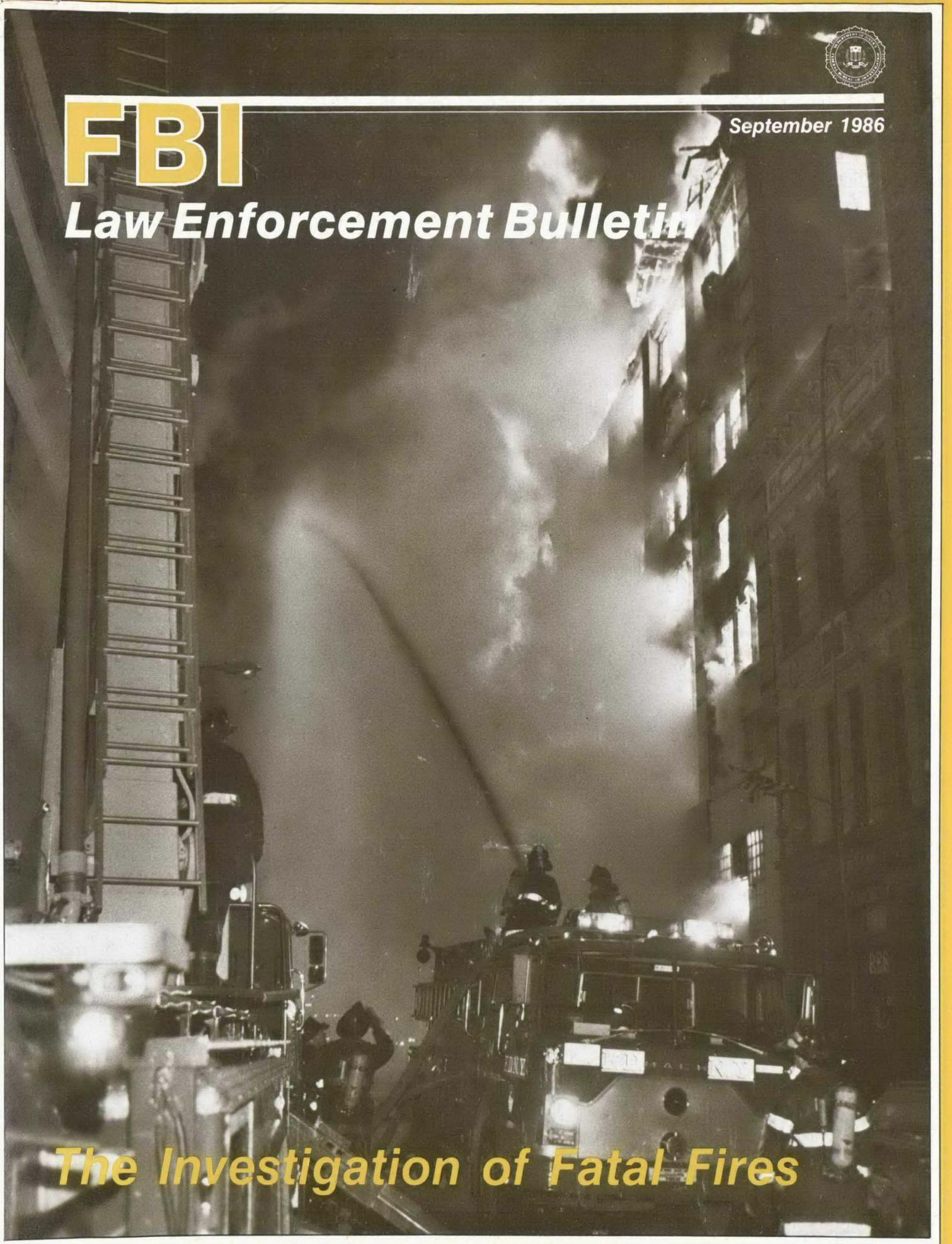




September 1986

FBI

Law Enforcement Bulletin



The Investigation of Fatal Fires

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The Cover:

This 10-alarm fire in Manhattan was adjacent to the quarters of a NYCFD rescue company.

FBI

Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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This fire of the Bronx Social Club was the largest confirmed arson homicide in which 25 lives were lost. The fire damage to the premises was not great, demonstrating the lethal potential a small body of fire has.

The Investigation of Fatal Fires

Views of the Medical Examiner and Toxicologist

(Conclusion)

“The role of the forensic pathologist is not limited to determining only the cause of death of the victim(s) but involves assisting in elucidating the causes of the disaster.”

By

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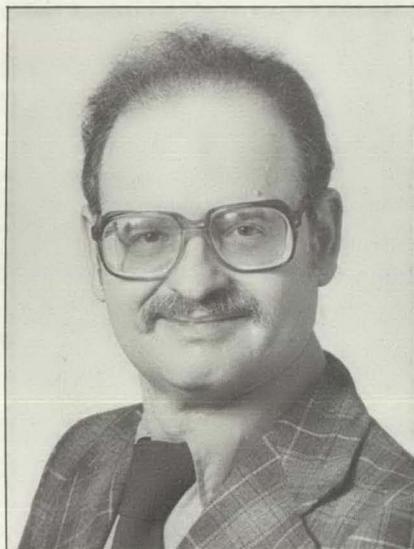
Pathological Aspects

The investigation of fire fatalities requires a combination of basic knowledge for the recognition of special pathological features, an understanding of the causes and effects of fires, and a high degree of concern and

commitment. The role of the forensic pathologist is not limited to determining only the cause of death of the victim(s) but involves assisting in elucidating the causes of the disaster. The need exists for close teamwork among the pathologists, toxicologists, fire marshals, and police.



Dr. Rho



Dr. Hoffman

Victim at the Fire Scene

The external appearance of the body must be interpreted according to whether the victim is found at the scene of the fire, or if death occurs subsequently in the hospital. The degree of burning and charring of the body is relatively unimportant because these occur in large part as a result of heat effects on the body after death. Charring and burning can, however, seriously hamper visual identification of the remains.

It is of the utmost importance that the pathologist be able to determine whether the victim was dead or alive at the time the fire started. The so-called "pugilistic" or "boxer's" posture that is commonly observed in the body of a fire victim is caused by the contraction of muscles due to heat and has no bearing on the posture taken by the decedent prior to the time of death. (See fig. 1.)

Evidence of life is seen as evidence of respiration. Unless the victim

was suddenly engulfed by extremely intense heat, there will be signs that the victim inhaled smoke and other combustion products, and sometimes accelerants. The upper airway is usually coated with black soot. Blood and internal organs are usually bright red when there is a sufficient amount of carbon monoxide saturation. However, heat effects and contamination can obscure the bright red color even when high levels of carbon monoxide are present. If the presence of soot is questionable, a microscopic examination of the tissue from the trachea may be necessary. Rarely does the fire victim inhale combustion products, but dies instantaneously when there is an intense flash fire and superheated air hits the face and laryngeal opening. Flash or explosive-type fires, particularly in confined spaces, can also produce instantaneous oxygen depletion, resulting in rapidly fatal effects without any buildup of carbon monoxide. The time required to reach fatal levels of

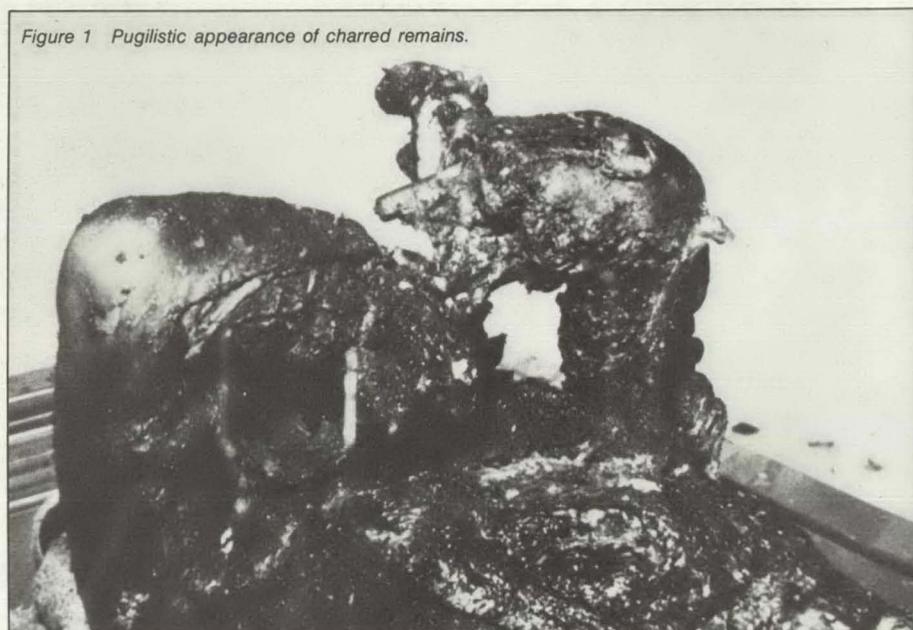


Figure 1 Pugilistic appearance of charred remains.

"It is of the utmost importance that the pathologist be able to determine whether the victim was dead or alive at the time the fire started."

carbon monoxide saturation can vary greatly depending upon the concentration and rate of production of gas, duration of exposure, and the presence or absence of cardiovascular and respiratory problems.

Occasionally, there are deaths due to natural disease that are incidental to the fire. These are probably precipitated by sudden physical exertion or severe emotional stress. Diagnoses of this nature, however, can only be made after a complete autopsy has been done to exclude any traumatic cause of death.

Interpretation of the results of toxicological analyses for combustion products should be made with great care. The method of collecting the specimen, the techniques used to analyze the specimen, and the skill of the technicians all influence test results. Organs and body fluids are often markedly altered by heat destruction. Blood may be clotted, mixed with tissue or body fluids, or contaminated with burnt debris. All of these may affect the results of toxicological analysis.

Intense heat may even break down the blood cells and hemoglobin and cause erroneous carbon monoxide values. Thus, the toxicology results should not be taken at face value without regard to the nature and quality of the sample. Moreover, the same amount of carbon monoxide saturation may be interpreted differently in the presence of advanced heart disease, severe anemia, or chronic lung disease.

For the determination of type of accelerant used, the forensic pathologist should collect such specimens as debris on the body surface, clothing, skin sections, lung tissue, blood, and brain tissue. The pathologist should be informed as soon as possible about all evidence collected at the scene.



Figure 2 Post mortem splitting of skin due to heat.

“A major difficulty in the investigation of severely burnt bodies is the proper identification of the remains.”



Figure 3. Slash wound on neck.

If there is no clear evidence that the victim was alive at the time the fire started, the real cause of death should then be carefully sought. A fire may be set by an assailant in an attempt to conceal the crime committed. Extensive burns and charring may obscure or mask any preexisting injuries, while at the same time certain post mortem changes may mimic ante mortem injuries. (See figs. 2, 3, and 4.) Therefore, even if a body shows extensive heat destruction, the pathologist should examine every part of the body carefully for any evidence of ante mortem injury.

Demonstration of concealed injuries often requires painstaking autopsy work. X-rays of the entire body are necessary either to reveal or to exclude any missile object(s). It may also be necessary to examine the debris near the body because a missile object may have passed through or dropped off a charred and brittle body.

Post mortem heat splitting usually occurs in the superficial tissues, mostly the skin. When the muscles are also involved, the splitting invariably occurs in the direction of the muscle fibers. The internal organs may eviscerate through these artificially created spaces, but there is no free blood

present in the body cavities. Bones become brittle and their ends can be burnt off by intense heat. It is interesting to note that a recently sutured surgical wound often splits open from the effect of heat, and this can provide an excellent clue for the identification of the individual found.

The top of the skull may burst open. The fracture ends are irregular and zigzag in appearance, and there may be several curved fractures on the upper part of the skull. The inner and

Figure 4 Saw marking on the bones of a dismembered and incinerated body.



outer tables of the skull do not share the same fracture lines, and the cracking is often more pronounced on the outer table. A cracked skull may sometimes have the appearance of an incompletely broken porcelain jar.

The brain is markedly condensed and shrunken. There is often a thick layer of caking or coagulum formation in the epidural space (the space between the skull and the thick membrane called the dura). This is the result of the heat's effect on the blood which has oozed out of ruptured vessels and also on the fluid component of the brain. The dura, however, is intact. A heat-induced cracked skull and epidural coagulum should not be confused with ante mortem lesions.

A major difficulty in the investigation of severely burnt bodies is the proper identification of the remains. For purpose of identification, the following clues may prove helpful:

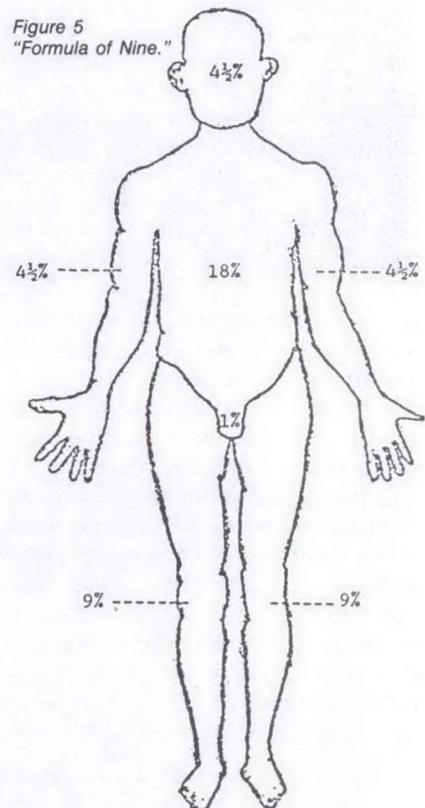
—Visual characteristics,

- Individual physical features, e.g., body build, sex, race, deformities,
- Evidence of surgical procedures, e.g., prostheses, pacemakers, scars, recent abortions, etc. (From their markings, pacemakers may be traced to the manufacturer and eventually to the patients),
- Tattoos (location and type),
- Dental characteristics, e.g., type of filling, crowns, bridges, dentures, degree of eruption, missing teeth, etc.,
- X-ray evidence, e.g., congenital deformities, ossification centers, old fractures, etc.,
- Personal documents, such as passport, driver's license,
- Clothing, including labels,
- Jewelry, especially personalized items such as belt buckle, high school or college rings, and
- Ingested food (last meal).

