer to a nightclub. Baldwin was convicted of possession of cocaine. A Federal appellate court rejected Baldwin's claim that he never consented to the presence of a police spy in his home. The court explained that Baldwin's consent to the undercover officer's presence in his home and his unlimited access to the interior were not in any way vitiated by the officer's failure to disclose his status as a law enforcement officer. The court justified the various seizures of the cocaine by applying the plain view rationale.

Application of the plain view doctrine to the hypothetical is not without problems, however. Although only four Justices adhered to the inadvertent discovery requirement announced in *Coolidge*, that condition has since been widely accepted as a necessary part of the plain view doctrine.³⁵ However, since *Coolidge*, there has been disagreement in the lower courts over the meaning of the inadvertence requirement. The words of Justice Stewart in *Coolidge* are instructive on this point: "This Court has never permitted the legitimization of a planned warrantless seizure on plain view grounds."³⁶

Most courts confronted with the inadvertence problem since *Coolidge* have concluded that it is permissible for the police to seize an item in plain view even though they suspect, prior to entry, that it might be found in an area they intend to enter. However, if police have probable cause to believe they will find an item in a place they can enter on other lawful grounds, a search warrant would be necessary, absent an emergency. Given the prior existence of probable cause, the plain view doctrine would likely be inapplicable.³⁷ In the hypothetical, a court could find that after B informed the police of her suspicions regarding A and what the records would disclose, probable cause as to the evidentiary nature of the records would exist. The inadvertent discovery requirement could not be met.

Finally, there exists the issue of whether an informant has the same authority as a law enforcement officer to make a plain view seizure. *United States v. Glassel*³⁸ is instructive on this point. In *Glassel*, an undercover police officer and an informant were invited into the defendant's home to purchase narcotics. After the defendant displayed narcotics to the officer, the informant left, purportedly to obtain cash. Other officers then entered the premises without knocking and announcing their purpose and authority.

Cocaine was seized at this time and Glassel was convicted. On appeal, he argued that the entry of the other officers, in violation of a Federal knock and announce statute, tainted the subsequent seizure of the cocaine. In support of this conclusion, he cited *Sabbath v. United States*,³⁹ in which an informant was invited into the defendant's home and was present when Federal officers entered without complying with the Federal announcement statute. The Supreme Court concluded such entry was unlawful, and the evidence seized pursuant to it was declared inadmissible. In *Glassel*, the appellate court rejected Glassel's argument and distinguished the *Sabbath* case as follows:

"In *Sabbath*, Jones (the informant) did not participate in the arrest or seizure, nor was he authorized to do so. He was merely the defendant's unfaithful cohort whose temporary role as 'agent' involved nothing more than being a stool pigeon,"⁴⁰ (emphasis added)

By contrast, the court explained that the undercover officer in *Glassel* was a full-time narcotics officer who had authority to make arrests and seize evidence. Since the undercover officer was already lawfully present and was in constructive possession of the cocaine at the time of entry by other officers, the manner of entry was of no legal consequence. The *Glassel* case casts doubt on the authority of an informant to make a plain view seizure.

"Contemplated use of this (informant technique) should include consideration of whether Federal or State privacy laws may limit or prohibit its application."

Embezzlement and Lack of Intent

In at least two recent cases which involved employees turning company records over to the Government, employers have characterized the takings as thefts.⁴¹ This raises the question of whether the employee-informant or the police officer directing the source can be criminally liable for the conduct. This article has already examined the issue of whether an employee who has access to and control over documents in connection with his employment violates the fourth amendment by making those documents available to the police upon request of an officer. A majority of decisions supports the proposition that no violation of the fourth amendment occurs in this situation. However, there remains the question of whether a violation of applicable larceny or embezzlement statutes has occurred.

Embezzlement is generally taken to be the fraudulent or felonious conversion of property which has rightfully come into possession of the converter.⁴² Embezzlement can occur when the defendant has been entrusted with the possession of the property in question.⁴³ One who has mere custody of property, as distinguished from legal possession, and feloniously appropriates the property to his own use is guilty of larceny. Possession sufficient for purposes of the distinction between embezzlement and larceny may exist where the accused is given considerable control over the property converted.⁴⁴ In the hypothetical case, B clearly had access to and control over the incriminating documents by virtue of an employment relationship, and

thus any contemplated criminal action against B would take the form of an embezzlement charge. As a general rule, in order to constitute embezzlement, there must be criminal intent. Ordinarily, there can be no embezzlement of property belonging to another without a fraudulent intent.⁴⁵ Such intent has been held essential even though the statute defining the offense fails to declare it.⁴⁶ In the hypothetical case, B's intent was limited to assisting law enforcement in ferreting out criminal conduct, and B had no personal intent to deprive A of his property fraudulently. Given the foregoing, the likelihood of there being a successful prosecution against B or the police officer for embezzlement is remote.

