



FBI

September 1987

Law Enforcement Bulletin



Contents

September 1987, Volume 56, Number 9

Crime Problems	1	Telecommunications Fraud Devices By George N. Aylesworth and Marianne Swan
Crime Statistics	5	Crime in the United States—1986
	13	Book Review
Operations	14	Impact Fees: A Fiscal Response By Bruce A. Mills
Research	16	An Introduction to the Serial Rapist: Research by the FBI By Robert R. Hazelwood and Ann W. Burgess
Legal Digest	25	The Inventory Search (Conclusion) By John C. Hall
	31	Wanted by the FBI

FBI

Law Enforcement Bulletin

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

John E. Otto, Acting 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.

Published by the Office of Public Affairs
Milt Ahlerich, *Acting Assistant Director*

Editor—Thomas J. Deakin
Assistant Editor—Kathryn E. Sulewski
Art Director—John E. Ott
Production Manager—Mark A. Zettler
Reprints—Carolyn F. Thompson

The Cover:

Minneapolis police officer and his canine partner make friends in the community.

The FBI Law Enforcement Bulletin (ISSN-0014-5688) is published monthly by the Federal Bureau of Investigation, 10th and Pennsylvania Ave., N.W., Washington, DC 20535. Second-class postage paid at Washington, DC. Postmaster: Send address changes to Federal Bureau of Investigation, FBI Law Enforcement Bulletin, Washington, DC 20535.



Telecommunications Fraud Devices

"...it is important for police officers to be aware of, and be able to recognize, TFDs since their use results in losses totaling millions of dollars annually."

EDITOR'S NOTE:

As individuals develop new methods of defrauding telecommunications companies, some devices may be known by different names in different regions of the country. The original "black box" could not produce tones, while some later designs (sometimes referred to as "yellow boxes") do. Some devices even contain electronics to complete both local calls and "blue box" calls.

Police officers, in the regular course of their duties, may encounter devices used to make long distance calls illegally, and at times, may actually come in contact with persons using these devices. Because telecommunications fraud devices (TFDs) are small and are often disguised as other items, recognizing these devices and the illegal activity associated with them is often difficult. Yet, it is important for police officers to be aware of, and be able to recognize, TFDs since their use results in losses totaling millions of dollars annually.

TFDs are often found in conjunction with other criminal activities. In addition to avoiding long distance telephone charges, these devices can also be used to prevent records of telephone calls between certain numbers from being made. For this reason, the de-

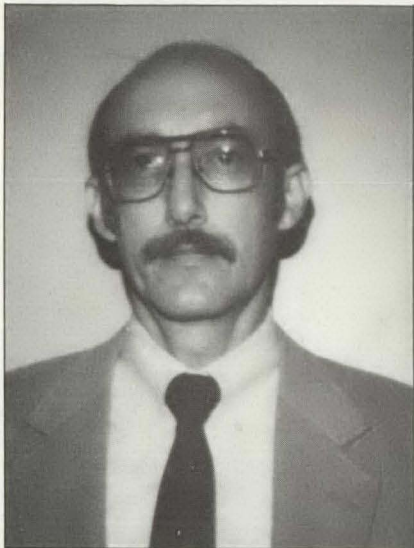
vices are particularly attractive to persons conducting illegal narcotics or gambling operations, as well as those involved in other types of organized criminal activity.

Use or possession of TFDs is prohibited by Federal law.¹ However, there may be local laws with specific provisions on TFDs. For example, it is a crime in Florida for any person to make or possess any electronic device capable of duplicating tones or sounds used in long distance telecommunications, if the intent is to avoid payment for long distance service.² A person convicted of violating this provision is guilty of a third-degree felony.³

Police officers should consult their legal adviser or local prosecuting attorney regarding the appropriate laws to use in the event they encounter a TFD. Other valuable resources for information regarding TFDs are the security offices of local telephone companies, the U.S. Secret Service, which investigates Federal law violations regarding TFDs, and the Communications Fraud Control Association.⁴

There are several key factors in making any case concerning the use, possession, or manufacture of TFDs, commonly known as "blue boxes," "black boxes," or "red boxes." These factors include recognizing the device, establishing possession of the device, and being aware of circumstances that indicate that the device is intended to

By
GEORGE N. AYLESWORTH
Supervisor
and
DET. MARIANNE SWAN
Police Legal Unit
Metro-Dade Police Department
Miami, FL



Mr. Aylesworth



Fred Taylor, Director
Metro-Dade Police Dept.

be used to avoid or attempt to avoid payment for long distance service.

TFDs often look like pocket calculators that may or may not have a functional calculator display. Others simply appear to be metal or plastic boxes with numbered or lettered keys. The configuration of the keys may be similar to that on a touch-tone telephone, a calculator, etc. The symbols on the keys may also vary. Many of the devices will have a small built-in speaker, while others may have a small speaker at the end of a wire leading from the box.

There are devices that resemble TFDs and operate in a similar manner, but are not illegal to possess. One such device is an automatic telephone dialer which can be programmed to reproduce the tones made by a touch-tone telephone. When held to the mouthpiece of a telephone, an automatic telephone dialer will make a connection with the desired number by emitting the appropriate sequence of tones. These dialers, unless altered internally, do not make the same type of tones as TFDs and will not bypass long distance charges. They will make local calls, which is something that the tones produce by a TFD will not do. In fact, one indication that a suspect item is illegal is that it cannot be used to complete a local call. This factor will differentiate a TFD from a legal telephone dialer. There are devices, however, which contain electronics to be both a legal telephone dialer and a TFD. In essence, there are two devices in one box, one being legal and one being a TFD.

The three major types of TFDs used to evade payment of long distance charges have certain characteristics that set them apart from each other and from legal devices and which may assist in identifying them as TFDs.

However, the common factor is that all duplicate tones used in long distance telecommunications.

"Blue boxes" are devices that will originate fraudulent long distance calls from regular or coin-operated telephones. These devices may be relatively large, in which case they will generally be used in a fixed location, or they may be the size of a small calculator or package of cigarettes. Those resembling pocket calculators may actually function as one as well as a telecommunications fraud device. "Blue boxes" are usually equipped with 12 to 15 buttons or switches used to activate the necessary tones. If not designed to be wired directly into a telephone system, the device will have a speaker, either built into the device or attached with a wire, that is used to introduce the required tones into the mouthpiece of a telephone. A "blue box" is used by first making a legal long distance call. Calls on the "800" system, "555" long distance information system, or "short haul" long distance calls with minimal costs are often used to initiate use. Once the initial call is made, the "blue box" introduces a tone into the system which releases the original call and seizes the available long distance line. The caller can then use this "open" line by activating other "blue box" tones to call any number, virtually anywhere, at no cost and with no records being created. Officers should be alert to any suspicious device with a number of buttons or switches, which is either wired to a telephone or found in close proximity to a telephone. A small speaker on the device, or connected to it with a wire, is another factor. At public telephones, persons may be seen manipulating suspicious de-



Detective Swan

vices near the telephone and placing either the device or a small remote speaker up to the mouthpiece of the telephone.

"Red boxes" are devices that are used exclusively with single slot, coin-operated telephones. These devices duplicate the tones created by coins dropping into the telephone when payment is made. The tones signal the switching system of the long distance network that payment has been made and that the long distance connection should be completed. A record of the call will exist in the records of the coin-operated telephone number. "Red boxes," due to their public use, are always small. They are often built into a crush-proof, flip-top cigarette package. The most common type has three buttons for simulation of the tones connected with the three denominations of coins accepted by coin-operated telephones. Some of them have a single button and simulate only the tone associated with quarters. The speaker is self-contained, and when the device is concealed in a cigarette package, the speaker is commonly faced to the front side of the cigarette package, where a number of small holes have been made to allow a clear tone to escape. During use, these devices will be held close to the mouthpiece of the coin-operated telephone.

"Black boxes" are devices that are attached to a telephone line. They vary in size and have one or two buttons or switches. Unlike the other telecommunications fraud devices, the "black box" does not permit free long distance calls to be made from the telephone to which it is connected. Rather, long distance callers to the "black box" equipped telephone will be able to make their calls free of charge. The

"black box" causes the long distance network to react as if the call was not answered and the caller disconnected. Therefore, the caller is not billed and no record is created. Callers from a coin-operated telephone will have their money returned, as is done with a legitimate uncompleted call.

TFDs may be encountered during the execution of a search warrant, and since many resemble legal items, they could be overlooked. In all cases, but particularly where innocent-appearing devices are involved, detection will usually depend on an examination of the device, coupled with a careful observation of all factors surrounding its discovery. Pertinent factors include proximity to a telephone; list of telephone numbers, particularly telephone numbers from other nations, on or near the device; statements made about the device; or information developed during the investigation which produced the warrant.

Another way in which TFDs may be encountered is during a search of a person or vehicle without a warrant, pursuant to some exception to the general requirement for a warrant.⁵ Again, the identification of a suspect device will often depend in part on a compilation of surrounding factors, in addition to the appearance or testing of the device.

Officers may observe persons using TFDs in a public place, which indicates that the person is engaging in illegal activity. Under such circumstances, a police officer would be authorized to temporarily detain the person, as long as there was a reasonable indication that a crime was occurring or had just occurred.⁶ The detention must be for investigative purposes and must be brief.⁷ There are a number

"The key factor in any case involving TFDs is recognition of the devices and the methods of using them."

of factors that could establish the requisite indication of illegal activity to authorize such a temporary detention, e.g., the demeanor of the person (apparent nervousness or furtive actions) and observed use of some type of device held up to a telephone. Once such activities have been witnessed, an officer can approach the individual. Based on the results of this contact, the officer then determines whether further action should be taken. If the person's freedom of action is not significantly restricted by such contact, either explicitly or implicitly, a custodial situation will not result, and any statement the person makes will not be the result of custodial interrogation.⁸ Consequently, such statements, along with other observations made during the contact, could appropriately be used to develop probable cause to arrest and would be admissible as evidence in subsequent proceedings.

"Blue boxes" and "black boxes" are types of TFDs that will be encountered more frequently in residences or offices. As noted previously, these items are often wired into the telephone system. "Blue boxes" are often found in connection with "call-sell" operations. These are operations in which owners of the devices permit other persons to make long distance calls, usually international calls, for a fee that is much lower than the actual long distance rate. These operations may operate around the clock, and the extent of the loss to the long distance carrier may be correspondingly large. "Call-sell" businesses are usually found in areas where there are large concentrations of foreign nationals or recent immigrants.