Delayed Deaths

When the victim dies after the fire, the extent of tissue damage and subsequent medical complications arising therefrom become important in the cause of death. Burns of the skin are usually graded into three degrees depending on the depth of injured layers: First degree—local engorgement of blood vessels causing redness (erythema); second degree—blister formation between two layers of the skin, namely epidermis and dermis; third degree—death of the full thickness of the skin. Sometimes the charring and carbonation stage is referred to as the fourth degree. For the estimation of the extent of burnt areas on the body surface, the "formula of nine" is quite useful. (See fig. 5.)

Figure 5
"Formula of Nine."



“The toxicological examination of victims is essential to any fatal fire investigation....”

The major medical complications of burns are: (1) Loss of fluids from burnt tissues (dehydration); (2) absorption into the system of the products of burnt and dead tissues (toxemia); (3) infection of burnt tissues; (4) infection of the upper airway, lungs, kidneys, and septicemia; (5) accumulation of breakdown products of blood pigments and muscle pigments with subsequent kidney failure (hemoglobinuric and myoglobinuric nephropathy); (6) brain damage from sustained lack of respirable oxygen (anoxic encephalopathy); and (7) others, including fat embolism to the lungs from burnt subcutaneous tissue, and acute ulcers of duodenum and stomach (Curling's ulcers).

Toxicological Aspects

The toxicological examination of victims is essential to any fatal fire investigation, since such an examination helps to establish whether the victim was dead or alive (evidence of inhalation of carbon monoxide, accelerants) when the fire started and the cause of death (carbon monoxide levels, presence of other toxic combustion products). It also will determine the presence of accelerant residues in the body, i.e., blood, lungs, brain or in sections of excised skin, or in the clothing of the victim or in debris and other evidence found at the scene, thereby providing substantiation for arson, and confirm the presence and significance of alcohol and other drugs, both licit and illicit. Drug-induced impairment could be related to the careless, accidental initiation of the fire or the inability to escape. Drugs could also have been administered by a perpetrator to incapacitate a victim prior to committing the arson or assault (homicide).

Toxic fire gases are produced by the combustion, thermal decomposition, and pyrolysis of both natural substances and synthetic materials, such as plastics and polymers. They may also arise from heat-induced chemical interactions among the various reactants. These processes, in turn, depend upon the nature, quantity, and physical state of the combustibles and reactants, the degree of ventilation (oxygen supply) and the temperature of the fire, and the intensity and directions of the radiated heat.

The combustion of all natural and synthetic organic substances produces carbon monoxide (CO), which is the single most important toxic gas in relation to fire deaths. Blood saturation levels of CO (percent carboxyhemoglobin) above 50 percent are consistent with death. Yet, victims who succumb rapidly to the effects of intense heat, anoxia, or aggravation of natural disease may show normal or only slightly to moderately elevated CO levels. The overall problem of toxic fire gases is, however, very extensive and not confined to carbon monoxide. Many such gases can cause significant injury (immediate or delayed) and are potential contributing factors to death.

Depending upon the specific conditions of the fire, all nitrogen-containing materials, particularly urethane, melamine, acrylonitrile plastics, and fabrics such as nylon, wool, and silk can give rise to at least one or more of the following—hydrogen cyanide, ammonia, nitrogen oxides, isocyanates, etc. Sulfur-containing materials, such as rubber, hides, leather, and also wool and silk, can generate hydrogen sulfide and sulfur oxides. Halogenated products (containing chlorine, fluorine, or bromine), such as polyvinylchloride (PVC) of particular importance, fluorinated resins and pol-

ymers (e.g. Teflon), and some fire retardant-treated materials can give rise to hydrogen chloride, chlorine, hydrogen fluoride, and hydrogen bromide. Fats, oils, and cellulosic materials (wood, paper) can generate acrolein, a potent respiratory irritant.

Toxic gases may be generally categorized as asphyxiants, irritants-corrosives, and central nervous system (CNS) toxicants. Asphyxiants, e.g., carbon monoxide, hydrogen cyanide, interfere with the use of oxygen by the cells of the body. Irritants and corrosives are capable of producing chemical inflammation and/or destruction of the tissues of the respiratory tract and lungs. Depending upon the ambient concentration and degree of exposure, the respiratory and pulmonary effects may be immediate or may involve a latency period of several hours to several days. Nitrogen dioxide, in particular, exhibits such a delayed onset of symptoms. The most prominent examples of irritant-corrosives are ammonia, nitrogen and sulfur oxides, isocyanates, acrolein, hydrogen chloride, hydrogen fluoride, and hydrogen bromide. Central nervous system toxicants, such as hydrogen sulfide, various hydrocarbons, and phosphorous compounds, may produce effects that mimic alcoholic intoxication, i.e., confusion, disorientation, progressing in severe cases to stupor.

It has been found that high percentages of fire victims with acute levels of carbon monoxide also have elevated to toxic, but sublethal, blood levels of cyanide. It is thought that the toxic effects of such concentrations may cause the victim to become dizzy, nauseous, confused, or disoriented, thus preventing escape from the fire scene.

There have been many reports of acute respiratory distress, particularly among firefighters, following exposure to hydrogen chloride-containing fumes or smoke generated from thermal decomposition of polyvinylchloride, a plastic widely used for electrical insulation and other industrial purposes. Also noteworthy is the thermal decomposition/pyrolysis of synthetic plastics and foams, which involves shorter time periods to reach the point of maximum smoke obscuration. This can enhance the overall toxic impact of such smoke by significantly reducing visibility in the fire area and thus further impeding escape.

The most commonly used accelerants (lighter fluids, paint thinners, gasoline, kerosene, and fuel oils) are complex mixtures of families of hydrocarbons, and all are derived from petroleum. Turpentine is a mixture of terpene hydrocarbons derived from wood. All such products possess the property of high lipid (fat) solubility. Hence, they readily penetrate the skin when such contact occurs and will enter the bloodstream. When inhaled they are absorbed by the lungs and will also be carried by the blood. However, the detection of accelerant residue in biological material will depend upon the type of accelerant used, the amount to which the victim was exposed (time-concentration effects), and the survival time. In cases of delayed death, it may no longer be possible to detect accelerants in post mortem specimens. However, blood samples taken after admission to the hospital may be very useful.

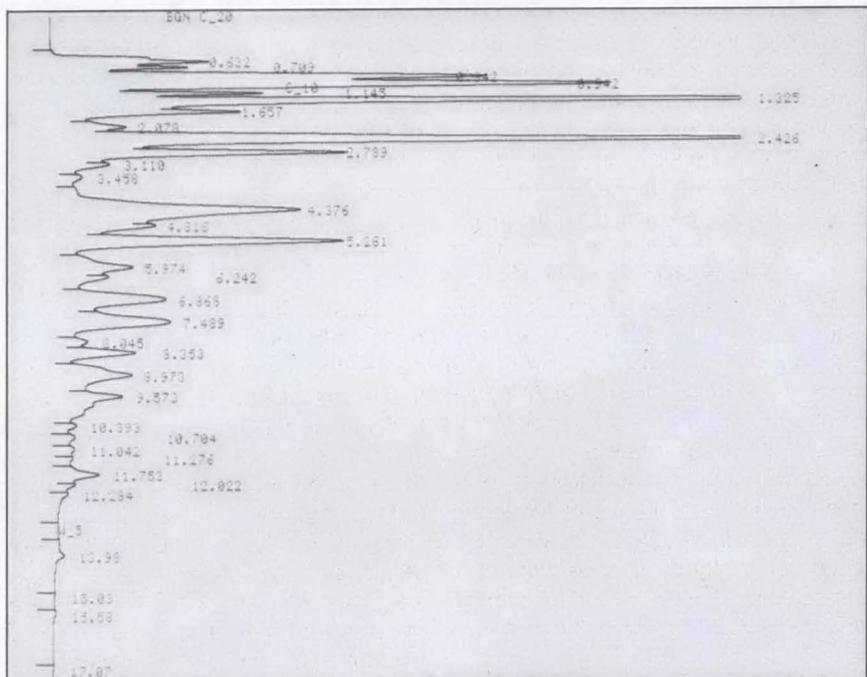
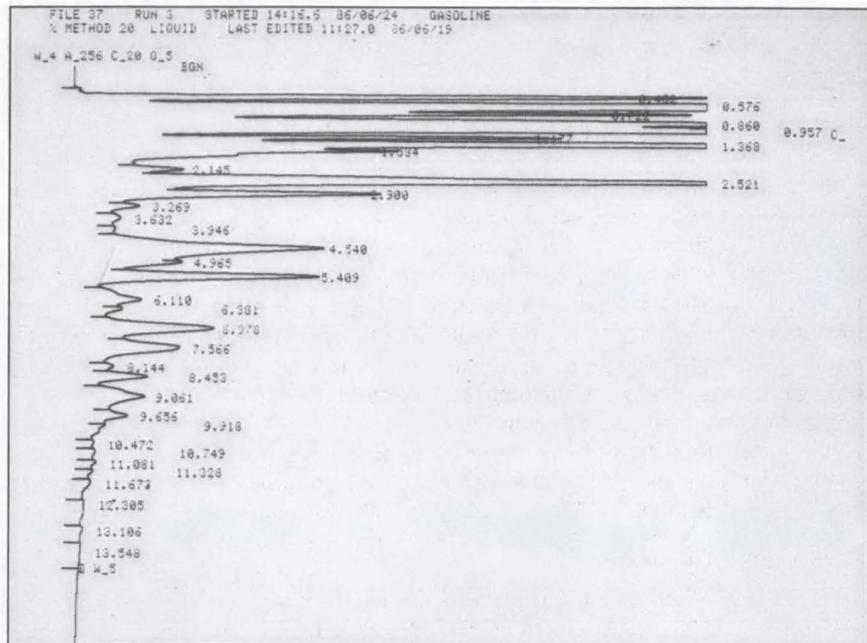


Figure 6 The top photograph shows the gas chromatographic tracing of a standard sample of gasoline. The other photograph shows gas chromatographic tracing of a case sample of gasoline residue from debris. The difference in the spectra reflects partial evaporation of the more-volatile components under conditions of the fire atmosphere.

"The investigation of a fatal fire involves a team effort on the part of the investigator, the medical examiner, and chemist."

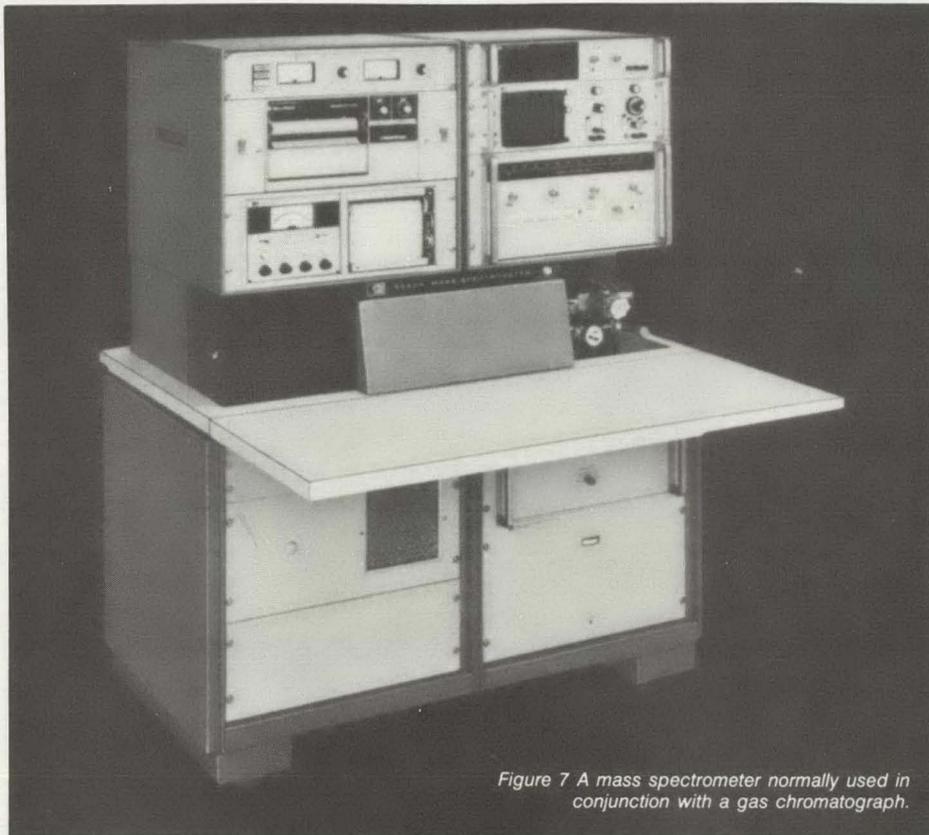


Figure 7 A mass spectrometer normally used in conjunction with a gas chromatograph.

There must be proper collection and preservation of all evidence found at the scene which is to be submitted to the forensic laboratory for accelerant analysis. Where practicable, clean, unlined metal containers or screw-capped glass (no rubber or plastic seals) are recommended. Where the size of the material requires the use of plastic bags, these should be tightly sealed and preferably kept refrigerated, as should all collected evidence, until testing is done so as to minimize loss of accelerant by volatilization.

Detection and identification of accelerant residues in evidence will be affected by the type and amount of accelerant used, the intensity and duration of the fire, the boiling off of the

lighter, more-volatile components leaving behind the heavier (differential volatility), loss of accelerant due to the effects of high-pressure hosing, physical destruction of the point of origin, contamination due to background substances or to chemicals, and products present or stored in the fire area. Analytic results must be interpreted very carefully and with knowledge of the nature of the fire scene.

The first stage in the analysis of accelerants is the separation of the hydrocarbons from various types of evidence materials or from biological specimens. This is achieved by using such techniques as temperature-controlled volatilization in a sealed container, extraction with selected or-

ganic solvents, or absorption on wires coated with finely powdered charcoal. The basic analytic technique itself is one which combines a process known as chromatography with mass spectrometry.