Federal-State Statutes May Bar Use of Procedure

In 1978, the U.S. Congress enacted into law the Right to Financial Privacy Act,⁴⁷ which restricts the right of employees in certain institutions covered by the act, such as banks, to turn over to Federal officers customer records covered in the act, unless the officer had legitimate authority under the act to obtain them. Similarly, other Federal statutes, such as the Federal Privacy Act of 1974⁴⁸ and the Tax Reform Act of 1976,⁴⁹ might operate to restrict or eliminate use of the investigative technique outlined in this article.

States may have similar statutes prohibiting unauthorized dissemination of information in the possession of certain State agencies and private employers as well. Consideration of the investigative technique described in this article must include an analysis of whether any Federal or local statute exists which might limit or prohibit its use.

Preference for a Search Warrant

Use of an informant to seize documents should be reserved for special situations. For example, where police have strong suspicion but lack probable cause, they might consider the procedure described herein. However, it should not be viewed as a routine alternative to a search warrant. The warrant should be obtained unless there is a compelling need for law enforcement to proceed without one.

Use of an informant to acquire some documents would be appropriate for the limited purpose of establishing probable cause to support issuance of a search warrant for a larger volume of incriminating records. This approach also could be of assistance when police possess probable cause to seize only a limited amount of records pursuant to a warrant but suspect the scope of the crime to be much broader. Premature execution of a search warrant in this instance could result in several undesirable consequences:

- 1) Alerting suspects to the presence of an informant in their midst, thus prompting them to become more circumspect and clandestine in their illegal activity;

2) Causing the removal or destruction of valuable evidence; and

3) Placing the safety of the informant in jeopardy.

Use of the informant technique will allow police the luxury of developing the case with the assistance of a well-placed source of information. It could result in penetration to the core of a pervasive conspiracy and may well lead to the identification of well-insulated conspirators and to the location of additional important evidence.

Finally, the decision to employ an informant for the purpose described above will also be affected by the risk of disclosing his identity at a future legal proceeding. An informant who plays a critical role in the seizure of evidence may be required to subsequently testify as to his role in an investigation.⁵⁰

Summary

1) As a general rule, an employer has a reasonable expectation of privacy from direct warrantless police intrusion into his business premises for the purpose of searching for incriminating records. Ordinarily, police cannot use an informant to accomplish what they themselves are prohibited from doing. However, the result is different when an employer has given to an employee access to and control over incriminating records. The employer has no reasonable expectation of privacy with respect to records he voluntarily exposes to the employee. The employer is held to have misplaced trust in the employee and to have assumed the risk that the employee might furnish the records to the police. In that event, no search takes place and the fourth amendment is inapplicable.

2) An alternative argument can be made that the employee has common authority over the incriminating records, sufficient to allow a consent to their seizure by police.

3) A separate argument involves the authority of an employee-informant to make a plain view seizure. This argument has inherent problems, namely, the inadvertent discovery requirement of the plain view doctrine and the questionable authority of an informant to seize evidence in plain view.

4) Lawful use of this investigative tool presupposes that an employee-informant has lawful access to and control over the records. If an employee enters a safe within the exclusive control of an employer to obtain the records, such conduct would likely violate the fourth amendment.

5) Successful prosecution of an informant or an officer for embezzlement is remote, since neither has the requisite intent to commit the offense.

6) Contemplated use of this procedure should include consideration of whether Federal or State privacy laws may limit or prohibit its application.

7) This technique should be reserved for extraordinary cases and not used as a routine substitute for a search warrant.

8) Because of the complex legal issues associated with this procedure, officers should discuss its possible use with the prosecutor or police legal adviser before adopting it as part of their investigative strategy.

FBI

Footnotes

²⁵ *Supra* note 23, at 290, note 3.

²⁶ 415 U.S. 164 (1974).

²⁷ *Id.* at 171, note 7.

²⁸ 375 Mass. 115, 375 N.E. 2d 706 (1978).

²⁹ 155 F.2d 631 (2d Cir. 1946), *cert. denied*, 329 U.S. 742 (1946).

³⁰ 537 F.2d 1091 (10th Cir. 1976), *cert. denied*, 429 U.S. 962 (1976).

³¹ 619 F.2d 1254 (8th Cir. 1980).

³² 456 F. Supp. 51 (E.D. Va. 1978), *aff'd* on other grounds, 629 F.2d 908 (4th Cir. 1980).

³³ 403 U.S. 443 (1971).

³⁴ 621 F.2d 251 (6th Cir. 1980), *cert. denied*, 68 L.Ed.2d 244 (1981).

³⁵ Joseph R. Davis, "The Plain View Doctrine," *FBI Law Enforcement Bulletin*, vol. 48, No. 10, October 1979.

³⁶ *Supra* note 33, at 471, note 27.

³⁷ *Supra* note 35.

³⁸ 488 F.2d 143 (9th Cir. 1973), *cert. denied*, 416 U.S. 941 (1974).

³⁹ 391 U.S. 585 (1968).

⁴⁰ *Supra* note 38, at 145.

⁴¹ *Supra* note 23; *Knoll Associates v. F.T.C.*, 397 F.2d 530 (7th Cir. 1968).

⁴² 26 Am.Jur.2d 549.

⁴³ *Id.* at 552.

⁴⁴ *Id.* at 554.

⁴⁵ *Id.* at 570.