Personal computers can also be used as TFDs. Computers can be connected to telephone lines by devices

called "modems." These devices vary in size and shape, but will usually be recognizable because they will either have a cradle in which a telephone handset is placed or will connect with common telephone connector wire. As most computers have the capability to generate a wide range of tones, there will be no recognizable "blue box" or "black box" visible. However, documentary items such as personal telephone directories, lists of access codes, or instructions for illegal use may be found in proximity to a personal computer. Personal computers are most commonly used to defraud long distance carriers through their ability to generate an abundance of random numbers and run these numbers in the telephone system until an access code is found. At this time, the computer can break into the long distance network of some carrier and make calls which are either not charged to any account or are charged to another person's account. In any case, as personal computers are not illegal devices *per se* as are the other items previously described as TFDs, it is unlikely that an officer will be able to develop enough information to make an arrest or seizure, based on use of a personal computer as a TFD during an inadvertent encounter or observation of the device. However, if factors exist that create a suspicion of illegal activities, officers who are aware of these potential uses for personal computers could notify the Secret Service or the local telephone company. These agencies may then be able to initiate an inquiry and establish a prosecutable case.

Summary

While there is a comprehensive Federal law prohibiting TFDs and a Federal investigative effort to combat

their illegal use, it is important that local officers be cognizant of TFDs. Local efforts will assist the national effort and have the potential to provide local benefit, because TFDs are often found in connection with other criminal activity. The key factor in any case involving TFDs is recognition of the devices and the methods of using them. TFDs may easily be overlooked if police officers are not aware of the various forms they may take.

FBI

FOOTNOTES

¹18 USC sec. 1029.

²Sec. 817.482(2), *Fla. Stat.*

³*Id.*

⁴Communications Fraud Control Association, P.O. Box 23891, Washington, DC 20026. The Communications Fraud Control Association (CFCA) is an organization of security personnel from a large number of telecommunications companies. The association and its members are a valuable source of information and technical assistance to law enforcement officers investigating telecommunications fraud cases. The president of the CFCA provided information which made this article possible, as did the special agent in charge of the New York Office of the U.S. Secret Service.

⁵*Chimel v. California*, 395 U.S. 752 (1969); *United States v. Ross*, 456 U.S. 798 (1982); *New York v. Belton*, 449 U.S. 1109 (1981).

⁶*Terry v. Ohio*, 392 U.S. 1 (1968).

⁷*Id.*

⁸*Oregon v. Mathiason*, 429 U.S. 492 (1977); 50 L. Ed. 2d 714; 97 S. Ct. 711 (1977).

CRIME IN THE UNITED STATES 1986

For the second consecutive year, overall serious crimes reported to police recorded an increase. Last year's Crime Index total was 6 percent above the 1985 figures and represented the highest level since 1981. All offenses comprising the Index increased in volume from 1985 to 1986.

An estimated 13.2 million offenses were reported to over 16,000 law enforcement agencies nationwide representing 96 percent of the total population. Related to the U.S. population, the serious crime total showed an

average of 5,480 offenses per 100,000 inhabitants.

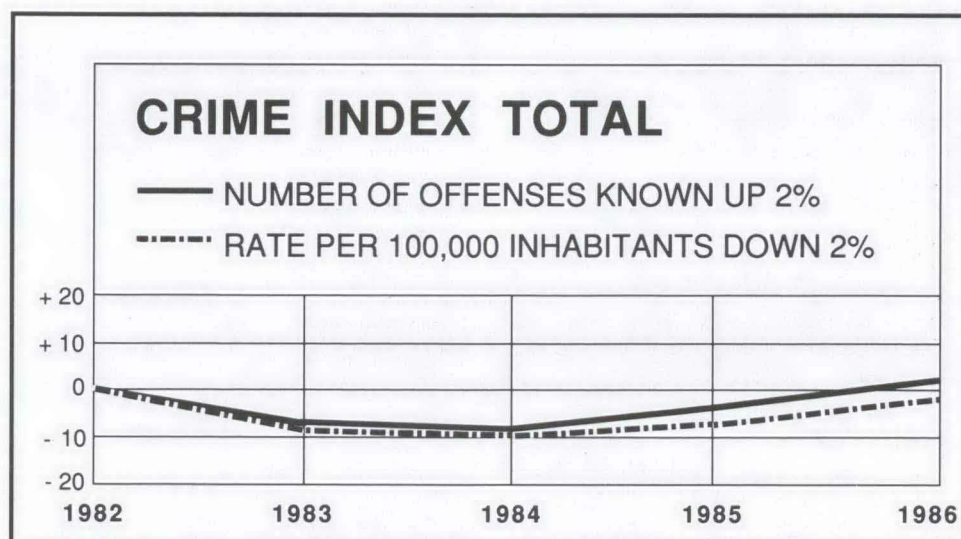
VIOLENT CRIMES

Collectively, violent crime was up 12 percent in 1986. Aggravated assault increased 15 percent; murder and robbery each rose 9 percent, and forcible rape was up 3 percent. The rate of violent crime, which was 617 per 100,000 people in 1986, increased 11 percent from 1985.

MURDER—The number of murders rose 9 percent to 20,613 in 1986, with a rate of 9 per 100,000 U.S.

inhabitants. Increases were recorded in all regions, cities, and suburban counties; rural counties were the only area to show a decrease. Of the murder victims, 49 percent were aged 20 through 34 years, 75 percent were males, 53 percent were white, and 18 percent were Hispanic. Firearms were the weapons used in 3 of every 5 murders.

Fifty-seven percent of the murder victims were related to or acquainted with their assailants. Arguments resulted in 38 percent of all murders, while 21 percent were proven or sus-



pected to have occurred in conjunction with felonious activities, such as robbery, arson, etc., 19 percent resulted from miscellaneous nonfelony activities, and 23 percent from unknown circumstances.

Nationally in 1986, the highest clearance rate among Index crimes was for murder (70 percent). Forty-one percent of all murder arrestees were under 25 years of age, and 88 percent were males. Fifty percent were white; 48 percent, black; and the remainder, other races.

FORCIBLE RAPE—Forcible rapes reported to law enforcement numbered an estimated 90,434 in 1986. Eighty percent were rapes by force; the re-

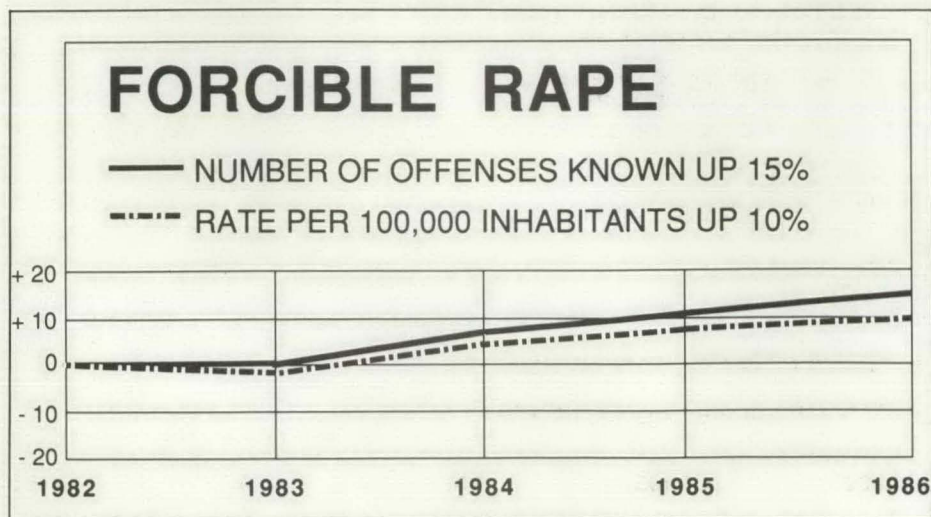
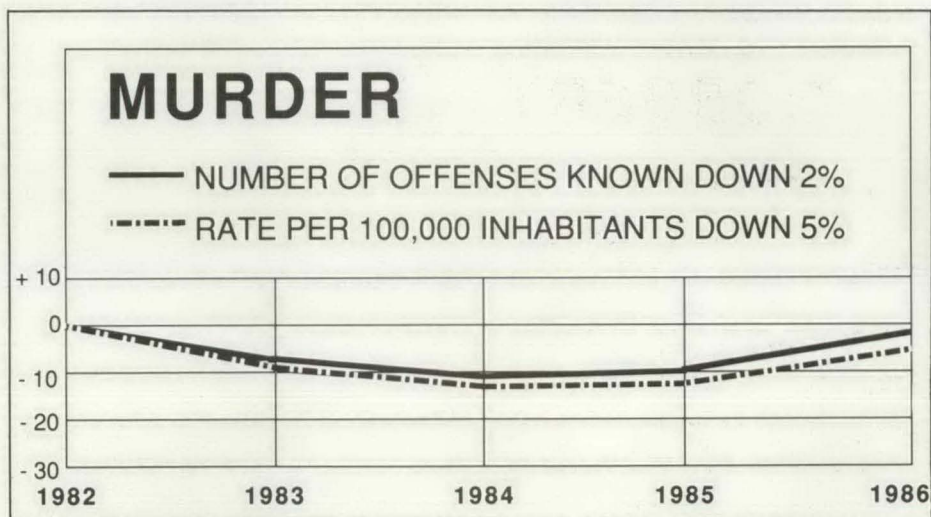
mainder were attempts or assaults to commit forcible rape. By Uniform Crime Reporting definition, the victims of forcible rape are always females, and in 1986, an estimated 73 of every 100,000 females in the Nation were reported rape victims.

The volume of forcible rape in 1986, as compared with 1985, increased 3 percent nationwide, in cities, and in rural counties. In suburban counties, the increase was 6 percent. Only cities over 1 million registered a decrease, one of 4 percent. For the same 2-year period, forcible rapes were up in three of the four geographic regions of the country. A 1-percent decline was experienced in the North-

eastern States.

Law enforcement agencies cleared 52 percent of the forcible rapes reported, and arrests for this offense were up 1 percent from 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 47 percent were black.

ROBBERY—The 1986 robbery total was 542,775, 9 percent above the 1985 figure. These offenses accounted for an estimated national loss of \$323 million, or an average of \$596 per incident. When comparing 1986 with 1985 data, robbery totals were higher in all geographic regions and city and



county population groupings.

Nationally, the robbery rate of 225 per 100,000 people was 8 percent higher than in 1985. The highest rate—960 per 100,000 inhabitants—was in cities with populations over 1 million. Strong-arm tactics were used in 43 percent of all robberies last year. Thirty-four percent were committed with firearms, 13 percent with knives or other cutting instruments, and the remainder with other dangerous weapons. Over half of the offenses were robberies on streets and highways.