In the chromatographic process (such as gas-liquid chromatography), the components of the original sample may be resolved (separated) into individual compounds, or as is more generally the case, partially resolved into a number of different fractions, each of which contains several or more compounds. As each fraction becomes "resolved," the mass spectrometric process provides chemical family or families of the compounds in each fraction. By analyzing known samples of each of a series of standard accelerants, a structure-specific, analytic data pattern is obtained for each. This information can be put into the memory bank of a computer. By comparison of the data obtained on an actual case sample with that from known standard accelerants, the analyst can determine if an accelerant or accelerant residue was present in the sample, and if there is sufficient information, what type of accelerant was used. (See figs. 6 and 7.)

Summary

The investigation of a fatal fire involves a team effort on the part of the investigator, medical examiner, and chemist. Only by working in close cooperation with other professionals can each one maximize the effects of individual endeavors. And as in any joint venture, good communication and mutual understanding are integral parts of a fatal fire investigation. Without the knowledge and findings of the others, the investigation of a fatal fire would be deficient.

FBI

Crime in the United States 1985

Final 1985 crime statistics show that all Crime Index offenses rose in volume from the previous year. Following 3 consecutive years of decline, the Index total increased to 12.4 million offenses in 1985, an average rate of 5,207 crimes per 100,000 U.S. inhabitants. The number of offenses was 5 percent above the 1984 figure and 10 percent higher than the 1976 level. However, it was 7 percent lower than in 1981, when crime was at its all-time high.

Figures from nearly 16,000 city,

county, and State law enforcement agencies provided the basis for the annual evaluation of crime by the FBI's Uniform Crime Reporting (UCR) Program. During 1985, the participating agencies represented approximately 231 million U.S. inhabitants or 97 percent of the total population.

VIOLENT CRIMES

A 4-percent increase in violent crime—murder, forcible rape, robbery, and aggravated assault—was recorded in 1985. These crimes collec-

tively rose in volume last year and represented 11 percent of the total Crime Index offenses reported to law enforcement. Individually, murder was up 2 percent; forcible rape, 4 percent; robbery, 3 percent; and aggravated assault, 6 percent.

The violent crime rate, which relates offense volumes to population, also rose in 1985 to 556 per 100,000 inhabitants, a 3-percent increase. Five- and 10-year comparisons showed the 1985 violent crime total down 3 percent from 1981 but 32 percent higher

Index of Crime, United States, 1976-1985

Population ¹	Crime Index total ²	Modified Crime Index total ³	Violent crime ⁴	Property crime ⁴	Murder and non-negligent manslaughter	Forcible rape	Robbery	Aggravated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson ³
Number of offenses:												
1976-214,659,000	11,349,700		1,004,210	10,345,500	18,780	57,080	427,810	500,530	3,108,700	6,270,800	966,000	
1977-216,332,000	10,984,500		1,029,580	9,955,000	19,120	63,500	412,610	534,350	3,071,500	5,905,700	977,700	
1978-218,059,000	11,209,000		1,085,550	10,123,400	19,560	67,610	426,930	571,460	3,128,300	5,991,000	1,004,100	
1979-220,099,000	12,249,500		1,208,030	11,041,500	21,460	76,390	480,700	629,480	3,327,700	6,601,000	1,112,800	
1980-225,349,264	13,408,300		1,344,520	12,063,700	23,040	82,990	565,840	672,650	3,795,200	7,136,900	1,131,700	
1981-229,146,000	13,423,800		1,361,820	12,061,900	22,520	82,500	592,910	663,900	3,779,700	7,194,400	1,087,800	
1982-231,534,000	12,974,400		1,322,390	11,652,000	21,010	78,770	553,130	669,480	3,447,100	7,142,500	1,062,400	
1983-233,981,000	12,108,600		1,258,090	10,850,500	19,310	78,920	506,570	653,290	3,129,900	6,712,800	1,007,900	
1984-236,158,000	11,881,800		1,273,280	10,608,500	18,690	84,230	485,010	685,350	2,984,400	6,591,900	1,032,200	
1985-238,740,000	12,430,000		1,327,440	11,102,600	18,980	87,340	497,870	723,250	3,073,300	6,926,400	1,102,900	
Percent change; number of offenses:												
1985/1984	+4.6		+4.3	+4.7	+1.6	+3.7	+2.7	+5.5	+3.0	+5.1	+6.8	
1985/1981	-7.4		-2.5	-8.0	-15.7	+5.9	-16.0	+8.9	-18.7	-3.7	+1.4	
1985/1976	+9.5		+32.2	+7.3	+1.1	+53.0	+16.4	+44.5	-1.1	+10.5	+14.2	
Rate per 100,000 inhabitants:												
1976	5,287.3		467.8	4,819.5	8.8	26.6	199.3	233.2	1,448.2	2,921.3	450.0	
1977	5,077.6		475.9	4,601.7	8.8	29.4	190.7	247.0	1,419.8	2,729.9	451.9	
1978	5,140.3		497.8	4,642.5	9.0	31.0	195.8	262.1	1,434.6	2,747.4	460.5	
1979	5,565.5		548.9	5,016.6	9.7	34.7	218.4	286.0	1,511.9	2,999.1	505.6	
1980	5,950.0		596.6	5,353.3	10.2	36.8	251.1	298.5	1,684.1	3,167.0	502.2	
1981	5,858.2		594.3	5,263.9	9.8	36.0	258.7	289.7	1,649.5	3,139.7	474.7	
1982	5,603.6		571.1	5,032.5	9.1	34.0	238.9	289.2	1,488.8	3,084.8	458.8	
1983	5,175.0		537.7	4,637.4	8.3	33.7	216.5	279.2	1,337.7	2,868.9	430.8	
1984	5,031.3		539.2	4,492.1	7.9	35.7	205.4	290.2	1,263.7	2,791.3	437.1	
1985	5,206.5		556.0	4,650.5	7.9	36.6	208.5	302.9	1,287.3	2,901.2	462.0	
Percent change; rate per 100,000 inhabitants:												
1985/1984	+3.5		+3.1	+3.5	+2.5	+1.5	+4.4	+1.9	+3.9	+5.7	
1985/1981	-11.1		-6.4	-11.7	-19.4	+1.7	-19.4	+4.6	-22.0	-7.6	-2.7	
1985/1976	-1.5		+18.9	-3.5	-10.2	+37.6	+4.6	+29.9	-11.1	-7	+2.7	

¹Populations are Bureau of the Census provisional estimates as of July 1, except April 1, 1980, preliminary census counts, and are subject to change.

²Because of rounding, the offenses may not add to totals.

³Although arson data are included in the trend and clearance tables, sufficient data are not available to estimate totals for this offense.

⁴Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault. Property crimes are offenses of burglary, larceny-theft, and motor vehicle theft. Data are not included for the property crime of arson.

All rates were calculated on the offenses before rounding.

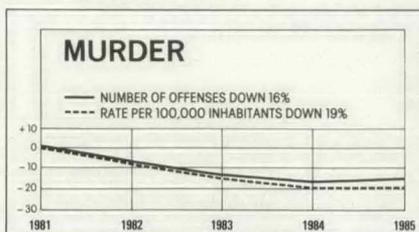
than in 1976.

MURDER—There were 8 murders for every 100,000 people in the United States during 1985. When compared to the previous year, the 1985 volume (18,976) was 2 percent higher nationwide. Similar to the national trend, overall increases of 2 percent were also experienced in cities and in suburban and rural counties. Increases were recorded in all regions except the Northeastern States, where murder declined 2 percent.

Forty-seven percent of 1985 murder victims were aged 20 through 34 years. Of every 100 victims, 74 were males and 56 were white. Firearms were the predominant murder weapons.

Victim/offender relationships showed that nearly 3 of every 5 murders committed were perpetrated by relatives or persons acquainted with the victims. By circumstances, 39 percent of all murders resulted from arguments, 20 percent were proven or suspected to have occurred in conjunction with felonious activities, such as robbery, arson, etc., 18 percent resulted from miscellaneous nonfelony activities, and 23 percent from unknown circumstances.

Of all persons arrested for murder last year, the 18- to 24-year age group showed the greatest involvement, accounting for 33 percent of the total arrests for this offense; 41 percent of all murder arrestees were under 25 years of age. Fifty percent were white; 48 percent, black; and the remainder, other races.

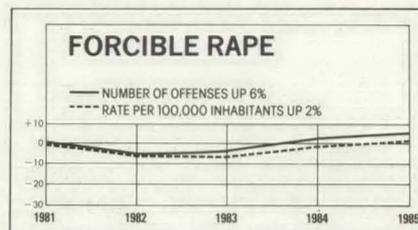


FORCIBLE RAPE—An estimated 87,340 forcible rapes occurred in 1985, of which 80 percent were rapes by force and the remainder were attempts or assaults to commit forcible rape. A comparison of 1984 and 1985

figures showed the volume nationwide, in cities, and in suburban counties rose 4 percent. In rural counties, the increase was 9 percent. For the same 2-year period, forcible rapes were also up in all four geographic regions of the country.

By UCR definition, the victims of forcible rape are always females, and in 1985, an estimated 71 of every 100,000 females in the Nation were reported rape victims. The national clearance rate for forcible rape was 54 percent.

There were an estimated 36,970 arrests for forcible rape in 1985. Of the arrestees, 45 percent were under the age of 25, with 30 percent in the 18- to 24-year age group. Fifty-two percent of those arrested were white and 46 percent were black.



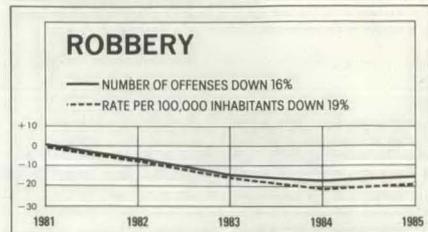
ROBBERY—Robberies reported to law enforcement increased 3 percent in volume from 1984 to 1985. The 497,874 offenses accounted for a total estimated national loss of \$313 million, an average of \$628 per incident.

Regionally, the number of robberies fell only in the Midwest, which recorded a 3-percent decline from the previous year. A similar decrease was reported in the rural counties, while increases in robberies were experienced in cities and in suburban counties. The national rate of 209 robberies per 100,000 people was 2 percent higher than in 1984. The highest rate—965 per 100,000 inhabitants—was in cities with populations over 1 million.

Strong-arm tactics were used in 42 percent of all robberies last year. Thirty-five percent were committed with firearms, 13 percent with knives and other cutting instruments, and the

remainder with other dangerous weapons. Over half of the offenses were robberies on streets and highways.

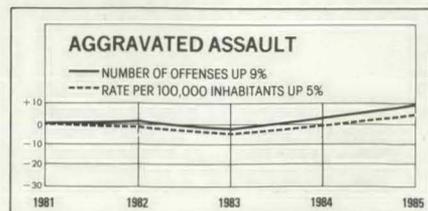
In 1985, 1 of every 4 robberies were cleared, and robbery arrests rose less than 1 percent as compared to the 1984 total. Ninety-two percent of the robbery arrestees were males and 65 percent were under 25 years of age. Sixty-two percent were black and 37 percent were white.



AGGRAVATED ASSAULT—The 723,246 estimated aggravated assaults represented a 6-percent increase over the 1984 total. Increases were recorded in all regions and areas. Up 4 percent over 1984, the national rate for aggravated assault in 1985 was 303 per 100,000 inhabitants.

Twenty-one percent of all aggravated assaults were committed through the use of firearms, 23 percent with knives or other cutting instruments, 31 percent with some other weapon, and 25 percent with personal weapons (hands, fists, feet).

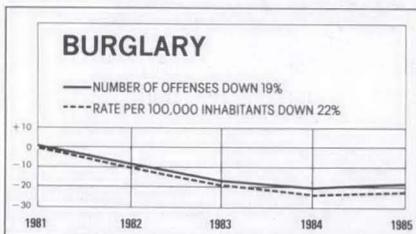
Law enforcement agencies cleared 62 percent of the aggravated assaults coming to their attention. There were an estimated 305,390 arrests for aggravated assault in 1985. Arrests of males outnumbered those of females by 6 to 1. Of the arrestees, 58 percent were white and 40 percent were black.



PROPERTY CRIMES

Up 5 percent jointly, the property crimes of burglary, larceny-theft, and motor vehicle theft accounted for 89 percent of the total Crime Index offenses reported to law enforcement. Burglary increased 3 percent; larceny-theft, 5 percent; motor vehicle theft, 7 percent; and arson 3 percent. The property crime total was 8 percent below the 1981 level but 7 percent above that of 1976, and the property crime rate, 4,650 per 100,000 inhabitants, was 4 percent higher in 1985 than in 1984.

BURGLARY—Nearly 3.1 million burglary offenses were reported to law enforcement agencies across the country during 1985, and the volume of this offense was 3 percent higher than the 1984 total. Geographically, the South's burglary volume was up 8 percent and the West's, 4 percent, while declines of 3 percent in the Midwest and less than 1 percent in the Northeast were registered. The national burglary rate of 1,287 per 100,000 inhabitants in 1985 rose 2 percent over the previous year's rate.



The total estimated national loss due to burglary in 1985 was \$2.9 billion, for an average of \$953 per incident. Two of every 3 burglaries were of residences, and the average loss in residential burglaries was \$974 per offense, as compared to \$913 for nonresidential burglaries.

Seventy percent of the burglary offenses in 1985 involved forcible entry, 22 percent were unlawful entries, and the remainder were forcible entry attempts. The clearance rate for bur-

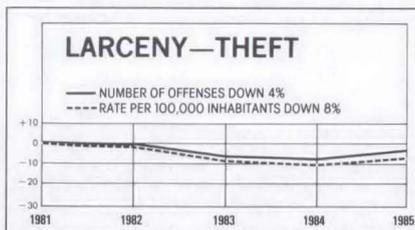
glary was 14 percent. Arrest trends for 1984 and 1985 showed a 2-percent increase in total burglary arrests. Of the estimated 443,300 burglary arrestees in 1985, 93 percent were males, 73 percent were under 25 years of age, and 70 percent were white.

LARCENY-THEFT—Comprising 56 percent of the Index total and 62 percent of all property crimes, larceny-thefts numbered an estimated 6,926,380 offenses in 1985. During the year, 5 percent more larcenies were registered nationally and in cities than in 1984. Increases of 7 and 1 percent were recorded in suburban and rural counties, respectively. All geographic regions recorded increases.