⁴⁶ *Id.*

⁴⁷ 12 U.S.C. Secs. 3401-3422.

⁴⁸ 5 U.S.C. Sec. 552a. The Federal Privacy Act of 1974 was enacted by Congress in order to protect the privacy of individuals identified in information systems maintained by Federal agencies. The act regulates the collection, maintenance, use, and dissemination of information related to individuals by such agencies.

⁴⁹ 26 U.S.C. Sec. 6103(i)(1). As part of this act, Congress established a detailed procedure for Federal officers to follow in obtaining tax return information in nontax-related criminal investigations.

⁵⁰ See *Roviano v. United States*, 353 U.S. 53 (1957).

WANTED BY THE FBI



Photographs taken 1979

Alphonse Carmine Persico

Alphonse Carmine Persico, also known as A. Persico, Alphonse Persico, Alphonso Persico, Alley Boy Persico, Alley Boy, Allie Boy Persico, Allie Boy, Al, and Ally Boy

Wanted for:

Extortionate Credit Transactions—
Bond Default

The Crime

Persico is a reputed underboss of an organized crime family in Brooklyn, N.Y. He is being sought for failure to appear for sentencing after being convicted on multicounts of violating the extortionate credit transaction law. Persico has also been previously convicted of assault and contempt of court.

A Federal warrant was issued on June 23, 1980, in the Eastern District of New York, charging Persico with extortionate credit transactions and failure to appear.

Description

Age52, born December 6, 1929, Brooklyn, N.Y.

Height.....6' to 6'2".

Weight215 pounds.

BuildHeavy.

HairBlack gray.

EyesBrown.

Complexion.....Olive.

RaceWhite.

NationalityAmerican.

OccupationsCarpetlayer, legal clerk, president of carpet installation firm, security consultant.

Scars & MarksBurn scar on left cheek; tattoo: "AL" on right hand between thumb and forefinger.

Remarks.....Persico has been convicted of murder, assault, and contempt of court.

Social Security

No. Used.....072-22-1415.

FBI No.263 729 A.

Caution

Persico 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.

Classification Data:

NCIC Classification:

166313CO05PI61141613

Fingerprint Classification:

16	M	13	R	000	5	Ref:	13
		I	1	R	000		2

I.O. 4875



Right index 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 _____

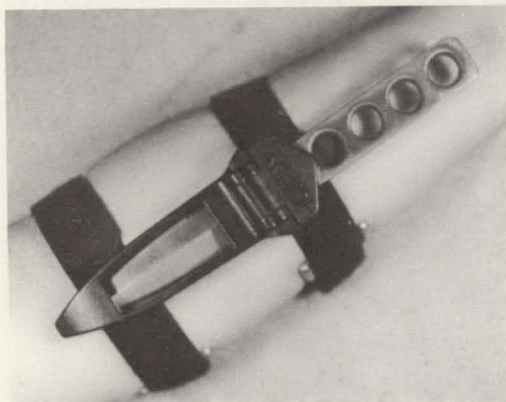
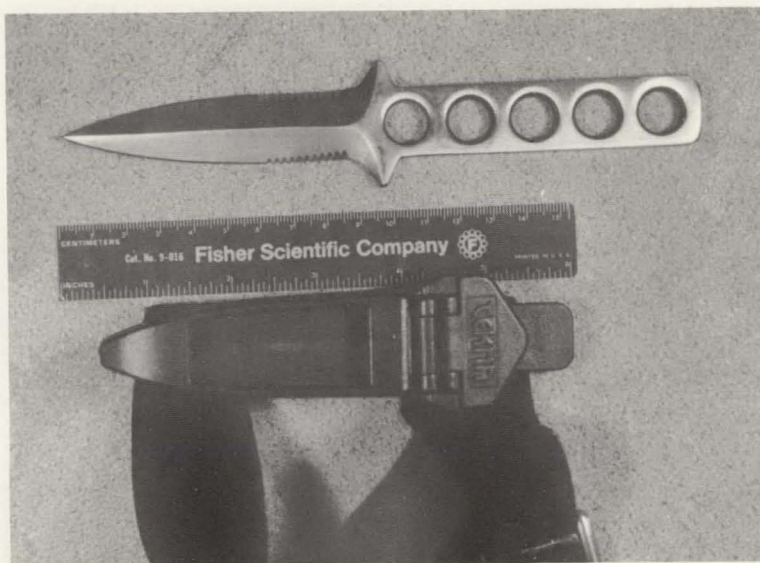
State _____

Zip _____

Concealable Knife

This concealable knife was confiscated during an investigation. The metal knife is approximately 7 inches long with a blade length of approximately 3½ inches. It is carried in a plastic case and can be fastened to a person's calf or forearm. If carried on the forearm, the owner can hit a catch, allowing the knife to slide down the sleeve into his hand.

(Submitted by the Department of the Army)



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Washington, D.C. 20535

Questionable Pattern

Although this pattern has the general appearance of a tented arch, a close inspection discloses a sufficient recurve. Therefore, this impression is classified as a loop with two ridge counts. A reference search would be conducted in the tented arch group.