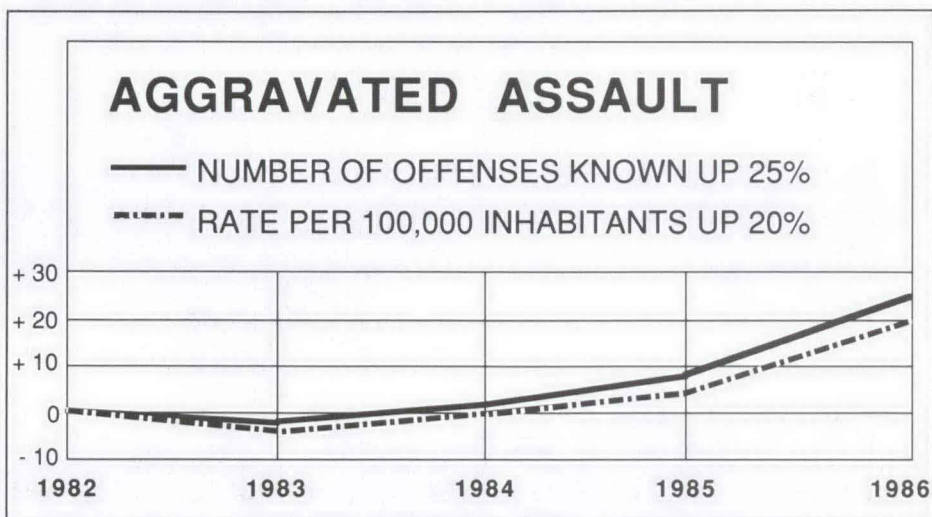
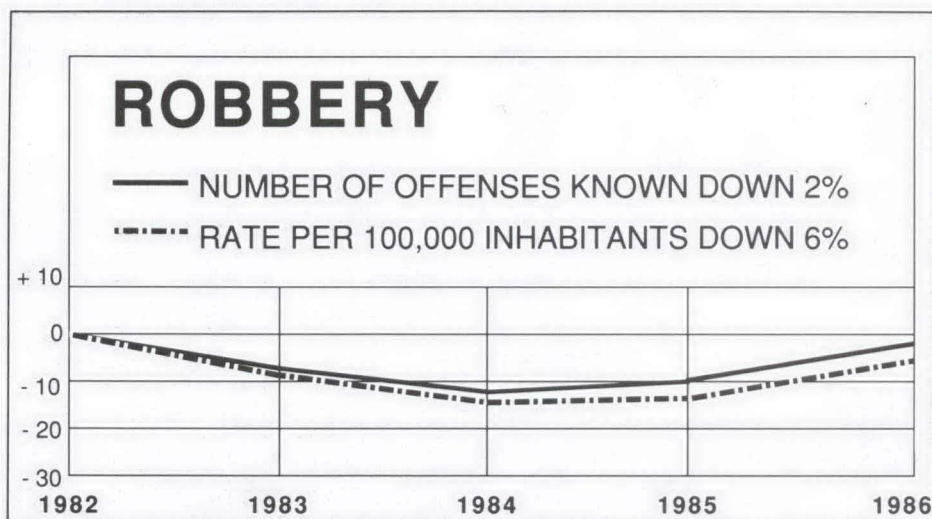
In 1986, 1 of every 4 robberies

was cleared, and robbery arrests rose 7 percent as compared to the 1985 total. Ninety-two percent of the robbery arrestees were males, 62 percent were under 25 years of age, 62 percent were black, and 37 percent were white.

AGGRAVATED ASSAULT—Up 15 percent in volume from 1985, aggravated assaults totaled 834,322 last year. Increases were recorded in all regions and areas, with the greatest increases in the Western States (26 percent) and cities with populations over 1 million (24 percent). The national rate for aggravated assault in 1986 was 346 victims per 100,000 inhabitants, a 14-percent increase over

1985. Twenty-one percent of all aggravated assaults were committed through the use of firearms, 22 percent with knives or cutting instruments, 25 percent with personal weapons (hands, fists, feet), and 32 percent with some other weapon.

Law enforcement agencies cleared 59 percent of the reported aggravated assaults in 1986, and arrests for this offense were up 16 percent over the previous year. Eighty-seven percent of those arrested were males, 59 percent were white, 40 percent were black, and the remainder were of other races.



PROPERTY CRIMES

Property crimes occurring in 1986 increased 6 percent nationwide. Burglary and larceny-theft each rose 5 percent, arson was up 6 percent, and motor vehicle theft rose 11 percent. The 1986 national rate for property crime, which relates crime volume to population, was 4,863 offenses per 100,000 population, a 5-percent higher rate than in 1985.

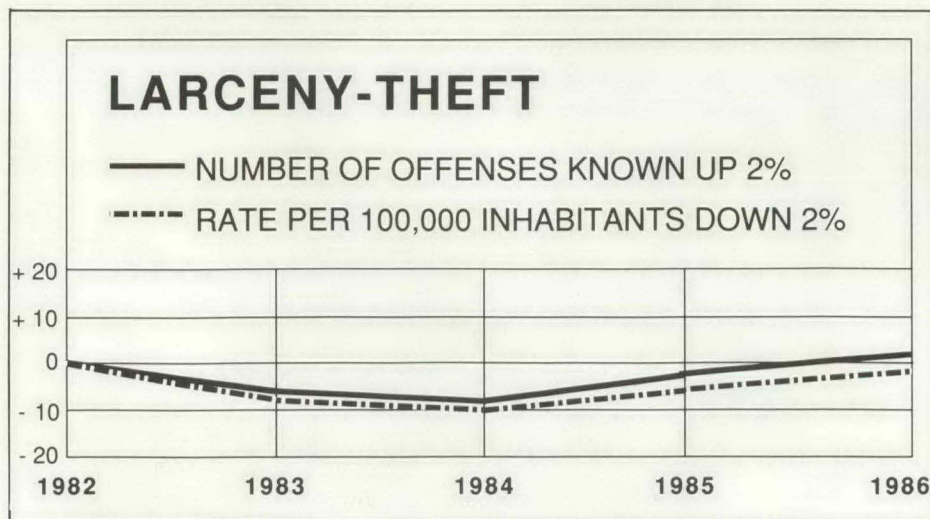
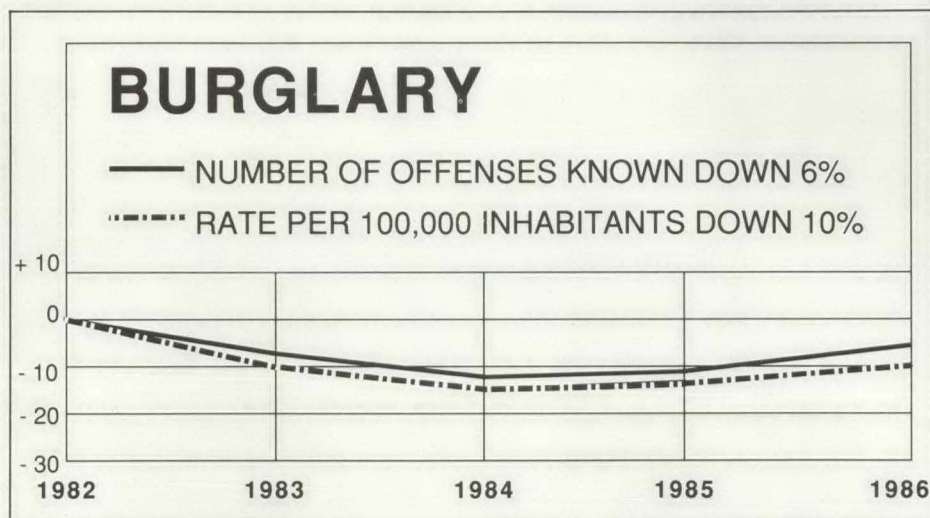
BURGLARY—Over 3.2 million burglary offenses were reported to law enforcement agencies across the country during 1986. The volume for this offense was 5 percent higher than the 1985 total. Geographically, the Northeastern States showed virtually

no change in the burglary count, while the three remaining regions experienced upswings.

The national burglary rate of 1,345 per 100,000 inhabitants in 1986 was 4 percent higher than the previous year's rate. The total estimated national loss due to burglary was \$3.1 billion and the average loss was \$960 per incident. Two of every 3 burglaries were of residences. The average loss due to residential burglaries was \$991 per offense, while for nonresidential burglaries, it was \$894. Seventy percent of all burglaries in 1986 involved forcible entry, 22 percent were unlawful entries, and the remainder were forcible entry attempts.

The 1986 burglary clearance rate was 14 percent. Arrest trends for 1985 and 1986 showed a 1-percent increase in total burglary arrests. Of the estimated 450,600 burglary arrestees in 1986, 92 percent were males, 71 percent were under 25 years of age, and 69 percent were white.

LARCENY-THEFT—Larceny thefts numbered an estimated 7,257,153 offenses in 1986. This total was 5 percent higher than in 1985 nationally, and increases were recorded in all regions and areas. The 1986 larceny-theft rate was 3,010 per 100,000 inhabitants nationwide, 4 percent higher than in 1985. Average losses were \$400 per incident, with a total na-



tional loss due to larceny-theft estimated at \$2.9 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 and shoplifting each accounted for an additional 15 percent of the total.

Twenty percent of the reported larceny-thefts were cleared in 1986, and arrests for this offense were up 4 percent from the previous year. Females were arrested for larceny more often than for any other offense during the year. Of all persons arrested for larceny-theft, 46 percent were under 21 years of age; 68 percent, white; and 88 percent, non-Hispanic.

MOTOR VEHICLE THEFT—An estimated 1 of every 149 registered motor vehicles was stolen during 1986, and the national total of 1,224,137 offenses was 11 percent above the 1985 level. The increase extended into all regions, areas, and population groups.