The larceny-theft rate in 1985 was 2,901 per 100,000 inhabitants nationwide. Average losses were \$393 per incident, with a total national loss due to larceny-theft estimated at \$2.7 billion.

An analysis of the larceny-theft category showed that 37 percent of these offenses were thefts of motor vehicle parts, accessories, and contents. Thefts from buildings comprised 16 percent; shoplifting, 14 percent; and bicycle thefts, 8 percent.

In 1985, 20 percent of the larceny-thefts reported were cleared. Overall arrests for this offense were up 5 percent from the 1984 total. Females were arrested for this offense more often than for any other during the year. Of all persons arrested for the crime, 47 percent were under 21 years of age and 67 percent were white.

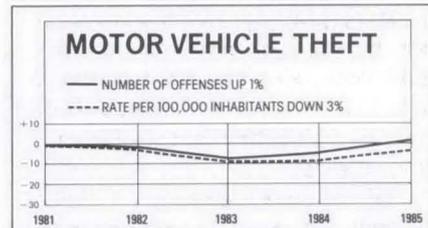


MOTOR VEHICLE THEFT— During 1985, an estimated 1 of every 159 registered motor vehicles was stolen, and the national total of 1,102,862 offenses was 7 percent above the 1984 total. Of the motor vehicles stolen, 75

percent were automobiles, 14 percent were trucks or buses, and the remainder were other types. An estimated \$5.1 billion national loss was due to motor vehicle theft last year. At the time of theft, the average value per vehicle was \$4,619.

The volume of motor vehicle theft increased 12 percent in the suburban counties and 6 percent in both the cities and rural counties. Regionally, upswings of 18 percent in the South and 10 percent in the West were recorded. Declines of less than 1 percent were experienced in the Northeast and the Midwest.

The national clearance rate for motor vehicle theft was 15 percent. Arrests for this offense in 1985 were up 11 percent overall from the previous year. Of the arrestees, 57 percent were under 21 years of age and 91 percent were males. Whites comprised 66 percent of the persons arrested and blacks, 32 percent.



ARSON—During 1985, 103,220 arson offenses were reported by 12,789 agencies. The arson volume rose 3 percent in 1985 over the 1984 total, and increases were also recorded in the cities (2 percent), suburban counties (6 percent), and rural counties (1 percent). The national arson rate was 50 per 100,000 population.

Data based on 12,697 agencies furnishing at least 1 month of supplemental information concerning the arsons reported in 1985 showed that of the property targeted by arsonists, structures accounted for 56 percent, mobile property (motor vehicles, airplanes, boats, etc.) for 26 percent, and

Total Estimated Arrests,¹ United States, 1985

TOTAL ²	11,945,200	Fraud	342,600
Murder and nonnegligent manslaughter	18,330	Embezzlement	11,400
Forcible rape	36,970	Stolen property; buying, receiving, possessing	127,100
Robbery	136,870	Vandalism	259,600
Aggravated assault	305,390	Weapons; carrying, possessing, etc.	180,900
Burglary	443,300	Prostitution and commercialized vice	113,800
Larceny-theft	1,348,400	Sex offenses (except forcible rape and prostitution) ...	100,600
Motor vehicle theft	133,900	Drug abuse violations	811,400
Arson	19,500	Gambling	32,100
Violent crime ³	497,560	Offenses against family and children	58,800
Property crime ⁴	1,945,100	Driving under the influence	1,788,400
Crime Index total ⁵	2,442,700	Liquor laws	548,600
Other assaults	637,600	Drunkenness	964,800
Forgery and counterfeiting	87,600	Disorderly conduct	671,700
		Vagrancy	33,800
		All other offenses (except traffic)	2,489,200
		Suspicion (not included in totals)	12,900
		Curfew and loitering law violations	81,500
		Runaways	161,200

¹Arrest totals based on all reporting agencies and estimates for unreported areas.

²Because of rounding, items may not add to totals.

³Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault.

⁴Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.

⁵Includes arson.

other types of property (crops, timber, etc.) for 18 percent. Fifty-nine percent of the structural arsons involved residential property, and 92 percent of the arsons of mobile property involved motor vehicles.

Averaging \$15,457 per incident, the reported monetary value of property damaged due to arson was \$1.3 billion. Included in the total is \$400 million in damage caused by a single arson incident at an industrial/manufacturing facility.

Seventeen percent of the arsons coming to the attention of law enforcement in 1985 were cleared. Demonstrating a higher percentage of juvenile involvement than any other Index crime, only persons under age 19 accounted for 36 percent of all arson clearances. The estimated number of arrests for arson in 1985 totaled 19,500. Sixty-three percent of the arrestees were under 25 years of age and 41 percent were under 18. Of all arrestees, 87 percent were males and 76 percent were white.

CRIME DISTRIBUTION

Geographically, total Crime Index trends for 1985 against those of the previous year showed rises of 9 percent in the Southern States, 6 percent in the Western States, and 2 percent in the Northeastern States. The Midwest-

ern States registered virtually no change for the two annual periods.

The Nation's cities registered a 4-percent Crime Index increase from 1984 to 1985, while suburban counties recorded a 6-percent increase and rural counties, a 2-percent rise. Overall Crime Index rates were highest in the Nation's cities and lowest in rural counties. There were 5,921 Crime Index offenses per 100,000 people in metropolitan areas, 4,580 per 100,000 inhabitants of cities outside metropolitan areas, and 1,803 offenses per 100,000 rural area residents.

CLEARANCES AND ARRESTS

Twenty-one percent of all Index crimes reported during 1985 were cleared by law enforcement. The overall clearance rate for violent crime was 48 percent and 18 percent for property crime. Reporting agencies recorded the highest clearance rate (72 percent) for murder, while the lowest was for burglary (14 percent).

The most successful clearance rate for Crime Index offenses was registered in the Southern States with 22 percent. Following were the Western States with 21 percent and the Northeastern and Midwestern States each with 19 percent.

In 1985, an estimated 11.9 million arrests for all criminal infractions, ex-

cept traffic violations, were recorded nationwide, an increase of 3 percent when compared to the 1984 total. During the same time period, adult arrests were up 2 percent, and those of persons under 18 years of age rose 5 percent. Nearly one-fourth, or 2.8 million, of the total arrests during 1985 were for driving under the influence and drunkenness.

Nationally, the 1985 arrest rate per 100,000 inhabitants was 5,062. When viewing the four regions of the country, the arrest rate for the Western States was 5,902; for the Southern States, 5,191; for the Northeastern States, 5,110; and for the Midwestern States, 3,996.

Arrest statistics showed that persons under 25 years of age comprised 50 percent of all arrestees nationwide. They made up 62 percent of the persons arrested for Index offenses, 50 percent of those arrested for violent crimes, and 65 percent of those arrested for property crimes.

Four of every 5 arrestees throughout the Nation were males. Both male and female arrests were on the rise from 1984 to 1985. Arrests of males increased 2 percent, while those of females were up 6 percent. Of all persons arrested, 72 percent were white, 27 percent were black, and the remainder were other races.

FBI

Police Apprenticeship Programs

“Police participation in the Explorer program affords the youngster an opportunity to become accustomed to police work, while developing an interest in law enforcement as a possible career.”

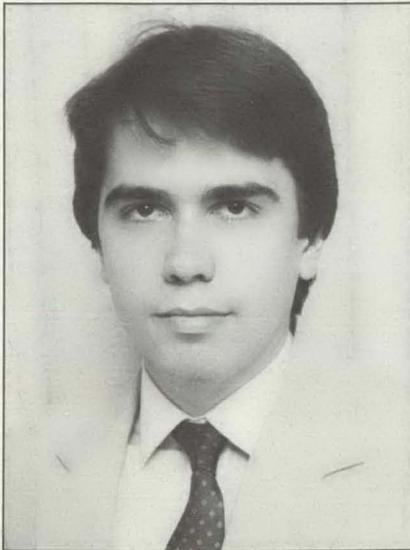
By
FRANK RAY DEAK
*Investigative Assistant
Federal Bureau of Investigation
Los Angeles, CA*



In a time of rising crime and budget cutbacks, a valuable resource is often overlooked by many police agencies—young people interested in a law enforcement career who can be effectively used as apprentices. Apprenticeship programs are designed

primarily for the development of young people who will ultimately possess the necessary skills and qualifications to enter into a career in law enforcement. Such an arrangement is mutually beneficial to law enforcement, as well as to the youths involved.

“By working in a police agency, Explorers ... develop an insight into the department’s objectives and the difficulties and hazards confronting the police officer in the performance of his duties.”



Mr. Deak

Explorer Programs

Some police agencies sponsor Explorer Scout programs. Law Enforcement Explorers are an advanced unit of the Boy Scouts of America whose members range in age from 14 to 18. The program originated among police departments in Southern California in the early 1960's. Today, the membership has risen to over 43,000 participants sponsored by police agencies across the Nation.¹

Law Enforcement Explorers receive instruction on police procedures and functions. They are trained in fingerprinting, the use of firearms, first aid techniques, criminal law, and crime prevention, in addition to exposure to other aspects of police work. Police participation in the Explorer program affords the youngster an opportunity to become accustomed to police work, while developing an interest in law enforcement as a possible career.

The Los Angeles Police Department (LAPD), a long-time sponsor, considers the program, which is made up of about 600 Explorers, to be a successful endeavor. Candidates attend the police academy for a total of 12 weekends, where they undergo physical fitness training and take basic courses in law enforcement. Upon successful completion of training, they become registered Explorers and are assigned to 1 of the 18 LAPD/Explorer posts located citywide. Each post is staffed by an LAPD officer who serves as an advisor.

LAPD Explorers perform many of the duties regularly assigned to sworn officers, such as crowd control, crime prevention instruction, and licensing of

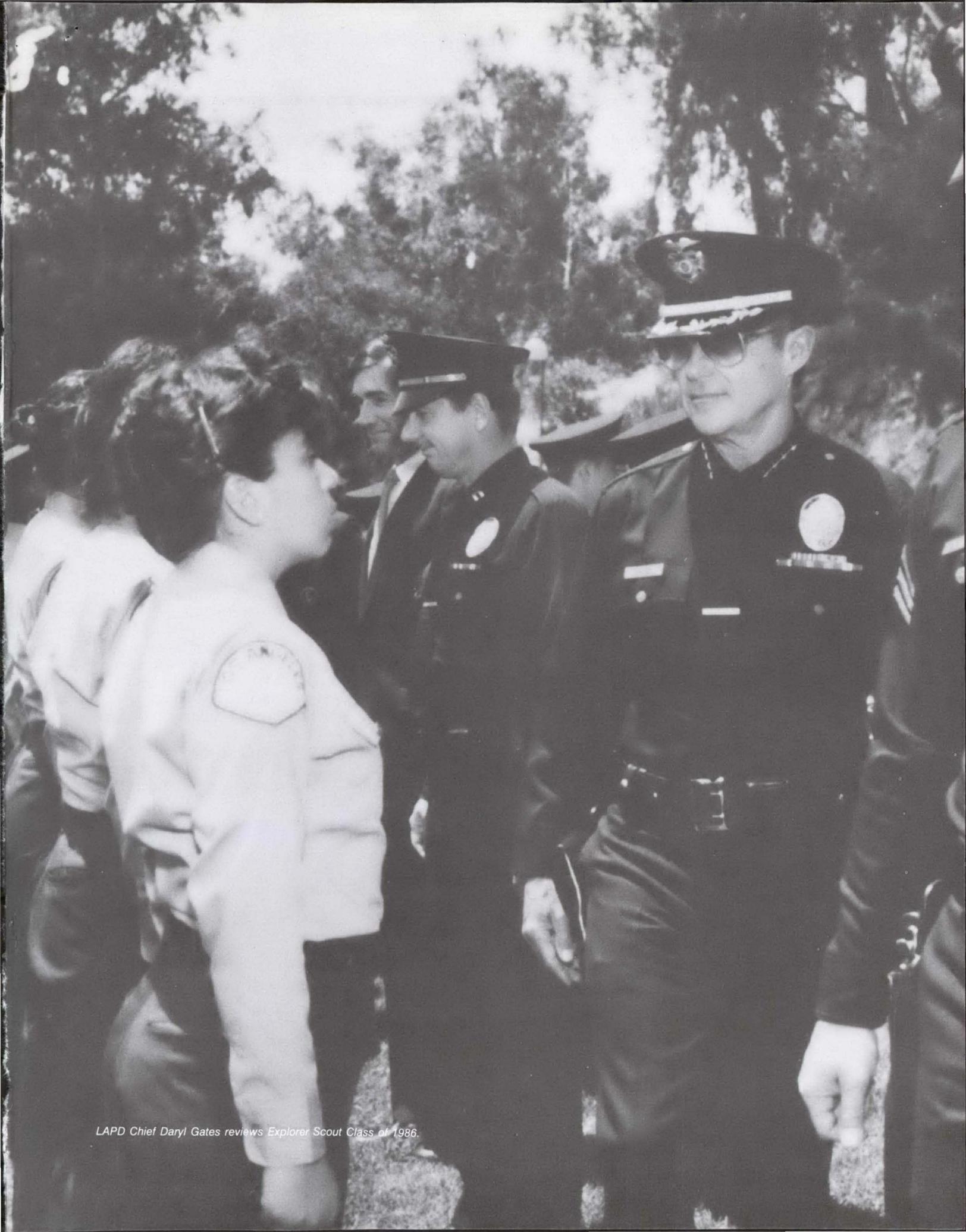
bicycles. During the 1984 Summer Olympic Games in Los Angeles, Explorer units assisted with security duties. In terms of cost-effectiveness, they worked over 145,000 man-hours in fiscal 1984, resulting in a savings of over \$2.5 million to the Los Angeles Police Department.²

The Los Angeles Sheriff's Office (LASO) also sponsors an Explorer program with over 350 Explorers. In fiscal 1984, sheriff's Explorers worked 25,650 man-hours performing station functions and spent 39,181 man-hours on duties which would otherwise have to be performed by deputies. Altogether, Explorers saved the sheriff's office over \$1.1 million during the period.³

By working in a police agency, Explorers learn leadership qualities and develop good citizenship and character traits, while acquiring an awareness of civic responsibility. They develop an insight into the department's objectives and the difficulties and hazards confronting the police officer in the performance of his duties. In this way, Explorers experience both the advantages and drawbacks of a career in police work before they become police officers.

Participation in the Explorer program is also a rewarding activity for many police officers. Officers have contact not only with the community youth but often with youngsters who are having difficulty with life. The police officers can provide counseling and guidance for troubled youngsters, improving the image of police and helping the youngster become a better citizen.

Most of the financing for an Explorer program is acquired through fundraising. Insurance for Explorers is provided by the Boy Scouts of America organization. Although Explorers do not receive pay for their duties, they do



LAPD Chief Daryl Gates reviews Explorer Scout Class of 1986.

“Highly motivated young people desiring a career in police work should be furnished with the opportunity to gain firsthand experience in the profession.”

receive school credit for their participation and are eligible for annual scholarships awarded by the J. Edgar Hoover Foundation, the U.S. Secret Service, and the Bureau of Alcohol, Tobacco and Firearms.

Police Cadet Programs

The Beverly Hills, CA, Police Department has instituted a “police cadet” program which is geared toward college students between the ages of 18 and 23. Cadets are given paid, part-time jobs with the department, on the condition that participants attend college and carry a minimum of nine units per semester while maintaining at least a 2.0 grade point average.

The philosophy behind the cadet program is to prepare young people for future service in the department as a police officer. In order to realize this goal, cadets work on a rotating basis until they are familiar with all of the functions of the department. Assignments include work in the training section, records department, traffic division, communications unit, and the identification and detective bureaus. Cadets are subject to a bi-monthly evaluation by their supervisor, who is an officer with the department. Cadets also receive college credit for their work experience.

Like the LAPD and LASO, the Beverly Hills Police Department has viewed its apprenticeship program as beneficial for several reasons. First of all, police officers are released from time-consuming duties and may be fielded elsewhere. In addition, many cadets stay with the program and eventually become officers with the department.

The Metropolitan Police Force of London, England, has also established a police cadet program. Boys and girls who are of good character, good education, and are physically fit are recruited into the program. They attend law, criminal justice, and general education courses, which are taught by a very competent staff. Academic studies are augmented by physical education and outdoor activities, in order to prepare them for the challenge of police work.

The London Metropolitan Police Force's cadet program evolved from a network of Boy Clerks employed by numerous police agencies in Great Britain during the early 1930's.⁴ The department has recognized the program as a valuable form of pre-service training and involvement with the community. Although there was some initial opposition to the establishment of the cadet system on the grounds that it incorporated a sense of narrow-mindedness among the cadets by depriving them of the benefits of associating with their peers in other walks of life, this pitfall is solved through skillful and innovative training.

Another police department which has police cadets is that of the city-state of Singapore. Youths who are attending secondary schools and who display enthusiasm for police work are eligible to enter the Police Cadet Corps. They are trained under the direct supervision of officers of the volunteer special constabulary, who are also school teachers. Cadets learn the intricacies of police work by attending classes in law and police work, in addition to participating in physical fitness training.

The major goals behind the formation of the Singapore Police Cadet Corps were to dissolve the barriers between the people and the police department and to implant a sense of dis-

cipline and camaraderie among youth, while establishing a broader sense of responsibility and comprehension of police duties by the general community. The Police Cadet Corps has succeeded in all these respects and is being expanded.

Intern Programs

Apprenticeship programs are also available at the Federal level in law enforcement, although to a lesser extent than local programs. The majority of these Federal apprenticeship programs are aimed at college and graduate students interested in law enforcement as a career.

The Federal Bureau of Investigation has implemented an Honors Internship Program, in order to foster future interest in the FBI as a career among young people in colleges and universities across the United States. Appointments to the 10-week Honors Internship Program are extremely selective and are based upon academic achievement, in addition to life and work experiences.

Following appointment as an FBI intern, individuals are assigned to a headquarters division based upon their educational major and area of interest. Each intern is under the supervision of the assistant director of the division to which he or she is assigned. Interns perform a wide variety of duties, such as conducting feasibility studies, researching legal issues, or working on translation assignments. Other FBI interns may conduct studies of terrorists or prepare analyses of organized crime.

Conclusion

Support from all levels of law enforcement is obviously necessary if apprenticeship programs are to develop. That law enforcement apprenticeship programs have not only existed but have grown is clear evidence that police agencies find value in having students devote a portion of their time working as apprentices.

There are three major reasons for their endorsement. First, police agencies have jobs that need to be accomplished. They find police apprentices able and enthusiastic workers who are willing to learn. Second, apprenticeship programs have long been recognized by police departments as a recruitment vehicle for full-time person-

nel. On the average, many apprentices return to their sponsoring agency as permanent employees upon graduation or meeting age requirements. Finally, another benefit of any agency's use of police apprentices is the strengthening of relations between the police and the community.

Today, more than 16,000 municipal, county, State, and Federal law enforcement agencies exist in the United States. However, fewer than 1,800 police agencies participate in any type of Explorer program.⁵ Local chapters of the Boy Scouts of America can assist police agencies interested in establishing Explorer programs. Other departments should take the initiative and create police cadet and internship programs.

Highly motivated young people desiring a career in police work should be furnished the opportunity to gain firsthand experience in the profession. More must be done to develop these young people into career professionals. If they have to wait until reaching 21 or over before they can become police officers, they may be lost to the police profession forever.

FBI

Footnotes

¹Brian Archibald, Boy Scouts of America, Law Enforcement Explorer Program, Irving, TX, 1986 Membership statistics.

²Personal communication with Explorer coordinator of the Los Angeles Police Department, 1984 station statistics.

³Personal communication with Explorer coordinator of the Los Angeles Sheriff's Department, 1984 station statistics.

⁴James Kramer, *World's Police* (London, England: Cassell & Company, Limited, 1964), pp. 53-54.

⁵Supra note 1.

Bureau of Justice Statistics Annual Report

The Bureau of Justice Statistics (BJS) of the U.S. Department of Justice has released its first annual report. The report is organized around the key issues facing criminal justice policymakers today, including victims, sentencing, prison crowding, etc. Each of these sections presents the most current national data available on the subject and summarizes BJS data collection and analysis activities on the topic.

The report also describes BJS services that are available to State and local officials and the public. These include the Justice Statistics Clearinghouse, at which a person knowledgeable in criminal justice statistics can be

reached by a toll-free telephone line. This person can respond to requests for statistical information and mail out publications, usually at no cost to the person making the request.

Of particular interest to State and local officials should be the section describing State-level criminal justice statistical activities. In most States, there is an agency that serves as a statistical resource to the State in much the same way that BJS serves the Nation. This section concludes with narrative descriptions highlighting criminal justice statistical activities in individual States during the fiscal year. The narratives were provided by the State statistical agencies.

A special section of the report describes the "new initiatives" undertaken by BJS during the fiscal year to improve existing data series and to develop new data collection efforts where little or no statistical information currently exist. Single copies of the report are available free of charge from the Justice Statistics Clearinghouse, National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD, 20860. The clearinghouse can also be reached by a toll-free telephone number (800) 732-3277. Persons in Maryland and the Washington, DC, metropolitan area should dial (301) 251-5500. Please cite the report's number, NCJ-100182, when ordering.

Tactical Driving

A Multifaceted Approach

“A multifaceted, systematic approach allows each agency to deal with tactical driving in a manner which best suits their specific needs.”

By
SCOTT A. CUNNINGHAM
*Training Detective
Tampa Police Academy
Tampa, FL*



- “Officer down. Officer needs assistance”! Backup units begin to respond in emergency mode from every possible direction and distance.
- Several heavily armed suspects have just robbed a bank. Responding units are advised automatic weapons are involved and shots have been fired.
- “Lincoln - 3, I’m in pursuit, northbound on Florida Avenue...”

The common factor in each of these situations is tactical driving. If law enforcement agencies have a multifaceted approach to tactical driv-

ing, their personnel are better prepared to act and to make the appropriate decisions.

Each day, up to 1,370 “hot pursuits” occur in the United States.¹ These pursuits are predominantly for traffic-related offenses, but an ever-increasing number are for serious crimes such as bank robbery and murder. Prime examples are the robbery of the Security Pacific Bank in Norco, CA, in May 1980, and the pursuit of several bank robbery suspects by FBI Agents in Miami, FL, in April of this year.

Added to these pursuits is the unknown number of times law enforce-



Detective Cunningham



Don Newberger
Chief of Police

ment personnel respond in an emergency mode to other calls for service, including major accidents and disasters, officer needs assistance, and crimes in progress. As is evident, law enforcement personnel engage in tactical, emergency driving virtually on a daily basis.

This is not surprising, considering the large number of motor vehicles in use today. The main reason law enforcement began to use motor vehicles was to pursue serious offenders who used vehicles to effect their escape and to respond quickly to emergency situations. From the beginning, police motor vehicles were intended for tactical driving situations; however, only recently have personnel been trained in tactical driving techniques. Much of this has been brought about by civil lawsuits and injuries that resulted from emergency driving incidents.

The Tampa Police Department has recognized the need for tactical driving training, as have other law enforcement agencies. Because of the constant evolution of society, technology, and analyzed factual data, this training has evolved into a multifaceted approach. This approach is in compliance with standard 22.3 of the National Advisory Commission on Criminal Justice Standards and Goals,² and various standards of the Commission on Accreditation of Law Enforcement Agencies, Inc., but specifically standards 41.2.8 and 41.2.9.³

The hazards of emergency operation of a police vehicle can be grouped into three broad areas:

—Injuries resulting from vehicle accidents,

—Effecting stabilization/neutralization of the incident/suspects, and

—Legal (civil lawsuits and criminal charges).

Each area must be considered when dealing with tactical driving.

Policy

The first phase of this multifaceted approach is a written policy. Each agency must clearly define its policy regarding tactical driving. It is as important as a deadly force policy, because the ramifications are equally severe. The Tampa Police Department's policy, entitled "Emergency Operation of Police Vehicles," covers virtually all tactical driving incidents, not just pursuits. Explained in detail are those issues which all tactical driving policies should cover—department philosophy and societal considerations, applicable State law, when to initiate emergency response, communications, number, type, and role of involved units, aerial assistance, driving tactics, including roadblocks, supervisory responsibilities, and termination of emergency driving.⁴

Training

Each recruit officer undergoes intensive tactical driving training. This includes familiarization with:

—The dangers and statistical results of tactical driving;

—Legal, civil, and societal considerations;

—Vehicle and road dynamics and capabilities; and

—Driver capabilities, attitudes, and behaviors.

The attitude of the officer is targeted, since it is very important in a stressful situation. Once the officer is familiar with this background material,

“Clear, written policies governing tactical driving situations are imperative.”

intensive hands-on training is conducted. Exercises include controlled braking, perception reaction, cornering and turning, backing, and open road driving. These exercises are used as a result of constant review of data regarding the causes and types of police accidents. These causes can be divided into two categories—immediate and underlying.⁵ Improper change of lanes, failure to yield right of way, following too close, careless driving, excessive speed, and improper backing are examples of immediate causes. A list of underlying causes would include lack of training, lack of experience, and lack of policy.

Original training is supplemented during the 40-hour annual inservice training sessions. This refreshes and updates driving skills, keeping the officer continually aware of current tactics and considerations. Without continually revised and updated information and techniques, training becomes quickly antiquated and personnel revert back to natural instinct. Also available are specialized advanced training courses which provide 40 hours of intensive tactical driving skills and attitude training.

It is important to stress that during each phase of this training, departmental policy must be covered. Part of the training process is to advise the student of what is acceptable and what is not. Therefore, it is important that the policy be clear and taught in the various training phases.

Bifurcated Accident Review

Each accident involving a police vehicle, whether it occurred during a pursuit, emergency response, or routine patrol, is carefully scrutinized. The

accident is reviewed by a traffic accident review committee composed of personnel of various ranks and from various divisions.⁶ This review focuses on the training aspect. Could training have prevented this accident or can training prevent a reoccurrence? Was the officer at fault, not at fault, or were individual actions a contributing factor?

This committee forwards its findings to the involved officer's division commander and to the training bureau. A recommendation for remedial training may be included in this report and may specify what remedial training is needed based on the type of accident, contributing factors, and all circumstances surrounding the accident.

The other review mechanism occurs through the chain of command and may rely on the report of the traffic accident review committee. This review determines whether departmental policy was violated. If policy was violated, the chain of command ascertains what discipline would be appropriate based on the circumstances of the incident, the history of the employee, and the discipline administered for similar occurrences.

The review committee enables the agency to examine each accident in depth, allowing for peer input. An analysis of all accidents provides current data needed to update, and revise as needed, departmental policies and training programs. Analysis of departmental accidents is synthesized with data from other sources, giving a clearer picture of current trends, tactics, philosophies, and considerations.

Safe Driver Recognition

In an effort to encourage safe driving, personnel who have no at-fault accidents for a 3-year period receive special recognition, which includes documentation in the employee's evaluation and personnel jacket, as well as

a paid day off.⁷ This serves to reinforce positively safe driving habits.

Recent Developments

Recognizing the need for skilled police instructors to conduct the various training courses, the Tampa Police Academy, in conjunction with the Pinellas County, FL, Police Academy, created a tactical driving instructor's course. This 40-hour course teaches potential instructors the necessary skills to conduct tactical driving training for their various agencies. The most current data available were used to formulate the driving exercises, making them directly related to potential situations which could be confronted today. Teaching skills in and out of the classroom are emphasized as well, preparing the instructor to deliver quality, coherent instruction. This is one of only five courses recognized by the State of Florida for certification as a tactical driving instructor.

High-powered, exotic, and automatic weapons have begun to play a larger, more deadly role in vehicle pursuits. These weapons have created a need for modified tactics in vehicle pursuits and emergency responses. These recent events make this painfully evident:

The Norco, CA, bank robbery of May 1980, involved automatic, high-powered, and exotic weapons. Responding and pursuing units were met with intensive fire that destroyed several police vehicles and wounded several officers. The vehicles offered little protection, with many taking fire from one-half mile away. One airborne helicopter was disabled by rifle fire. When the suspects stopped suddenly, the primary pursuit vehicle was ambushed as it rounded a curve; the officer was killed.