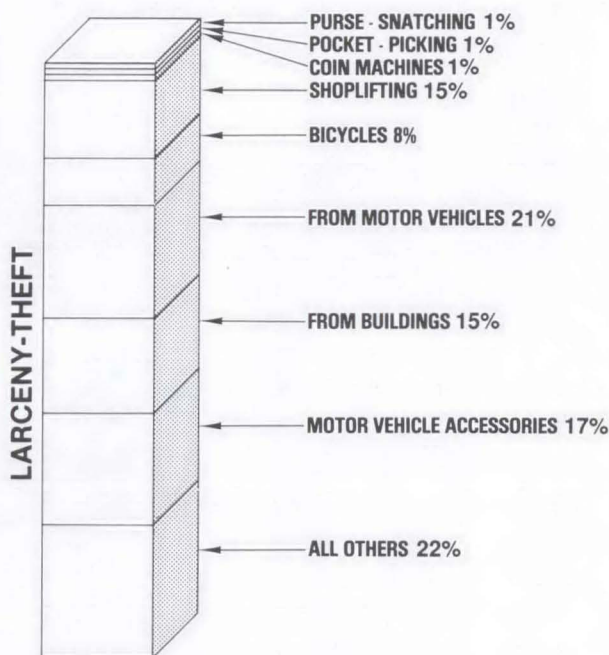
Of the motor vehicles stolen in 1986, 77 percent were automobiles, 14 percent were trucks or buses, and the remainder were other types. The stolen vehicles accounted for an estimated \$6 billion national loss. At the time of theft, the average value per vehicle stolen was \$4,888.

The national clearance rate for motor vehicle theft was 15 percent. Arrests for this offense in 1986 were up 15 percent overall from the previous

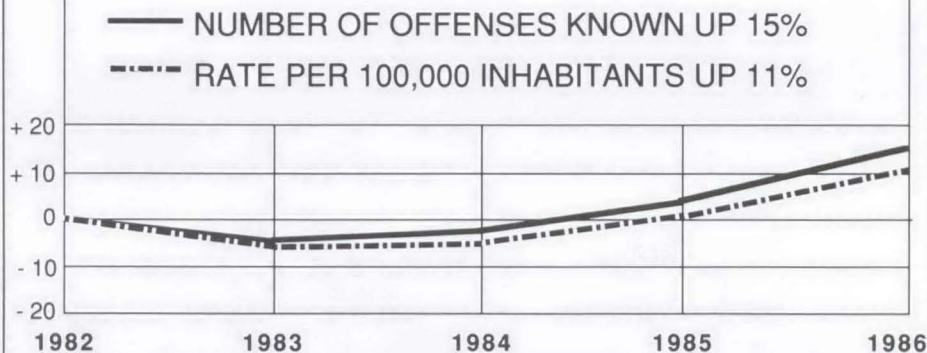
year. Of the arrestees, 58 percent were under 21 years of age and 91 percent were males. Whites comprised 64 percent of the persons arrested and blacks, 35 percent.

ARSON—During 1986, 110,732 arson offenses were reported by 12,599 law enforcement agencies. The arson volume rose 6 percent in 1986 over the 1985 total. Regionally, in-

LARCENY ANALYSIS 1986



MOTOR VEHICLE THEFT



creases were also recorded in the Midwest (10 percent) and the South (8 percent). The West and Northeast, however, recorded declines of 3 and 2 percent, respectively. The national arson rate was 53 per 100,000 population.

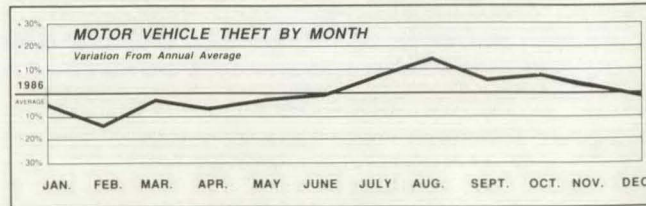
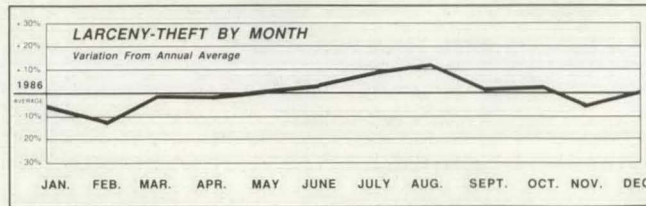
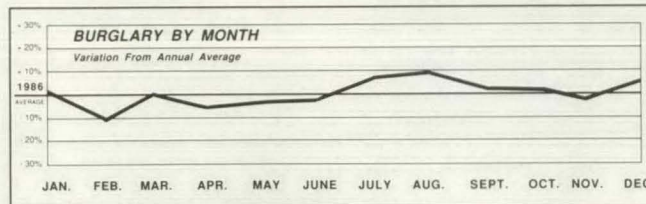
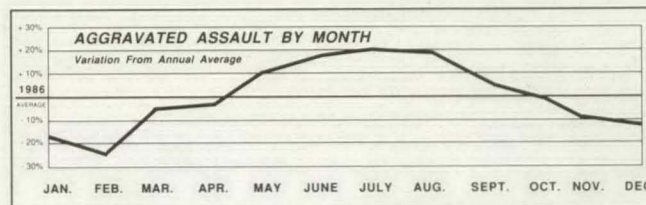
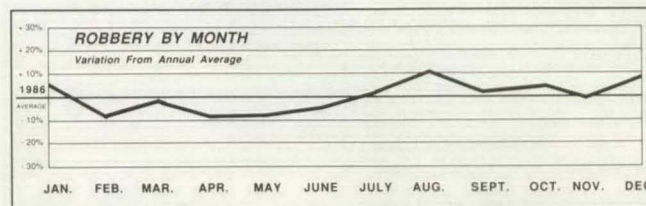
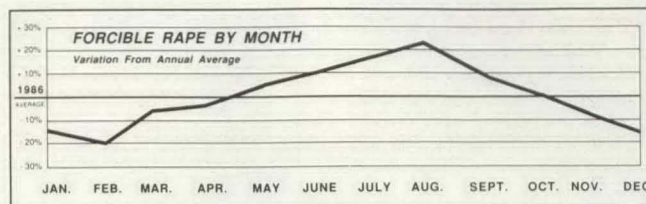
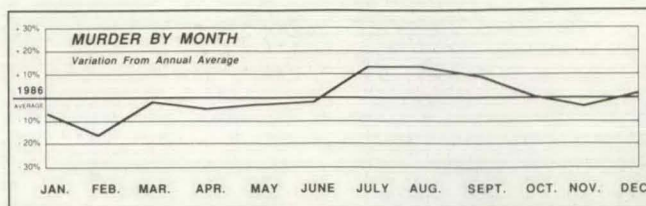
Data based on reports from 12,464 agencies furnishing at least 1 month of supplemental information in 1986 showed that of the property targeted by arsonists, structures accounted for 55 percent, mobile property (motor vehicles, airplanes, boats, etc.) for 28 percent, and other types of property (crops, timber, etc.) for 17 percent. Sixty percent of the structural arsons involved residential property, and 92 percent of the arsons of mobile property involved motor vehicles. Averaging \$13,198 per incident, the reported monetary value of property damaged due to arson was \$1.2 billion.

Fifteen percent of the arsons reported during 1986 were cleared. Demonstrating a higher percentage of juvenile involvement than for any other Index crime, only persons under age 18 accounted for 35 percent of all arson clearances. The estimated number of arrests for arson in 1986 totaled 18,700. Sixty-three percent of the arrestees were under 25 years of age and 40 percent were under 18. Of all arrestees, 86 percent were males and 75 percent were white.

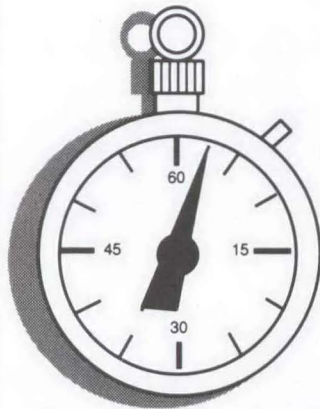
CRIME DISTRIBUTION

Crime Index trends in the regions for 1986 revealed upswings in volumes which ranged from 3 percent in the Northeast to 10 percent in the South. In the Midwest, overall crime was up 4 percent and in the West, 6 percent.

Similar to the national experience, law enforcement agencies in suburban counties registered a 6-percent rise in volume in 1986. The Crime Index increases were 4 percent in the rural counties and 7 percent in the Nation's cities.



CRIME CLOCK 1986



one
CRIME INDEX OFFENSE
every 2 seconds

one
VIOLENT CRIME
every 21seconds

one
PROPERTY CRIME
every 3 seconds

one
MURDER
every 25 minutes

one
FORCIBLE RAPE
every 6 minutes

one
ROBBERY
every 58 seconds

one
AGGRAVATED ASSAULT
every 38 seconds

one
BURGLARY
every 10 seconds

one
LARCENY-THEFT
every 4 seconds

one
MOTOR VEHICLE THEFT
every 26 seconds

The crime clock should be viewed with care. Being the most aggregate representation of UCR data, it is designed to convey the annual reported crime experience by showing the relative frequency of occurrence of the Index Offenses. This mode of display should not be taken to imply a regularity in the commission of the Part I Offenses; rather, it represents the annual ratio of crime to fixed time intervals.

CLEARANCES AND ARRESTS

Of the total Crime Index offenses recorded by law enforcement agencies during 1986, 21 percent were cleared. The violent crime clearance rate was 46 percent, while for property crime it was 17 percent. Among the Index crimes, the highest clearance rate (70 percent) was for murder and lowest (14 percent) for burglary. Nineteen percent of the overall offenses cleared by law enforcement involved only young people under age 18. Persons in this age group accounted for 9 percent of the violent crime clearances and 23 percent of those for property crimes.

Regional Crime Index clearance rates showed the highest rate (22 percent) was in the South. In the West, the rate was 21 percent; in the Midwest, 20 percent; and in the Northeast, 19 percent.

ARRESTS

During 1986, arrests for all offenses except traffic violations totaled an estimated 12.5 million. When the arrest volume was related to the total U.S. population, the arrest rate was 5,232 per 100,000 inhabitants. Regionally, the arrest rates ranged from 4,180 in the Midwest to 5,978 in the West. In the South, the arrest rate was 5,314 and in the Northeast, 5,402.

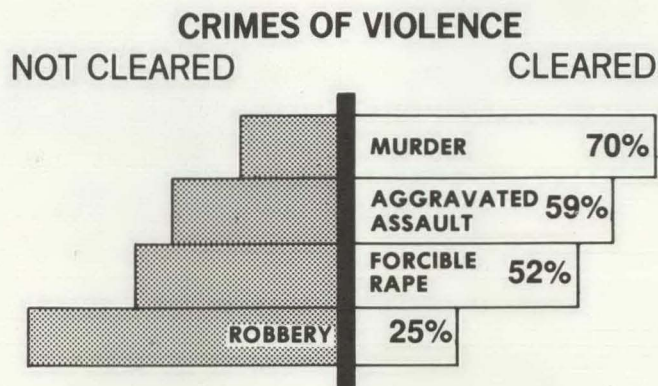
The highest volume of arrests was recorded for driving under the influence, 1.8 million. Males were most often arrested for this offense, which accounted for 15 percent of all male arrests. Females were most often arrested for larceny-theft.

Of all persons arrested nationwide in 1986, 5 percent were under the age of 15, 17 percent were under 18, 31 percent were under 21, and 49 percent were under 25. Four of every 5 persons arrested were males, and 71 percent of all arrestees were white.

Compared to the 1985 volume, the number of arrests for all offenses increased 5 percent in 1986. During the same time period, adult arrests also rose 5 percent, while those of persons under 18 years of age were up 3 percent.

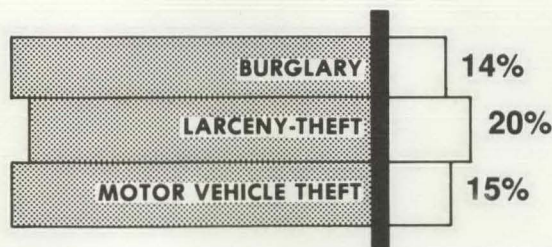
FBI

CRIMES CLEARED BY ARREST 1986



CRIMES AGAINST PROPERTY

NOT CLEARED CLEARED



BOOK REVIEW

Community Crime Prevention: Does It Work? Dennis P. Rosenbaum, ed., vol. 22, SAGE Criminal Justice Annuals, SAGE Publications, 2111 West Hillcrest Drive, Newbury Park, CA 91320, 318 pages, \$14.95 paperback, \$29.95 cloth.

This work describes and evaluates several community crime prevention programs: Citizen efforts to prevent residential crime, foot patrol projects, crime in commercial areas, community anticrime newsletters and the McGruff "Take a Bite Out of Crime" national media campaign. These are some of the elements of what has become known over the last 20 years as community policing. As editor Rosenbaum, a Ph. D. at Northwestern University, notes: "Crime, incivility, and fear of crime continue to plague American cities at unacceptably high levels ... since the 'war on crime' began in the 1960's ... there has been a steady and growing recognition that the police and the citizenry are on the front line of this battle..." Historically, of course, this was at least the second "war on crime." J. Edgar Hoover first used the phrase in 1925 and it became popular in the 1930's.

Chapters in *Community Crime Prevention* include the Seattle program of citywide crime prevention, neighborhood-based antiburglary strategies in Portland, community organizing in Chicago, the Newark foot patrol experiment by Antony Pate, who evaluated this program for the Police Foundation, and foot patrol in Flint, MI, sponsored by the Neighborhood Foot Patrol Program of Michigan State University and evaluated by Robert C. Trojanowicz, part of which appeared in the International Association of Chiefs of Police's *Journal of Police Science and Administration*. The contributors to this volume have tried to address not only the academic criminal justice audience but also police practitioners, and community policy makers, so that readers

understand how the various programs were designated and implemented and how the evaluations represent the state of the art in the field.

Also, evaluations of crime prevention through environmental design in Portland and security surveys in Denver, St. Louis, and Long Beach, along with articles on the McGruff anticrime campaign and police-community anticrime campaign and police-community anticrime newsletters in Houston, Newark, and Evanston are included. Important public policy issues are directly addressed, so that the potential for greater support that these programs have can be determined to be of value or not—"whether these programs actually produce the public and private benefits that the mass media and other parties so often claim they do," as the editor notes in chapter 1.

Rosenbaum goes on to say: "There is still a paucity of solid evaluation research addressing the basic questions of whether police-citizen efforts to prevent crime and to enhance the quality of neighborhood life can make a difference ... nevertheless, the research reported herein should be viewed as a good starting point." Thoughtful police officers and administrators will agree, although the final chapter, by a research analyst, takes a more pessimistic view of community policing "the ultimate prevention of crime in urban communities may be beyond the means of what can be 'done' within the current reality of public policy."

This work shows that these strategies do have an "impact on crime, incivility, fear of crime, and other important indicators of the quality of life in residential and commercial areas." Being a criminal justice practitioner, not a statistician, this reviewer tends to be impatient with the academic quest for laboratory conditions and certitude in criminal justice social experiments.

Thomas J. Deakin, J. D.

Impact Fees: A Fiscal Response

"... the impact fee provides the revenues to keep pace with capital needs without burdening the taxpayers already residing in the jurisdiction."

By
LT. BRUCE A. MILLS

*Police Department
Dunedin, FL*

One of the major issues which face police agencies in many jurisdictions is the governing body's ability to provide the capital, facilities, and equipment necessary to maintain an appropriate level of law enforcement services. Annexations, new home construction, commercial development, and a rapidly growing population place added burdens on the delivery of police service. Often, it is the existing community which bears the burden of the added costs. This results in tremendous inequities, since taxpayers are assessed for additional expenditures to new growth areas for which they are not responsible.

Obviously, a more equitable means of funding is needed to provide a consistent and equal level of law enforcement service throughout the growth areas. Since new development requires these additional governmental services and facilities, it should bear the responsibility for the capital costs related to them. One solution is the assessment of impact fees.

When a politician or a police chief hears the term "impact fee," there is an automatic assumption that it is just another form of taxation which will discourage growth in their community. But in reality, an impact fee is not a tax. It is

the price paid to insure that the police department will be able to furnish the same level of service that it gives other residents.

The need for these services begins when new residents and businesses arrive. However, there is usually a time lapse before the new tax base provided by them can be used. The impact fee, an immediate revenue source, solves this problem. Funds collected from impact fees are used to maintain the current level of service in the new growth areas, not to add or improve services. This, in turn, will allow the ad valorem taxes to be used for additional personnel to provide new enforcement service throughout the community.

Since the impact fee is charged to those responsible for the additional capital expenditures, two conditions must be observed by the governing authority which levies the fee:

- 1) The fee must be equal to that which the existing community members are paying for the same service through their taxes, and
- 2) The equipment purchased must be used solely for the benefit of the new residents or businesses paying the fee.

In other words, if existing residents are paying \$80 per residential unit per

year for law enforcement service through their taxes, then the impact fee for new residents should equal the same amount. Also, whatever equipment is purchased should be used to provide equal service to the new growth area.

In order to assess the proper impact fee, certain steps are recommended. First, the police department must perform a capital asset inventory of its buildings, vehicles, furniture, and all equipment at replacement cost. These data may be available from such sources as an insurance carrier or those in charge of inventory control. Second, the number of existing residential units in the agency's jurisdiction must be determined. Because it is usually easier to charge commercial "customers" on a square footage basis, it is necessary to know the total square footage of commercial structures, information that can be obtained from the jurisdictional planning department or unit.

Next, the police department should examine its own records to determine what percentage of its responses and service go to residential customers, commercial customers, and "other" customers. "Other" customers are those who do not live or do business in the jurisdiction, but who require law en-



Lieutenant Mills



Robert L. Haworth
Director of Public Safety

Figure 1

$$\begin{aligned} \$6,514,272 \times 69\% &= \$4,494,848 \div 31,412 = \$143/\text{residential unit} \\ \$6,514,272 \times 22\% &= \$1,433,140 \div 11,500,000 = 12\frac{1}{2}\text{¢}/\text{commercial sq. ft.} \end{aligned}$$

forcement service, e.g., a tourist whose car is burglarized or two out-of-jurisdiction drivers who have a traffic accident. The police department should use a random sample statistical method to obtain these data, since most agencies cannot categorize responses or calls for service without physically examining the record and the annual volume, at times, is prohibitive, unless the information has been computerized.

Then, using the data gathered, a formula (capital asset inventory multiplied by the use percentage divided by unit measurement) is applied to establish the impact fee amount that will be charged to the developer of new growth. For example, assume a police department's capital asset inventory has a total replacement value of \$6,514,272, the jurisdiction it serves has 31,412 residential units and 11,500,000 square feet of commercial structures, and police service is 69 percent residential responses, 22 percent commercial responses, and 9 percent "other" responses. The procedure for establishing the impact fee is shown in figure 1.

The resulting figures correlate as the cost to provide total police capital service to each existing residential unit and commercial development within the jurisdiction. The "other" response category cannot be charged to either the new residential or commercial de-

velopers and must be absorbed by the existing tax base.

It is recommended that the impact fee be reviewed and readjusted every other year to reflect the jurisdiction's costs to provide capital services at that time. One of the features of an impact fee is that it is self-adjusting; a small number of new structures does not significantly increase the need for additional equipment nor does it generate considerable capital. Conversely, in a rapidly growing jurisdiction, the impact fee provides the revenues to keep pace with capital needs without burdening the taxpayers already residing in the jurisdiction. Then, as the community grows, the increased tax base can be used to pay the costs associated with hiring additional police personnel.

Finally, many elected officials have expressed concern that the imposition of impact fees will eventually cause developers to go elsewhere to build. That same concern has been expressed in every other jurisdiction where impact fees have been assessed; however, not one example can be cited where this has been the result. As long as efficient and effective governmental services are provided in a community where a high quality of life is available and taxes are kept at a reasonable level, the jurisdiction can be expected to continue to grow, irrespective of the presence of impact fees.

FBI

An Introduction to the Serial Rapist

Research by the FBI

By

ROBERT R. HAZELWOOD, M.S.

*Special Agent
Behavioral Science Instruction and Research
Unit*

*FBI Academy
Quantico, VA
and*

ANN W. BURGESS, R.N., D.N.Sc.

*van Amerigen Professor of
Psychiatric Mental Health Nursing
University of Pennsylvania
Philadelphia, PA*

From 1979 to 1981, a series of rapes plagued the community members and police agency of a large Southwest city. The rapist became increasingly violent in his attacks and successfully eluded detection, despite the best efforts of law enforcement. He was identified and later arrested through the efforts of an alert officer who noted the license number of the rapist's car while it was parked in a deserted shopping center near a victim's residence. The officer noted the license number because the automobile was expensive and a prime target for thieves. A few hours later, the officer heard about the rape. He also learned that the victim's car had been taken and abandoned in the parking area where he had seen the

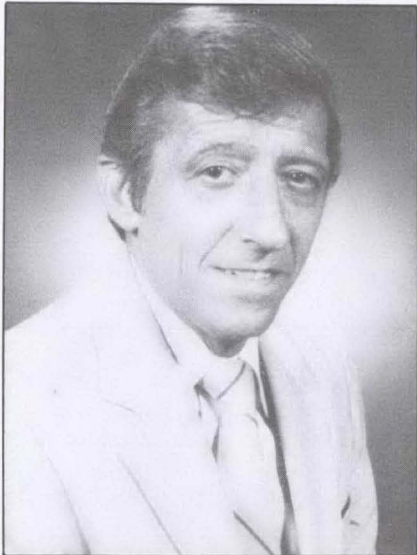
expensive automobile. The officer provided investigators with the license number he had noted earlier; a surveillance was initiated, and the rapist was subsequently arrested. Could law enforcement have done anything to identify the offender more quickly?