The McDonald's shooting in San Ysidro, CA, in July 1984, involved automatic weapons. Responding units were fired upon as they arrived, forcing them to move back and seal off a nearby interstate. Most recently, in April 1986, in Miami, FL, 5 FBI Agents were wounded and 2 others killed following a pursuit of two bank robbery suspects. When the suspect vehicle crashed, the suspects jumped from their vehicle, opening fire upon the Agents who were exiting their vehicles.

In each case, law enforcement personnel exercised extreme care during the response, subsequent pursuits, and attempted apprehensions. The use of automatic, high-powered weapons by the suspects was the main factor that determined the outcome.

Training must be revised to meet these situations which are becoming more prevalent. New, innovative techniques and tactics are required, since many suspects and most terrorists know and study police response tactics. Responding units must be prepared for the possible use of these types of weapons.

Ground units must be able to communicate clearly with air units. A circuitous communications path partially contributed to the death of the officer in the Norco bank robbery. Heavier reliance on and use of air units is needed. This will enable responding units to be better advised of access routes and particularities of the area and allow them to continue pursuit while remaining out of sight of the suspect vehicle.

Apprehension tactics must also be revised to counteract automatic weapons. Preparing for sudden stops and subsequent ambushes must be part of all training. In one-man vehicles, all effort is directed toward driving the vehicle safely. Even in multiperson vehicles, shooting from a moving vehicle is extremely hazardous, and in most cases, is against departmental policy.

The average law enforcement vehicle and officer are not equipped to combat heavily armed suspects. Although continued training will go a long way, additional equipment may be necessary. In many cases, specially trained teams are available, but the initial responding officers should be capable of surviving until these teams arrive.

Summary

No longer should law enforcement personnel operate a police vehicle without tactical driving training. The risks are too great; the potential for harm too serious. Tampa's multifaceted approach reduces these risks as much as possible.

Clear, written policies governing tactical driving situations are imperative. The duties of all personnel need to be clearly detailed, since each agency has needs peculiar and specific to its situation. Each agency must clearly define its position and procedures regarding tactical driving incidents. However, no matter what the policy, legal and societal considerations must be included.

A review of police-involved accidents ensures that officers are complying with departmental policies and that the policies are current and appropriate to meet agency and societal needs. Any deficiencies in the individual or overall training can be recognized and corrected by such a review, and training can be revised to reflect

current trends and considerations. This becomes extremely important when new hazards are confronted, such as the use of automatic weapons.

A multifaceted, systematic approach allows each agency to deal with tactical driving in a manner which best suits their specific needs. Following this approach enables each agency administrator to be confident that he has done all that is possible to ensure the safety of the public and the officer.

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Footnotes

¹Edward F. Fennessy, Center For The Environment And Man Inc., "A Study Of The Problem Of Hot Pursuits By The Police (Washington DC: US Department of Transportation, July 1970), p. 2.

²National Advisory Commission on Criminal Justice Standards and Goals, U.S. Government Printing Office, 1976, pp. 537-540.

³Commission on Accreditation of Law Enforcement Agencies, Inc., standards manual, April 1984.

⁴Tampa Police Department Operations Manual, June 1985, Standard Operating Procedure No. 386.

⁵Tampa Bay Tactical Police Driving Instructors Course, manual, 1985, p. 58.

⁶Tampa Police Department Operations Manual, June 1985, Standard Operating Procedure No. 609.4.

⁷Tampa Police Department Operations Manual, June 1985, Standard Operating Procedure No. 662.1.

Book Reviews

by SA Thomas J. Deakin
Editor, *FBI Law Enforcement Bulletin*

The first book on police science reviewed in the *FBI Law Enforcement Bulletin* was *Crime, Crooks, and Cops*, by August Vollmer and Alfred E.

Parker in the January 1938, issue. This review of a work by the man who has been called the "father of American policing" was followed by periodic reviews of books of interest to law enforcement, including V.A. Leonard's *Police Communications* in 1939.

During World War II reviews became less frequent until January 1945, when they ceased to run in the *Bulletin*. Today's advanced educational achievements of police officers and the changing nature of American policing dictate that the *Bulletin* again fulfill this responsibility of a professional journal: to keep our readers aware of the newest and best books in the police science field. Therefore, the *Bulletin* staff is reinstating the practice of publishing, on an occasional basis, reviews of books that the staff believes would be of interest to members of the law enforcement profession. These reviews should not be construed as endorsements of the books by the FBI; they are strictly for the information of criminal justice practitioners and educators.

Authors and publishers of works about law enforcement are invited to forward review copies of their books to the *FBI Law Enforcement Bulletin*, FBI Headquarters, Washington, DC, 20535. In addition, our readers are invited to call to the staff's attention any new works in the field that they believe would be of interest to the profession.

The New Blue Line: Police Innovation in Six American Cities, Jerome H. Skolnick and David H. Bayley, The Free Press, 1986 (\$18.95).

The premise of this book is that a new approach to traditional policing is being tried in a number of American cities, which the authors define as generally community-oriented, crime-

prevention-oriented policing, and the purpose of their work was to determine whether it was effective and how it was working. Under grants from the National Institute of Justice and the Police Foundation, the authors examined the philosophy today in some cities across America—Santa Ana and Oakland in California, Denver in the Rockies, Detroit in the industrial Midwest, Houston in the Sunbelt, and Newark in the East.

"Overall, we saw a shift away from a distant, technically oriented professionalism of the early 1960's toward a more community-oriented, crime-prevention-oriented policing." Authors Skolnick and Bayley continue: "The often fascinating historical and operational details of how this movement developed, what it looks like in practice, and what it represents for the future of policing are what this book is about." Jerome H. Skolnick is a sociologist and a professor of law and David H. Bayley is a political scientist and a professor of criminal justice. Both have written before on law enforcement, but they note that when they "undertake a study such as this we become the students, the police and the local citizens our teachers."

The six chapters on the cities surveyed cover what the police are doing in each city—and how the community is involved and reacts. Frustrating to a study such as this is the fact that the crime rate depends on so many variables that the effectiveness of the new styles of policing often cannot be measured in this traditional way. But effectiveness of police can be measured, too, in terms of community trust and approval and by reduction of the "fear of crime." By this standard "community-oriented policing" has some impressive successes.

The book's future impact will probably be judged on the concluding chapter, "Prospects for Police Innovation," well-written as is the whole work. It sets out the various elements or thrusts of this new orientation: police-community reciprocity, decentralization of command, reorientation of patrol, and civilianization. But the authors, not being historians, or perhaps from lack of space, neglect the historical analysis that these elements of policing were practiced before professionalism began to develop at the outset of the 20th century. However, *The New Blue Line* does cover the community dissatisfaction with police in the 1960's which caused this type of reorientation of policing.

Best of all, these academic authors recognize the elements that are required for this type of innovation: the police chief's wholehearted commitment to this approach; the chief's ability to motivate department personnel, continuing defense of the new methods, and the public's support.

The history of American policing has been dominated by the question of "what do the public want from their police?" In the last half of the 19th century, politicians set the parameters. Then new political forces urged professionalism for their own reasons, which police executives soon co-opted for their purposes. The insight developed in this book is that police executives can influence not only their own personnel but the public as well to not only continue professionalism, but fight crime, and render the preventive services the public expects. The authors may be correct in their belief that this will be the prevalent mode of policing in the next century, especially given the changing nature of America's cities.

COPS: Their Lives in Their Own Words, Mark Baker, Simon and Shuster, 1985 (\$16.95). Also available in paperback, Pocket Books, \$4.50.

Dedicated to "a good police officer and a fine human being," the author of *Nam* does it again, this time with police officers. Mark Baker is a free-lance journalist, not a police officer. So this book is based on interviews of over a hundred police officers—in metropolitan areas, small towns, black and white officers, both male and female, rookie's and veterans. The 6-day rookie's experience with a "mental" on a Sunday afternoon is a classic.

The book will be of interest to the public, should be read by police commanders long removed from the street to refamiliarize them with today's rank and file attitudes, and should be required reading for law enforcement students. But it will probably be most read by the half million or so "working cops" in our profession, perhaps because the book's final story, about a police killing and the witness who came forward, tells us why we stay in this profession: "It's people who keep you in this game. Long after you're completely disaffected with society as a whole, the majority of people you encounter, you always think of those few good people."

Police Passages, John G. Stratton, Ph.D., Glennon Publishing, Manhattan Beach, CA, 1984 (\$24.95).

Author and police psychologist Stratton, with the Los Angeles County Sheriff's Department for over 10 years, has written an outstanding contribution to our understanding of police psychology. The California Peace Officers Research Association cogently observed: "A copy of Dr. John Stratton's *Police Passages* should be issued to every newly hired police officer along with the badge. It will be helpful to every police officer who reads it."

Dr. Stratton, a contributor to the *FBI Law Enforcement Bulletin* since 1975, covers all the phases ("passages") of the police officer's career, from the application process, through the training period, the initial years on the street, the stress that officers face throughout their careers, marriages, command problems, officer-involved shootings, alcoholism, and retirement.

There are several factors that point up Dr. Stratton's objective, yet sympathetic, view of police. His long service with his department, his many contributions to the *Bulletin*, referencing other *Bulletin* and *Police Chief* articles, and, finally, his view that psychology cannot provide all the answers, it can only help to understand the problems. For example, on the police application process, Dr. Stratton notes that psychologists "must make theirs a more exact science." Psychologists cannot tell, at this time, who would have a "healthy" cop personality at the time of application, or more important, who would stay "healthy" throughout their career.

With all the concern about police stress today, the author makes the important observation that of those officers involved in shooting incidents, one-third have minimal problems afterwards. Another one-third have moderate reactions, and the last third have severe difficulties that can affect their families. The chapters on police marriages and on women and minorities are co-authored by Barbara Tracy-Stratton, the author's wife, and are particularly good at outlining the purpose of today's marriages.

The final chapter on "Police Widows—The Forgotten Ones" also breaks new ground for police and the author's afterword on grief, entitled "Roy," shows an eloquence we seldom see in our profession. The California police group was right, issue this book with the badge.

The Constitution and Criminal Procedure

“... our Constitution ... stands without equal as an instrument of government and is a fitting monument to the genius and foresight of those who wrote it.”

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

The year 1987 marks the Bicentennial of the U.S. Constitution. For 200 years that document has charted the course by which American Republic has developed and matured. Under its influence and guidance, there has arisen a body of laws, unequalled in human history, to balance the prerogatives of government against the liberties of the individual. This article is respectfully dedicated to the memory of those men who gave us this Constitution 200 years ago, and to the men and women in law enforcement today who have committed themselves to uphold it.

On September 1, 1982, Santa Clara, CA, police officers received an anonymous tip that an individual named Dante Carlo Ciruolo was growing marijuana in his backyard. Because the yard was completely enclosed by two fences, which obstructed observation from the street level, the officers flew over the property in a small airplane and observed the marijuana from that vantage point. Using the information thus obtained, the officers acquired a search warrant and seized 73 marijuana plants, each 8-10 feet in height. Ciruolo was convicted under California law for cultivating a controlled substance, but his conviction was overturned by the State appellate court on the ground

that the aerial surveillance of his property violated his constitutional rights. On May 19, 1986, the U.S. Supreme Court held that the overflight was permissible under the fourth amendment to the U.S. Constitution, and the evidence was therefore admissible against Ciruolo at his State criminal trial.¹

This case, and the process by which it was resolved, would present several surprises to the framers of our Constitution. Obviously, they would not yet have heard of a State called California and would undoubtedly be impressed with the technology which made the overflight of a person's property possible. They probably would be more than a little surprised to learn that the same hemp plant which they had used to make rope, and which had been a major cash crop at such notable places as Mount Vernon, had not only acquired a new name but also a new usage, and was now declared to be contraband. But even beyond these points, perhaps the most puzzling of all would be the knowledge that a local police case could be reviewed by the U.S. Supreme Court and that provisions found in the Federal Bill of Rights would govern its outcome. Such an occurrence would not have been possible in their day. The purpose of this article is to trace the development of the process which made it commonplace in ours.



Special Agent Hall

A MORE PERFECT UNION

When the delegates met in Philadelphia in the summer of 1787 to begin work which produced the present Constitution, they were fully aware of the difficult task which confronted them. Their recent past had defined it clearly enough: To establish a central government possessing sufficient power to govern, but without the capacity to become a tyranny.

As men who had been born into the rich heritage of English history, they laid strong claim to those principles of self-government and personal liberty, which had begun to take tangible form in England with the Magna Carta in 1215, and continued with a persistent, if somewhat halting, development into the unwritten English constitution and common law of their own day. The central theme of this development may be found in the following portion of the Magna Carta:

"No freeman shall be taken, or imprisoned, or be disseized of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any other wise destroyed, nor will we pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land."²

Scholars correctly point out that the Magna Carta, at the time it was written, was nothing more than a contract forced upon an unwilling king by the landed barons of that day demanding recognition of their privileges. It is also true that the document says nothing of the principles of democratic government or the rights of man. With the passage of time, however, it took on a meaning far beyond its original purpose, for it came to represent the

principle that there is a law which is above the King and which even he must not break. Winston Churchill once wrote concerning the significance of the Magna Carta:

"Government must henceforward mean something more than the arbitrary rule of any man, and custom and the law must stand even above the King. . . . This reaffirmation of a supreme law and its expression in a general charter is the great work of Magna Carta; and this alone justifies the respect in which men have held it."³

It is perhaps one of the great ironies of history that the American Revolution was inspired by *English* principles of liberty. When the Americans claimed protection against taxation without representation, or unreasonable searches and seizures, they were only asserting the rights which they had come to expect as good Englishmen. Again, it was Winston Churchill—son of an English father and an American mother—who expressed this point in response to a question concerning the American war for independence:

"Revolution against the English? Nay, it was a reaffirmation of English rights; Englishmen battling a Hun king and his Hessian hirelings to protect their English birthright . . . a scene not unfamiliar to English-speaking peoples. . . ."⁴

Undoubtedly, his statement would have won the approval of many Englishmen of the Revolutionary War period.