From 1984 to 1985, the incidence of reported rapes increased by 3.7 percent.¹ This increase may be due to an actual rise in the occurrence of the crime, to better reporting by law enforcement, or to more willingness on the part of the victims to report the crime. Regardless of the reason, statistically, rape appears to be occurring more frequently.

One of the most potent criminal influences to pervade our society is the multiple, or serial, rapist. His victims

can number from as few as 2 to more than 100, and each person who has suffered through a sexual assault has felt the fear of losing her life. The effects of rape do not cease for the victim when the offender leaves, but can last for weeks, months, or years.²

Serial sexual offenders can create a climate of fear in the entire community, who then pressure law enforcement to identify, locate, and apprehend the responsible individual in the shortest possible time. The manpower required to accomplish this task can be enormous. A police agency investigating a series of 18 rapes and 31 attempted rapes dedicated 50 officers to a task force to stop the crimes. A current investigation of a serial rapist (43



Special Agent Hazelwood

attacks to date) involves a task force of more than 20 investigators, 5 support personnel, and the assistance of crime technicians for 8 months.

Unless the sexual assault occurs on Federal property, the FBI's involvement in rape investigations is limited to training and providing investigative support when requested by the responsible law enforcement agency. This investigative support most often comes in the form of criminal personality profiling.

Profilers predicate the profile of a serial rapist on core behavior exhibited by the offender while committing the offense. Core behavior is defined as the verbal, sexual, and physical (force) activity of the rapist.³ If well-documented, it should provide the offender's underlying motivation (power, anger, or a combination of the two), and from this, a profile is developed. To keep the FBI's training and investigative support as current and comprehensive as possible, members of the FBI's National Center for the Analysis of Violent Crime (NCAVC) conducted research on the serial rapist—research designed to address those issues of concern to law enforcement.

Funded by a grant from the Office of Juvenile Justice and Delinquency Prevention, the FBI's NCAVC joined with a team led by Dr. Ann Burgess of the University of Pennsylvania's School of Nursing in a research project to learn more about the serial rapist. The same team recently completed similar research on serial murderers.⁴

This research included interviews with 41 incarcerated serial rapists responsible for 837 rapes and more than 400 attempted rapes. The interviews of the 35 Caucasians, 5 Blacks, and 1 Hispanic took place in 12 States over a 20-

month period. The number of rapes committed by those in the sample ranged from 10 to 59, and the mean age of the offender at the time of interview was 35.2. The period of time that the offenders raped before their first arrest ranged from 3 months to 12 years. Fifteen of the 41 rapists were in sex offender treatment programs at the time of the interview.

The purpose of this article is not to present conclusions or findings, but to acquaint the law enforcement community with the type of research the NCAVC conducts. NCAVC's research is unique because it represents the first time anyone has studied serial and violent crime and offenders from a law enforcement perspective. In the past, such research has been conducted from a clinical or academic perspective, which left questions vital to law enforcement unanswered. The research team will disseminate the findings of this study to law enforcement through future issues of the *FBI Law Enforcement Bulletin* and other professional journals, as well as through lectures and courses taught by FBI personnel. This article will present the goals of the research, the criteria used in selecting the interviewees, the methods used to conduct the interviews, and a synopsis of one interview that provides the reader with the type of information elicited from the rapists.

Goals of the Research

Based on the experience of working with police agencies, victims of rape, and the mental health community, the research team established seven specific goals:

- 1) To determine what measures the offender used that allowed him to

EDITOR'S NOTE:

Portions of this article were presented in testimony before the Subcommittee of the Committee on Government Operations, April 9, 1986.



Dr. Burgess

evade identification and apprehension over a long period of time;

- 2) To ascertain what, if anything, law enforcement could have done to identify the rapist more quickly or cause him to cease his activities and/or turn himself in;
- 3) To elicit advice from the rapists on how to prevent rape, and suggestions about what a victim should do or not do in a rape confrontation;
- 4) To document the types of interviewers and techniques that would be most successful in the interrogation of subjects for prosecution purposes;
- 5) To determine what role, if any, pornography and/or detective magazines played in the crime (the detective magazine issue resulted from earlier research);⁵
- 6) To understand what features of the crime would provide investigators with the best information as to the type of personality responsible for the unsolved rape; and
- 7) To determine what, if any, commonalities exist in the backgrounds of serial offenders in rape, sexual murder, and child sexual abduction.

As the team statistically analyzes and studies the results of the interviews, they certainly will address many additional areas of interest.

Selection Criteria

The researchers limited interviews of incarcerated offenders to those who had committed 10 or more rapes and

who had exhausted their judicial appeals. They did not consider attempted rapes and other types of sexual offenses when selecting the interviewees.

The researchers established the criterion of 10 or more rapes for 3 reasons. First, logic dictated that an individual who had raped 10 or more times was quite successful in eluding law enforcement. One of the goals of the research was to determine how the rapist accomplished this. The more-proficient offender can provide more-meaningful information than the offender who had raped only once, twice, or three times before getting caught.

Second, the research team wanted to learn if the serial rapist becomes progressively more violent over time. They were much more likely to observe an escalation of violence with a larger number of crimes to study.

Last, the investigators were interested to know what, if any, changes in core behavior or method of operation (MO) occur over time. This information cannot always be observed in cases involving a few offenses, and if observed, cannot be documented as either atypical or permanent behavioral changes.

While some might criticize the criterion of 10 or more rapes as not representing the typical rapist encountered by law enforcement, they must consider the hypothesis that all rapists are potential serial rapists; some just get caught before they become serial offenders. Also, the serial rapist poses the greatest investigative challenge for law enforcement.

The second criterion, exhaustion of all judicial appeals, was critical to the involvement of NCAVC personnel. FBI

"This research included interviews with 41 incarcerated serial rapists responsible for 837 rapes and more than 400 attempted rapes."

Special Agents conducted all the interviews, and any pending appeals would have legally precluded the interviewers from speaking to the offenders without first advising them of their constitutional rights.

The team identified the rapists meeting the criteria in a number of ways. Local, State, and county law enforcement officers who had attended the FBI National Academy helped identify a large proportion of the sample, and they provided invaluable assistance to the research team, as did several FBI Special Agents throughout the United States. Mental health professionals involved in sex offender treatment programs or affiliated with State prisons, as well as prison authorities, also helped identify rapists willing to participate in the research. The research probably would have failed without the interagency and interdisciplinary cooperation that took place.

The Research Interview

Members of the NCAVC and other selected FBI Special Agents (SAs), all of whom have advanced degrees or extensive training in the behavioral sciences, conducted the 41 interviews. Traditionally, such research has been conducted from other than a law enforcement perspective. This research involved eliciting information of value to investigators tasked to solve the crime of rape. The use of SAs as research interviewers combined investigative, interview, and behavioral science skills not ordinarily found in violent offender research. This proved very helpful in extracting information that law enforcement can quickly put to investigative use. For example, the research has determined that the less-mature or less-

experienced rapist is more likely to steal items that are cumbersome and more easily traced (e.g., stereos, TVs, VCRs). The less-mature individual perceives such items as easily disposable, giving no thought to the fact that these items are difficult to transport, hard to conceal, and easily traced. The more-mature or experienced rapist tends to take money or jewelry.

The SAs prepared for their interviews by studying all available documentation pertaining to the rapists and their crimes. When necessary, they reviewed this documentation with the permission of the interviewees. The materials included police investigative reports, victim statements, pre-sentence investigation reports, medical and mental health records, and pertinent prison records.

Two SAs then met each rapist in the presence of a prison employee, normally a mental health professional, and explained the purpose and format of the interview. A statement regarding the purpose and confidentiality of the interview that indicated the prisoner's consent to participate was signed and witnessed. The SAs always provided a copy of the form to the prisoner. Only three individuals declined interviews after meeting with FBI Agents. The willingness of the rapists to participate did not surprise the researchers, because 36 sexual murderers had previously agreed to FBI research interviews.⁶

The interviews were open-ended and generally unstructured. In all but seven cases, the prisoner consented to having the conversations tape recorded. The interviews, ranging from 4½ to 12½ hours in length, drained all

involved, both mentally and emotionally. The SAs left interruptions for food and other reasons entirely up to the offender. Surprisingly, few desired food breaks. Most preferred instead to continue the discussion.

Areas of discussion included familial and demographic information; education; employment; military history; hobbies and pastimes; marital history; sexual development; pre-offense, offense, and post-offense behavior; investigation and interrogation techniques; and rape prevention and confrontation.

Because of the large number of crimes involved, it would have been impossible to discuss the pre-offense, offense, and post-offense behavior for each crime. Therefore, the interviewers focused on the first, a middle, and the last assault in the offender's series of rapes. This technique proved to be quite successful in eliciting the desired information for a large number of crimes.

The Agents delayed asking about sexual development and offense behavior until well into the interview, after they had established rapport with the rapist. The offenders found these discussion areas the most troublesome. The interviewers had to continually develop techniques to overcome the offenders' reluctance to talk about certain topics. For example, when asked to discuss his family, one offender replied, "I can sum it up in one word—hate." The interviewers then asked him to define hate as he was using the word, and the interview proceeded.

Finally, the SAs asked the offenders to critique the research interviews. Their comments or suggestions sometimes proved helpful in structuring later

"[This research] represents the first time anyone has studied serial and violent crime and offenders from a law enforcement perspective."

interviews. For example, FBI Agents are trained to exhibit their credentials when meeting someone in an official capacity. One of the first interviewees told the Agents he believed the show of credentials to be an unwarranted display of power that made him feel uncomfortable. Needless to say, the Agents showed their credentials only on request in future interviews.

Immediately following the interview, the Agents completed a 70-page protocol that the research team had adapted from an instrument developed for the serial murderer research. Tape recordings of the interviews were transcribed and the transcriptions then summarized for research use. The researchers computerized hard data (statistical information) and retained soft data (narrative information) separately.

As mentioned earlier, all involved were mentally and emotionally fatigued after these interviews. One cannot leave such an interview without experiencing a strong sense of sympathy for the victims of rape and an occasional feeling of empathy for the offender. There were documented instances of childhood physical, sexual, or emotional abuse suffered by some of the rapists. Those who read of such occurrences, or watch a man cry as he describes his father beating or raping his mother in front of him, cannot help but feel a sense of outrage toward the parents of the offender. Investigators must never cease to experience these essential human emotions. Without them, a person will become callous and lose effectiveness as an investigator or a researcher.

A CASE STUDY

The following case indicates the type of offender interviewed and the information obtained during the interview

or from documentation. Though only a synopsis, it provides insight into the development of a serial rapist and his behavior prior to, during, and after one crime. The subject, whom we'll call John, was not and had never been enrolled in a sex offender treatment program. Those who were in such programs tended to use institutionalized language.

Family

Born in 1944, John was one of three children. He had a twin sister and a younger sister. His mother and stepfather raised him; he didn't meet his natural father until he was in his late 20's. At the time of the interview, John stated that he considers his natural father a casual friend.

John's step-father was a logger and successful in this field until an injury forced him to become a warehouseman. The family moved several times during the stepfather's logging career, before settling in a city where John spent his teenage years. The mother became a waitress following her husband's injury, but prior to that time, she had not worked outside the home.

He was repeatedly in trouble with his parents as a child, a fact for which he held his sisters responsible. They would violate family rules and place the blame on John. His relationship with his parents was "at times explosive and at times rather close." When he went fishing or hunting with his step-father, the relationship was quite good, but when at home, he always "felt distant from them." He stated, "It seemed that the only time they would talk to me was when I was in trouble." John believed that his parents loved his younger sister (the step-father's natural child) more than him, and consequently, he became very jealous of her.

John stated that he was not physically, emotionally, or sexually abused as a child, but subsequent statements proved the contrary. His mother had a violent temper, and he tried to avoid being punished by her. "She would hit anywhere she could land and used belts, switches, or anything she could lay her hand on." John stated that most of his punishment consisted of spankings with a belt and that he was informed as to why he was being punished. He related that his mother frequently used a great deal of profanity toward him. She would say such things as, "You little son of a bitch," or call him "bastard" or "asshole." "Even to this day," he claimed, "she tries to manipulate people by putting them down or making them feel guilty." He identified his mother as the dominant parent, indicating that she would "harp" at the step-father until he did what she wanted. To get away from the fighting between his parents, John ran away from home on several occasions.

John advised his interviewers that he has been a "loner" since early childhood, and that as a child, his closest friends were relatives. He could not easily meet or interact with people and still cannot do so today.

His childhood pastimes included hunting and fishing, building model cars, and playing softball. As a child he enjoyed reading comic books and the Hardy Boy adventures. Adolph Hitler has always fascinated him. He said, "I've never understood how he could have controlled so much with so little."

John did not abuse alcohol as a child. He went to church somewhat regularly, but he could not recall the denomination of the church.

Education

John has a tested IQ (Wechsler) of 125. He had to repeat the first grade be-

cause of his family's residential moves, but he was a good student between the first and sixth grades and reported that he enjoyed going to school during those years.

In the seventh grade, outside interests began interfering with school attendance. He preferred working on cars and shooting pool to going to school. When in school, he would become disruptive and was suspended frequently, which created further problems at home. He had to repeat the seventh grade. At the age of 16, he dropped out of school.

After being arrested for check forgery, he briefly returned to school and reported that he enjoyed it. However, at the age of 17, he again left school and joined the Marines. At the age of 26, while in prison, he obtained his GED. He stated, "I just came to the realization that I couldn't get very far without a GED." At the time of interview John had accumulated 96 hours of college credit while in prison.

Sexual Development

John can recall first becoming sexually aware when he was 8 or 9 years of age. He remembers "being in a ditch somewhere [with a female agemate] and trying to do it." He could not recall who initiated the sexual activity. He stated that prior to this, a 16-year-old female cousin took several male children to a mountain cabin for mutual fondling, but they were caught. He recalls being spanked for this activity.

The age of 9 seems to be sexually significant for John. At this age, he began having a fondness for female panties. He reported hiding under a table so he could look up his sister's dresses while they did the dishes. He also would attempt to see the panties of sitters who cared for him and his sisters.

He denied ever peeping on his mother, because "that's taboo." However, he did peep on his aunt during pre-adolescence, and at the age of 13, began window peeping. His goal was to observe women in some state of undress, preferably with panties on rather than nude. He continued to window peep until his final arrest.

He remembered a male cousin "messaging around with my twin sister and the two of them trying to talk me into having sex with my younger sister." John, who was 9 or 10 at the time, did engage in fondling with his younger sister, but felt guilty and stopped the activity. He had been stealing panties off clotheslines, and at this age, he was also caught in a woman's house while taking panties out of her dresser.

John began masturbating at the same age (9) he began the panty thefts. He would either use panties to masturbate with or fantasize about panties while masturbating. He stated that he masturbated on a daily basis. If he had panties available, he would ejaculate onto them and "afterwards most times I'd throw them away because once I had achieved orgasm, then the panties would be a symbol of something wrong." He preferred used panties to new ones. When asked why, he replied, "It seemed more intimate, like they had contact with a female." If the panties belonged to someone he knew, he found it more satisfying, because he could associate a person's body with the garment. He stated that cotton panties "did nothing for me." He wanted them "silky and smooth." John began wearing panties as a teenager, but would wear them only until he ejaculated. After a general discharge from the Marine Corps, he began wearing panties for extended periods of time. During the course of the interview, John mentioned casually that he was wear-

ing his favorite pair of panties beneath his prison garb. When asked how he obtained them, he said a female friend of his buys them, wears them for a while, and then mails them to him.

He voluntarily sought psychiatric help for his obsession with panties after he left the Marine Corps. He said "What I was having problems with was the fetish for women's panties. I was going through the problems of whether I was a homosexual, what the hell was the matter with me because I enjoyed these things."

John stated he didn't consciously think about committing a rape until after he had already done so. He went to a woman's home seeking consensual sex and used threats and physical force to obtain the victim's compliance. Only later did he realize that he had actually raped the woman.

He experimented with homosexuality while in the Marines, but "realized that this wasn't the way I wanted to go, this wasn't for me."

Military

John entered the Marines at the age of 17 with the consent of his parents. Although records indicate he excelled in basic training and served 4 years, he left the service with a general discharge. While in the military, he had "a little problem with authority" and "didn't always do what I was told." He served in Vietnam and was released from military service at the age of 21. He stated, "After I came back from Vietnam and I got out of the Marine Corps, I seemed hell bent on destruction." On one occasion, he was in a rage and put his arm through a car window. He required 86 stitches. He fell out of a car traveling 40 mph and wrecked another car while driving 130 mph. In the latter incident, he suffered severe head inju-

"The researchers limited interviews of incarcerated offenders to those who had committed 10 or more rapes and who had exhausted their judicial appeals."

ries. He stated, "Some folks think that's what kind of deranged things back there, kind of got me goofy."

Employment

John's employment record is erratic at best. After his military service, he was employed as a logger, a truck driver, a factory worker, and a laborer in home manufacturing. When asked why he changed jobs so often, he replied, "I think basically, I got bored with the jobs. I think a lot of it, too, was immaturity. I'd do the job for a while and then I didn't like it no more, so I'd find some reason to quit."

Sexual Activity in Marriage

John married for the first time at the age of 20, only because the girl was pregnant. He and his wife stayed at her parents' home for a few days after the wedding, but he realized that he didn't want to be married, "so we both went our own ways." A daughter was born of that marriage. Sexual activity with his first wife was restricted to vaginal intercourse in the missionary position.

Two years later, John met his second wife. They remained together for 2 years and had two sons. He stated that his irresponsibility led to the divorce. Again, vaginal intercourse in the missionary position was the norm during the marriage.

At the age of 25, John met his third wife at a bar. They lived together for approximately 6 months and separated "because we couldn't stand each other." John stated that "sex starting getting a little creative. I started getting into different areas. Not necessarily bondage or anything like that, just experimenting in different ways of doing it. Learning how to last longer and things

like that, because she was one of those women that it was very difficult for her to reach an orgasm. You had to work at it, you had to be there for quite a while. Before it was always, wham, bam, thank you ma'am. That's all I knew. With her it started becoming more satisfying, I guess. I'm not sure exactly why ... it was just mostly different positions and ways of controlling the ebb and flow of the whole thing, I guess to where I could last longer to where she could reach a climax. And I can remember that that's where it really started becoming fun." He divorced his third wife after 3 years.

He lived with his fourth wife but did not marry her until after being imprisoned for rape. Following his release from prison, they remained together for 2 months. He advised that "sex was great, but it was like I had another warden or second parole officer." He and his fourth wife had a son, and after they separated, he took custody of the child.

John married for the fifth and final time at the age of 32. He advised that sex with this wife was excellent and that they were completely happy until he told her about his fetish for panties. His wife's knowledge of this fetish placed a great deal of strain on the marriage, but they remained together until he was again sent to prison for rape. She visited him regularly, and they lived together when he was released. Thirteen days after his release, he returned to prison because of another rape, and the relationship ended.

Criminal History

John talked of always wanting to be a police officer, but admitted, "I always seemed to be running in the

wrong direction." (The serial rapists often told SA interviewers about their desires to be in law enforcement. Perhaps the perception of power and authority associated with police work appeals to them.) As a juvenile, John experienced minor problems with the law because of his running away from home. When he was 16, he and friends were arrested for check forgery. He also stole gas and hubcaps as a juvenile. John was arrested several times for burglary, breaking and entering, and on three occasions, rape. He has been sentenced to prison for each of the rape offenses.

John estimated that he had committed over 5,000 burglaries, primarily to obtain panties to satisfy his fetish. He reported that at times he would remain out all night attempting to steal panties. He estimated that he stole valuables in less than one-half of his burglaries. John was responsible for 18 rapes, most of which occurred as an afterthought during a panty theft. His current sentence is for more than 15 years.

Pornography/Detective Magazines

As a teenager, John enjoyed looking at sunbathing magazines, which "was all the pornography we had." Today he enjoys the more explicit material available, but says, "It doesn't make me want to go out and do crazy things like they say."

He used to read detective magazines frequently when he was in his twenties and early thirties. The stories concerning rape interested him the most, and he read each one several times, using them for masturbatory fantasies. He didn't believe that the magazine covers influenced his selection of a particular publication. He never enjoyed

the stories in which rape victims were killed, stating, "None of my victims were ever harmed and for a person to kill somebody after raping them, it just makes me mad." Obviously, John doesn't equate rape with harming a person. None of his 18 rape victims was beaten, and John was proud of the fact that he had never "hurt" anybody during his assaults.