Nevertheless, the demonstration during the pre-Revolution period that fundamental rights, so deeply rooted in the customs and laws of the people, could be so readily disregarded by the government persuaded the Americans that a new course must be pursued. There must be a written

“... the greatest law enforcement power—that which resides in State and local government—was unrestrained by the Bill of Rights.”

constitution—a document which would clearly mark the boundaries of government power and to which the government could be held accountable. Their first effort—the Articles of Confederation—was a failure. Written during the heat of the war, when suspicion of a strong central government was at its height, the Articles established a government that was ill-equipped to govern. There was a single-house legislature—the Continental Congress—made up of delegates selected by the State governments, not the people; it had no power of direct taxation, no authority to regulate commerce among the States, and no power to enforce its own laws. Consequently, the central government, such as it was, depended heavily upon the goodwill of the sovereign States for the performance of the most basic of functions.

Thomas Jefferson probably expressed the views of many when he wrote, “I own I am not a friend to a very energetic government. It is always oppressive.”⁵ Accordingly, the central government lacked power as well as energy, and this defect became apparent when the war with England ended and the common interest in defense, which had bound the separate States together during the conflict, was removed.

It was against the background of these recent experiences that the delegates did their work in Philadelphia. The creation of a Federal Government composed of three branches and the distribution of the functions and powers of government among the three independent branches, with the resulting system of checks and balances, were the result of their labors. The newly created government now had the

power to regulate interstate commerce, to impose direct taxes, and enforce its own laws. It could exercise those powers—but only those powers—set forth in the new Constitution, which would henceforth be “the Supreme law of the Land.” To preclude recurrence of some of the abuses suffered under the English, the new government was specifically prohibited from enacting bills of attainder and *ex post facto* laws and from suspending the writ of habeas corpus, except in cases of emergency. The crime of treason, used with such ingenuous flexibility by the King and Parliament to quell political dissent throughout English history, was moved beyond the reach of the new government by fixing its definition in the Constitution itself.

A BILL OF RIGHTS

Notwithstanding the great achievement, there were many who saw in the document, and the government it created, the seeds of future tyranny. A bill of rights should be added to prevent such an occurrence. Against this view was the argument that since the new government could only do what the Constitution clearly permitted, a bill of rights would be superfluous. That view was little consolation to those who feared that the new Constitution—which would now be the “Supreme law of the land”—could be someday broadly interpreted to grant the very powers which they believed should be prohibited. Joseph Story, who served on the Supreme Court from 1811–1845, summarized these thoughts when he wrote:

“... a bill of rights may be important, even when it goes beyond powers supposed to be granted. It is not always possible to foresee the extent of the actual reach of certain powers which are given in general terms.

They may be construed to extend [and perhaps fairly] to certain classes of cases, which did not at first appear to be within them. A bill of rights, then, operates as a guard upon any extravagant or undue extension of such powers.”⁶

Thomas Jefferson added his strong voice in support of a bill of rights. After expressing general approval of the new Constitution, he wrote:

“Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse....⁷ The inconveniences of the Declaration [of Rights] are that it may cramp government in its useful exertions. But the evil of this is short-lived, trivial and reparable. The inconveniences of the want of a Declaration [of Rights] are permanent, afflicting and irreparable.”⁸

The proponents of specific safeguards were adamant. What the King and Parliament had once done, the President and Congress could yet do. A bill of rights must be added. In fact, so strong was the sentiment for a bill of rights, that many of the States, when ratifying the new Constitution, urged upon the new Congress the submission of amendments to accomplish that object. Accordingly, the first Congress to meet following the adoption of the new Constitution submitted 12 amendments to the States, 10 of which were ratified by 1791, and the first 8 of which we now know as the Bill of Rights.

Included among the provisions were three which would, in time, have great impact on criminal law enforcement: The fourth amendment restrictions on searches and seizures, the fifth amendment protection against compelled self-incrimination, and the sixth amendment guarantee of the right to counsel in criminal cases. Each of these provisions reaffirmed values which were deeply rooted in American custom and law, and their disregard by the Crown and Parliament had done much to fan the flames of revolt among the colonists.

Unreasonable Searches & Seizures Prohibited

Chief among the evils which affronted the Americans was the use of general warrants and writs of assistance by agents of the Crown to enforce unpopular customs laws. These general warrants were repugnant for a variety of reasons: They were universal in nature, authorizing anyone to execute them; their execution was not limited by any time frame; and they authorized broad searches which were unconstrained by particular descriptions of places to be searched or persons or things to be seized and unsupported by sworn statements of fact to justify their issuance and execution. The right to be free from unreasonable government intrusions while in one's own home was a fundamental tenet of English custom predating even the Magna Carta, and while not always scrupulously respected by the Crown, it was nonetheless treasured by the people. In 1763, at a time when the arbitrary actions of the English Government were sowing the first seeds of re-

volt in America, William Pitt made this celebrated statement to the House of Commons:

"The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail—its roof may shake—the wind may blow through it—the storm may enter, the rain may enter—but the King of England cannot enter—all his force dares not cross the threshold of the ruined tenement."⁹

During the same year in England, that statement of principle found tangible expression in successful lawsuits against officers of the Crown who either issued or executed general warrants in violation of it, and by 1766, Parliament had declared general warrants illegal in the mother country. However, they continued to be used in America—to the chagrin of the colonists—with the result that in the words of John Adams, "Then and there the Child Independence was born."¹⁰ The experience has been memorialized in the words of the fourth amendment:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Compelled Self-Incrimination Prohibited

Less directly related to the underlying causes of the Revolution, but no less important in the minds of most Americans, was the protection against compelled self-incrimination found in the fifth amendment. Early in English history, there had developed a particu-

larly obnoxious entity called the Court of the Star Chamber. Originally intended to mete out swift justice to robber bands and other common criminals who preyed upon the good folk of the realm, it eventually grew into a dreaded instrument of the government to ferret out and punish political dissenters. Its method included the oath *ex officio*, which required a person suspected of crime to answer all questions put to him by the court. There was no jury, and physical torture was not unheard of as a means of encouraging cooperation. As might be expected, the Court of the Star Chamber was highly successful in obtaining convictions, and that success encouraged other English courts to borrow its tactics. For example, in 1615, Edward Peacham was accused of treason. Prior to his trial in the Court of Kings' Bench, the Attorney General, Sir Francis Bacon, made the following report to King James I:

"Upon these interrogatories, Peacham this day was examined before torture, in torture, between torture and after torture; notwithstanding, nothing could be drawn from him, he still persisting in his obstinate and insensible denials, and former answers."¹¹

Even though the Court of the Star Chamber had been abolished by the time of the Revolution, and its evil influences largely removed from the English courts, its memory remained to influence the men who sought to establish an instrument by which the power of government could be constrained. If a man could not be compelled to convict himself with his own words, then the government would bear the whole burden of proving his

“...criminal procedure—the means by which government forces its criminal laws—has now been elevated to constitutional status.”

guilt through other independent evidence, and the incentive to use such means as torture would hopefully be removed. It was with that object in view that the fifth amendment was written to affirm: “No person . . . shall be compelled in any criminal case to be a witness against himself.”

The Right to Counsel

Although the right to counsel could be found in English law, the right to counsel in *all* criminal prosecutions was peculiar to America. Under English law, an accused was allowed counsel in misdemeanor, but not felony, cases. The only exception to this rule at the time of the Revolution was the right to counsel when a defendant was charged with treason. Nevertheless, at the time the Bill of Rights was adopted, 12 of the 13 original colonies had granted the right to counsel in all criminal cases, and the inclusion of that right in the sixth amendment reflected the value attached to it in that day. The pertinent language reads: “In all criminal prosecutions . . . the accused shall enjoy the right to . . . have the assistance of counsel for his defense.”

LIMITED APPLICATION

Important for the future development of the country was the fact that these treasured rights and some 25 others set forth in the Bill of Rights—e.g., freedom of religion, speech, press, and assembly—were limited in their application to the Federal Government. Any doubts which may have existed on this point at the time they were adopted were removed in the Supreme Court’s 1833 landmark decision of *Barron v. The City of Baltimore*.¹² Rejecting the argument

that the City of Baltimore was bound by the fifth amendment to the Federal Constitution, Chief Justice John Marshall wrote:

“... it is universally understood, it is a part of the history of the day, that the great revolution which established the Constitution of the United States was not effected without immense opposition. Serious fears were extensively entertained that those powers . . . deemed essential to union, and to the attainment of those invaluable objects for which union was sought, might be exercised in a manner dangerous to liberty. In almost every convention by which the Constitution was adopted, amendments to guard against the abuse of power were recommended. These amendments demanded security against the apprehended encroachments of the general government—not against those of the local governments.”¹³

That was probably considered to be of little importance by most people at the time, since most of the States had their own constitutions with their own bills of rights containing similar language to that of the Federal charter. The result, however, was the development of diverse systems of justice, fostered by the lack of a common standard and by the seemingly unlimited interpretations which could be applied to the same words and principles by different courts. In the absence of a specific constitutional grant, the Federal Government was without power to impose a uniform standard upon the sovereign States. The significance of this point lay in the fact that within our Federal system of government, the administration of criminal justice is predominantly committed to the care of the States. Thus, the greatest law enforcement power—that which resides

in State and local government—was unrestrained by the Bill of Rights.

DUE PROCESS—THE LAW OF THE LAND

The first step toward change came with the adoption of the 14th amendment in 1868, just 3 years after the Civil War ended. In many respects that war was merely the climax of a long series of challenges to the capacity of the Federal Government to maintain the Union in the face of persistent assertions of sovereignty by the individual States. Now that the issue had been settled to some extent by the war, it seemed fitting to establish a means by which some common meaning could be given to the principles which had brought the Union into being. Aimed directly at the States, the 14th amendment declared: “. . . nor shall any state deprive any person of life, liberty, or property without due process of law. . . .”

“Due process” was a familiar term to those even vaguely familiar with English and American history. In England, by the year 1354, it had come to be synonymous with the “law of the land” mentioned in the Magna Carta; while in America, it had already been absorbed into several State constitutions and specifically placed in the fifth amendment to the Federal Constitution as a restriction on the power of the Federal Government. Unfortunately, the shifting tides of English law and custom had precluded the development of any precise definition of the term, and its incorporation into the fifth amendment to the American Constitution, among numerous other specified

rights, camouflaged its significance and presented little opportunity, or apparent need, for further definition in this country. It appeared to be a general—albeit important—expression of principle rather than a guarantee of anything specific.

The 14th amendment would change that; for now there was a common standard—due process—by which both Federal and State power could be measured and restrained. And equally important, there would henceforth be one arbiter—the Supreme Court of the United States—to give meaning to that standard. Nevertheless, change would come slowly.

It was supposed by some that adoption of the 14th amendment would make the rights guaranteed against the Federal Government by the Bill of Rights equally applicable against the States. However, that view was rejected by the Supreme Court. As an alternative, the Court adopted the position that due process included those principles—but only those principles—which are “so rooted in the traditions and conscience of our people as to be ranked as fundamental.”¹⁴ Consequently, due process came to be described by the Court in such terms as “fairness,”¹⁵ or principles which are “implicit in the concept of ordered liberty,”¹⁶ or “canons of decency and fairness which express the notions of justice of English-speaking peoples...”¹⁷ These concepts do not necessarily include all that is in the Federal Bill of Rights.

But with the passage of time, and within the framework of these general expressions, the Due Process Clause of the 14th amendment came to bear a

remarkable resemblance to the Federal Bill of Rights. The following cases will serve to illustrate the point.

In 1932, seven young, indigent, illiterate black men were convicted in Scottsboro, AL, of raping two white girls. Despite their inability to defend themselves or to hire counsel, no effective steps had been taken by the trial court to provide the assistance of counsel to conduct their defense. The Supreme Court reversed the convictions on the grounds that the denial of effective counsel in a criminal case violated the Due Process Clause of the 14th amendment, not because that right is guaranteed by the 6th amendment, but because the Court considered it to be fundamental to the principles of liberty and justice.¹⁸

In 1936, two black men in Mississippi were convicted of murder and sentenced to death. The evidence against them consisted of their confessions, which had been extracted through a process of alternately hanging them and then beating them with a large belt. At their trial, which occurred a day and a half following their arrests, the rope marks were still visible on their necks. Not only they, but a deputy sheriff who directed and participated in the “interrogations,” testified as to the manner in which the confessions were taken. The deputy described the beatings as “not too much for a negro; not as much as I would have done if it were left to me.” Despite this testimony, and the fact that Mississippi law prohibited the use of an accused’s coerced confessions at his trial, the State supreme court in Mississippi upheld the convictions. The U.S. Supreme Court reversed them, not on the grounds that the fifth amendment prohibits compelled self-incrimination, but because the extraction of confessions by torture was considered by the Court to violate due process.¹⁹

In 1949, a California man, suspected by local police of selling narcotics, was arrested in his home without a warrant. At the time of his arrest, he swallowed some capsules despite the efforts of the police to stop him. He was then taken to a hospital where his stomach was pumped and partially dissolved capsules containing morphine were found. That evidence was used to convict him in State court. The U.S. Supreme Court reversed, not because the actions of the police violated the fourth amendment protections against unreasonable searches and seizures, but because their conduct “shocks the conscience” and therefore violates due process.²⁰

In each of these cases, the Court was careful to point out that the basis for reversal was not because the State actions had violated some provisions found in the Bill of Rights, but because they violated rights which were considered to be fundamental to the American concept of justice. In other words, while disclaiming any intent to incorporate the Bill of Rights into the Due Process Clause of the 14th amendment, the Court ingeniously allowed the Due Process Clause to “absorb” certain principles which just happened to be in the Bill of Rights as well. Supreme Court Justice Cardozo, writing in 1937, explained the process in this fashion:

“These [rights] in their origin were effective against the federal government alone. If the Fourteenth Amendment has absorbed them, the process of absorption has had its source in the belief that neither liberty nor justice would exist if they were sacrificed.”²¹

“...virtually every aspect of an officer’s job touches that area where the authority of government and the liberty of the individual meet.”

This so-called “absorption” doctrine soon gave way to a more-direct approach—“selective incorporation.” By this process, the Court would selectively incorporate certain provisions found in the Bill of Rights into the 14th amendment Due Process Clause, thus applying them to the States. For example, in 1949, the Court held that the fourth amendment was applicable to the States through the Due Process Clause.²² Similarly, in the years which followed, the Court held that certain provisions of other amendments were also applicable to the States, including the sixth amendment right to the assistance of counsel in a criminal prosecution (1963)²³ and the fifth amendment privilege against compelled self-incrimination (1964).²⁴

Each of these provisions directly impacts upon law enforcement—local and State, as well as Federal—and establishes a common boundary beyond which government power cannot go. In other words, criminal procedure—the methods by which government enforces its criminal laws—has now been elevated to constitutional status. Thus, the Supreme Court’s interpretations of the fourth amendment, the fifth amendment privilege against compelled self-incrimination, and the sixth amendment right to the assistance of counsel in criminal prosecutions are now as relevant and important to the local police officer as they are to their Federal counterparts.

CONCLUSION

Today, every law enforcement academy in America provides training in constitutional law, because virtually every aspect of an officer’s job touches that area where the authority of government and the liberty of the individual meet. Arrests, searches and seizures, investigative detentions,

eyewitness identification, interrogations—all of these everyday law enforcement tasks, and more, are governed by the Federal Constitution. Under their own constitutions, the States may provide greater protections to their people; but by virtue of the Due Process Clause of the 14th amendment, they cannot provide less.

As we consider the Bicentennial of the Constitution, it is interesting to speculate about how the framers would view the long-term results of their labor if they could see it today. That they succeeded in their overall objective of forming “a more perfect union” could not be doubted. That they wisely separated and balanced the powers of government among the three branches would also be an undoubted source of satisfaction. An independent judiciary, a smooth process of transition from one administration to another, the built-in guarantees of a republican form of government, the successful amendment process—all of these would surely be cause for pride. But perhaps their greatest pleasure would be derived from the knowledge that the Constitution which they wrote 200 years ago has become firmly rooted in our National consciousness. Its precepts influence the way we think about ourselves, our fellow man, and our Government. Even without thinking, we instinctively know it is there, towering above the President, the Congress and even the Supreme Court, and only we can change it. We may from time to time quarrel with its interpretation . . . we seldom quarrel with its content.

It is true that other countries have constitutions, some containing language similar to our own. There is a difference, however, which transcends any similarity in content—our Constitution deeply affects the manner in which we think and live and govern ourselves. Its influence on our lives has increased steadily with time. It stands without equal as an instrument of government and is a fitting monument to the genius and foresight of those who wrote it.

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Footnotes

- ¹United States v. Ciralo, 39 Cr.L. 3106 (1986).
- ²Irving Brant, *The Bill of Rights* (Mentor, 1965), pp. 89–90.
- ³Winston S. Churchill, *A History of the English-Speaking People* (Bantam Books, 1956), p. 186.
- ⁴James C. Humes, Churchill, *Speaker of the Century* (Stein & Day, 1980), p. 287.
- ⁵Thomas Jefferson, letter to James Madison, December 1787, quoted in *Jefferson Writings* (The Library of America, 1984), p. 917.
- ⁶William F. Swindler, *The Constitution and Chief Justice Marshall* (Dodd, Mead & Co., 1978), p. 112.
- ⁷Thomas Jefferson, letter to James Madison, December 1787, *supra* note 5.
- ⁸Thomas Jefferson, letter to James Madison, March 1789, *supra* note 5, p. 944.
- ⁹See *Miller v. United States*, 357 U.S. 301, at 307 (1958).
- ¹⁰See *Boyd v. United States*, 116 U.S. 616, at 625 (1886).
- ¹¹Irving Brant, *The Bill of Rights* (Mentor, 1965), p. 95.
- ¹²7 Peters 243 (1833).
- ¹³*Id.* at 250.
- ¹⁴*Snyder v. Massachusetts*, 291 U.S. 97 (1934).
- ¹⁵*Duncan v. Louisiana*, 391 U.S. 145, at 149 n. 14 (1968).
- ¹⁶*Palko v. Connecticut*, 302 U.S. 319, at 325 (1937).
- ¹⁷*Malinski v. New York*, 324 U.S. 401, at 416 (1945).
- ¹⁸*Powell v. Alabama*, 287 U.S. 45 (1932).
- ¹⁹*Brown v. Mississippi*, 297 U.S. 279 (1936).
- ²⁰*Rochin v. California*, 342 U.S. 165 (1952).
- ²¹*Palko v. Connecticut*, *supra* note 15, at 326.
- ²²*Wolf v. Colorado*, 338 U.S. 25 (1949).
- ²³*Gideon v. Wainwright*, 372 U.S. 335 (1963).
- ²⁴*Malloy v. Hogan*, 378 U.S. 1 (1914).

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 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.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photographs taken 1979

Charles Earl Hammond,

also known as Charles Hammond, Charles E. Hammond, "Curly," "Lefty." W; born 12-16-42, Seattle, WA; 5'6"-5'7"; 130-155 lbs; med bld; brn hair; hzl eyes; med comp; occ-laborer, roofer, truck driver, welder; scars and marks: heavily tattooed on upper portion of body, dragon on right bicep; remarks: reportedly walks with a slight limp, may be accompanied by his wife. Wanted by FBI for INTERSTATE FLIGHT-ASSAULT WITH A DEADLY WEAPON.

NCIC Classification:

181714POPO161215PIPI

Fingerprint Classification:

18 L 10 U 000
M 6 U 001

I.O. 4871

Social Security
Number Used: 497-44-6333
FBI No. 427 274 D

Caution

Hammond, a reported user and distributor of narcotics, is being sought in connection with a multiple homicide in which five persons were shot to death and another wounded. Hammond may be accompanied by his brother, Michael F. Hammond, FBI Identification Order 4872. Each man has been armed with a .45-caliber handgun in the past and should be considered armed and extremely dangerous.
FBI TOP TEN FUGITIVE



Right middle fingerprint



Photographs taken 1978 and 1979

Francis Lionel Vercauteren,

also known as Francis Nicosia, Francis Prior, Francis L. Vercauteren. W; born 10-31-46, Methuen, MA; 5'10"; 180 lbs; med bld; brn hair; hzl eyes; med comp; occ-construction worker, furniture mover, laborer, police officer, truck driver; scars and marks: scar on left cheek, scar on outer right forearm. Wanted by FBI for INTERSTATE FLIGHT-ESCAPE.

NCIC Classification:

22631717091962131613

Fingerprint Classification:

22 M 1 R 000 9 Ref: 9 1 9
L 1 R 000 1 2 2

I.O. 4864

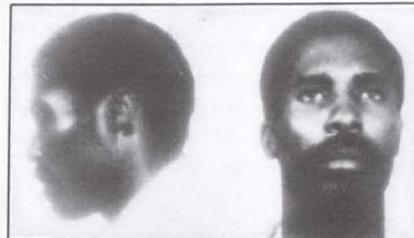
Social Security
Number Used: 026-34-1855
FBI No. 582 331 G

Caution

Vercauteren, who is being sought as a prison escapee, was serving a lengthy sentence for murder, kidnaping, and rape. Vercauteren escaped by attacking a guard, rendering him unconscious. Consider Vercauteren armed, dangerous, mentally unstable, and an escape risk.



Left middle fingerprint



Photographs taken 1984

Robert Lee Bunner,

also known as Robert Lee Banner, Robert Lee Buner, Robert Bunner, Robert L. Bunner, Robert Lee Burner, Robert Miller, Robert Lee Miller, Robert Oiller, Robert Lee Turner, and "Esau." N; born 6-20-50 (data not supported by birth records), 6-29-50, 2-17-51, 6-29-51; Montezuma, GA; 6'1"; 160 lbs; slender bld; brn eyes; med comp; occ-laborer; scars and marks: seven marks on left wrist, burn scar on left wrist, two round burn scars on right leg. Wanted by the FBI for BANK ROBBERY; PAROLE VIOLATOR.

NCIC Classification:

12181709050808060704

Fingerprint Classification:

12 M 1 U 001 5
S 1 U 111

I.O. 4988

Social Security
Number Used: 257-80-4348
FBI No. 388 089 G

Caution

Bunner has been convicted in the past of armed robbery, aggravated assault, bank robbery, kidnaping, and conspiracy. He may be armed with a handgun and has vowed not to be taken alive. Bunner should be considered armed and extremely dangerous.



Right ring fingerprint

WANTED BY THE FBI



Photographs taken 1977 and 1979

Charles Edward Reese,

also known as Charles Edward Reece, Charles Edward Reed, Charles E. Reese, "Doc." N; born 5-5-50, Vicksburg, MS; 5'10" to 6'2"; 160-185 lbs; mus-med bld; blk hair; brn eyes; drk brn comp; occ-checker, laborer, mechanic, messenger; scars and marks: dark mole over left eye, scar left lower back; tattoos: "LaVora" left arm, "Doc" right arm, bull on left chest; remarks: reportedly is asthmatic, wears prescription tinted glasses, squints when not wearing glasses, may alternate between clean shaven and wearing full face beard. Wanted by FBI for INTERSTATE FLIGHT-RAPE, SODOMY, ARMED ROBBERY, BURGLARY.

NCIC Classification:

CMTT04080908AA071109

Fingerprint Classification:

4 M 1 T 11 9
S 17 A 11

I.O. 4857

Social Security

Numbers Used: 552-68-7230; 552-68-7238; 558-72-7800; 572-68-7230

FBI No. 461 731 G

Caution

Reese is being sought in connection with a violent crime spree which includes the crimes of armed robbery, burglary, kidnapping, murder, and sexual assaults in which firearms were used. Reese has been armed with a shotgun in the past and should be considered armed and extremely dangerous.



Right thumbprint



Photograph taken 1974

Joseph Nicholas Crisafi,

also known as Al Alddan, William J. Bray, Joseph Dipalo, Joseph Prisafi, Joseph John Prisaufi, Joseph Prisauffolli, Ernest Rousseau, Frank Tolido, Joseph Nicholas Trisafolli, Joseph Nicholas Trisafulli, Frank Wilson, and others. W; born 4-15-31, Brooklyn NY; 5'8"-5'9"; 130-160 lbs; med bld; brn-graying hair; brn eyes; med comp; occ-cook, drapery hanger, floor covering mechanic, salesman; scars and marks: scars on left middle finger, both knees, left leg from knee to hip, and left side of stomach; crossed right eye; large front upper teeth and extensive bridge work; second toe on right foot missing; tattoos: heart and flowers, "JOE," "JOHN," and "MOM" on upper left arm; remarks: Crisafi, a heavy gambler who poses as a prospective home buyer and advertising producer, is believed to be accompanied by Carol L. McCarthy, white female, born June 11, 1961, Denver, CO, 5'2", 115 lbs., brn hair, brn eyes. McCarthy is also being sought by the FBI. Wanted by the FBI for INTERSTATE FLIGHT-AGGRAVATED SEXUAL ASSAULT, ARMED ROBBERY.

NCIC Classification:

24TT13171922TTTT2016

Fingerprint Classification:

24 L 1 T 19 R T R
L 1 Tt T U U

I.O. 4868

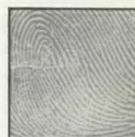
Social Security

Number Used: 091-24-7799

FBI No. 808 809 B

Caution

Crisafi, who has been known to carry a gun in the past, is being sought for the aggravated sexual assault of a real estate sales woman. He is also being sought by local authorities for additional sexual assaults. Crisafi should be considered armed and dangerous.



Right middle fingerprint



Photographs taken 1977

Michael F. Hammond,

also known as Charles Earl Hammond, Michael Allen Hammond, Michael Frederick Hammond, Michael Frederick Hammond, Michael Frederick Allen Hammond, Michael Frederick Hammond, Michael Fredrick Allen Hammond, Mike Hammond, "Red." W; born 1-3-45, Redding, CA; 5'5"; 145-150 lbs; med bld; red hair; bl eyes; fair comp; occ-laborer, roofer, welder; scars and marks: scar left side of stomach; tattoos: cross on left arm, "MOM" on right arm. WANTED by FBI for INTERSTATE FLIGHT-ASSAULT WITH A DEADLY WEAPON.

NCIC Classification:

1306031910408091309

Fingerprint Classification:

13 M 1 U 110 11
S 1 U 111

I.O. 4872

Social Security

Numbers Used: 497-44-5623; 486-44-5623

FBI No. 469 004 E

Caution

Hammond, a reported user and distributor of narcotics, is being sought in connection with a multiple homicide in which five persons were shot to death and another wounded. Hammond may be accompanied by his brother, Charles E. Hammond, FBI Identification Order 4871. Each man has been armed with a .45-caliber handgun in the past and should be considered armed and extremely dangerous.

FBI TOP TEN FUGITIVE



Right middle fingerprint

Unusual Pattern

The classifier would closely examine the unusual ridge configuration of this impression before determining pattern type. The ridges enter upon one side, make a rise or wave in the center, and flow or tend to flow out on the opposite side; thus, this impression is classified as a plain arch. It does not possess an angle, upthrust, or two of the three basic requirements of a loop and cannot be classified as a tented arch.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name _____

Title _____

Address _____

City _____

State _____

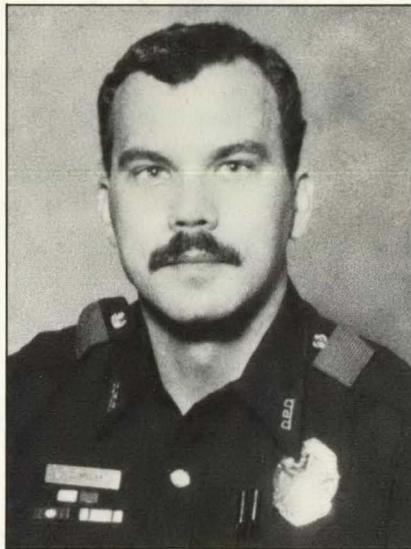
Zip _____

Washington, DC 20535

Official Business
Penalty for Private Use \$300
Address Correction Requested

The Bulletin Notes

Officer Jack Misak, Dallas, TX, Police Department, chased a burglary suspect on June 28, 1985, who tried to escape by wading across a lake, although he could not swim. When the suspect reached deep water, he panicked, so Officer Misak had to dive in the lake and rescue him. The suspect later credited Officer Misak with saving his life. The Bulletin joins the Dallas Police Department in recognizing this officer's lifesaving conduct.



Officer Misak