First Offense

Pre-Offense: John was 24 years of age at the time of his first rape offense. He was married and having consensual sexual relations with his second wife at the time. (Forty of the 41 rapists reported consensual sexual activities at the time they were raping.) At the time of the offense, his friends would have described him as a hard-drinking, profane, "macho" individual who was nocturnal. He was renting a home and drove a green 1957 Chrysler Windsor. Although the car was 9 years old, he took very good care of it. He found no particular pleasure in driving and drove only when he had to go someplace.

On the evening of the rape, his wife was away from home. He had been drinking with some friends, "... figuring I could get some satisfaction." A friend and he went to a home where the friend had sex with a babysitter who was present. He and his friend returned to a bar and continued to drink.

Offense: After dropping off his friend, John decided to return to the babysitter and have sex also. He was very intoxicated at the time. When he arrived at the home, he discovered that the babysitter had left, and the mother of the child, a woman in her early twenties, was at the residence. She was wearing a housecoat when he knocked on the door. They had met at a party on

the same evening, and she readily admitted him to the residence. While using her bathroom, he took a pair of her panties and put them in his pocket. He sat beside the woman on her couch and attempted to fondle her, but the victim talked him into leaving. He drove around for a while and then returned to the residence. He entered through an unlocked door at the rear of the house and found her talking on the telephone. Without speaking, he "... just kind of jumped on her real fast and wrestled her to the floor and opened her housecoat." When she screamed, he told her to "shut the fuck up." Without speaking further, he vaginally assaulted her and reached orgasm very quickly. John advised the interviewers that after the assault, he was extremely remorseful and began crying. The victim told him to just leave her home. He left and immediately returned to his home.

Post-Offense: Following his return home, he worried that his wife would find out about the attack and that he would go to jail. He began drinking more heavily in an attempt to alleviate the fear and guilt he was experiencing. He stated, "I know it created a feeling of guilt that caused problems between my wife and I because I knew I had done something wrong. But I didn't know how to go back and rectify it or undo it. I would get uptight and upset real easy and I'd get mad and it wasn't nothing she had done." Acting out of character, John began staying at home, leaving only to go to work. He didn't miss work following the attack and his personal appearance remained normal. John did not commit another rape for 5 years.

Rape Resistance and Prevention

When asked what he would have

done if the victims had resisted, John indicated that he would have left because he didn't intend to hurt anyone. He stated, "Raping them is one thing. Beating on them is entirely something else." He didn't feel that his victims could have prevented the attack, because they were all in their homes alone, with the majority of them sleeping when he initiated contact.

John's reaction to resistance may differ considerably from another rapist's, and his advice must not be generalized to other rapists.⁷

Interrogation Techniques

The interviewers asked each rapist what type of person and technique would be most successful with him in a hostile interview situation; that is, what would most likely contribute to the rapist's cooperation during an interrogation regarding his culpability in rape offenses.

John stated that for him, the most important feature about a police interrogation would be the detective's attitude. "If he walked in real cocky and belittling, I would not cooperate." While the race of the detective would not concern him, he would be less likely to cooperate with a female because he would feel embarrassed and self-conscious.

The detective's accent would not influence John's cooperation, but he believed he would be more comfortable with a person dressed in casual clothes as opposed to a uniform. He said that the interviewer would have to be on an intellectual par with him and that he would be more likely to talk with the officer during nighttime hours. He advised that he becomes angry when others violate his space and believes that an interviewer should maintain a comfortable

"The serial rapist injures the lives of an untold number of victims and is responsible for the expenditure of money, time, and manpower by the law enforcement community."

distance, with nothing between them. He would feel uncomfortable in any location, but because of the embarrassment he would experience, he believes the environment should be private. He stated that intimidating moves by officers anger him and cause him to cease conversation.

This advice is, of course, provided by only one offender and will not apply to all situations.

Sex Offender Hotline

During one of the initial interviews, the rapist (not John) was asked what, if anything, the criminal justice system could have done to have persuaded him to turn himself in. His surprising response was, "Have you thought about a hotline? You've got hotlines for runaways, drug abusers, rape victims, and suicidal individuals. Why not one for people who have committed or are contemplating committing deviant criminal sexual acts? You know, I didn't just start raping. I have had sexual fantasies about kidnapping a woman and making her my slave since I was a teenager. I knew it wasn't normal at the time, but who could I talk to about it? Not my parents or my friends or anyone else. They would have thought I was crazy or sick."

From that point on, interviewers asked all the rapists about a hotline for offenders. When the SAs asked John this question, he replied, "I don't know if I would have used a hotline because so many of them [the rapes] were so spontaneous and unprepared. If I would have, it would have been after the fact. After I committed the assault." Many of the other rapists interviewed responded more positively to the hotline issue than John.

As previously mentioned, the case presented here was greatly reduced because of limited space. The transcription of the interview was more than 140 pages. Nonetheless, this summary of John's case does reveal the type of information gathered during the research interviews.

SUMMARY

The NCAVC has conducted research on violent serial offenders since 1978. The serial rapist injures the lives of an untold number of victims and is responsible for the expenditure of money, time, and manpower by the law enforcement community. Although not generally responsible for the investigation of the crime of rape, the FBI is assisting local law enforcement communities' efforts by conducting research of the nature addressed in this article. The results of this and other research studies by the FBI will be used in training programs throughout the United States and in the preparation of criminal personality profiles.

With the interviews of 41 serial rapists completed, the statistical analysis of the data continues. Though primarily intended for the law enforcement community, the project team anticipates that the results of this research will enhance the knowledge of all professionals who must deal with the offense, the offender, and the victims of rape.

FBI

Footnotes

¹Crime in the United States—1985, Federal Bureau of Investigation, (Washington, DC: U.S. Government Printing Office, 1986).

²A. W. Burgess and L. L. Holstrom, "Rape Trauma Syndrome," *American Journal of Psychiatry*, vol. 131, 1974, pp. 982-986.

³R. R. Hazelwood, "The Behavior-Oriented Interview of Rape Victims: The Key to Profiling," *FBI Law Enforcement Bulletin*, vol. 52, No. 9, September 1983, pp. 8-15.

⁴R. K. Ressler, J. E. Douglas, and A. W. Burgess, "Rape and Rape-Murder: One Offender and Twelve Victims," *American Journal of Psychiatry*, vol. 140, 1983, pp. 36-40; Violent Crime (Special Issue), *FBI Law Enforcement Bulletin*, vol. 54, No. 8, August 1985.

⁵P. E. Dietz, B. Harry, and R. R. Hazelwood, "Detective Magazines: Pornography for the Sexual Sadist?" *Journal of Forensic Sciences*, vol. 31, 1986, pp. 197-211.

⁶Violent Crime (Special Issue), *supra* note 4.

⁷R. R. Hazelwood and J. A. Harpold, "RAPE: The Danger of Providing Confrontational Advice," *FBI Law Enforcement Bulletin*, vol. 55, No. 6, June 1986, pp. 1-5.

The Inventory Search

(Conclusion)

By
JOHN C. HALL

Special Agent
FBI Academy
Legal Counsel Division
Federal Bureau of Investigation
Quantico, VA

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

Part I of this article reviewed the historical and philosophical basis for the inventory search and discussed the important governmental interests which justify such action. This segment will focus on the practical aspects, with emphasis on the specific requirements necessary to satisfy the "reasonableness" standard of the fourth amendment to the U.S. Constitution.

PRACTICAL APPLICATION: THE CONSTITUTIONAL REQUIREMENTS

As noted in part I, the privacy interests normally associated with an individual's personal property are generally outweighed by legitimate governmental interests in protecting the individual's property, protecting the police from claims, protecting the public and the police from danger, and verifying the identity of a property owner. Nevertheless, any seizure and search of property by the police must comport with the reasonableness standard of the fourth amendment. The issues most frequently raised are: (1) The lawfulness of the seizure; (2) the scope of the inventory; and (3) compliance with standardized procedures. These issues will now be considered in detail.

The Lawful Seizure of Property

According to the Supreme Court, a fourth amendment seizure of property occurs "when there is some meaningful interference with an individual's possessory interests in that property."³¹ Because an inventory generally follows a "seizure" of property by police, that seizure must be reasonable in order for the following search to meet fourth amendment standards.

The lawfulness of the seizure of personal property from an individual who has been arrested will depend on the legality of the arrest. Assuming the arrest to be lawful, the Supreme Court has held that "it is entirely proper for police to remove and inventory property found on the person or in the possession of an arrested person who is jailed."³² In *United States v. Edwards*,³³

the Court upheld the seizure of clothing from an arrestee several hours following his incarceration, stating:

"With or without probable cause, the authorities were entitled not only to search [the arrestee's] clothing but also to take it from him and keep it in official custody."³⁴

Somewhat different considerations arise with automobiles and other kinds of property not closely associated with the person, and the legality of the seizure is critical. One State court described the issue succinctly:

"In determining whether an inventory search is proper and reasonable, the threshold question is whether the prior impoundment was proper, since the need and justification for the inventory arises from the impoundment."³⁵

Various circumstances may lead to police seizure of vehicles. Police may seize a vehicle which is subject to statutory forfeiture. Similarly, vehicles may be lawfully seized by the police when there is probable cause to believe that the vehicle constitutes or contains evidence of crime. In the noninvestigatory context, however, the lawful authority of police to seize a vehicle depends upon the performance of some "community caretaking" function. In *South Dakota v. Opperman*,³⁶ the Supreme Court recognized this authority:

"The authority of police to seize and remove from the streets vehicles impeding traffic or threatening public safety and convenience is beyond challenge."³⁷



Special Agent Hall

In *Opperman*, the police had towed an illegally parked automobile under circumstances where the owner "was not present to make other arrangements for the safekeeping of his belongings."³⁸ The *Opperman* decision did not make clear whether the result would have been different had the owner been available to make other arrangements for the safekeeping of his property, and many lower courts assumed that it would. Typical was a case decided by the Washington Supreme Court involving the arrest of a motorist for a traffic violation. His car was impounded by the police despite the availability of a friend to care for the vehicle. An inventory uncovered contraband, and the motorist was prosecuted. In overturning his conviction, the Washington court concluded:

"It is unreasonable to impound a citizen's vehicle following his or her arrest when there is no probable cause to seize the car and where a reasonable alternative to impoundment exists."³⁹

Apparently relying on the language in *Opperman*, many lower courts have considered the reasonableness of an impoundment to be affected by the availability of alternatives.

The Supreme Court has recently cast serious doubt on the constitutional necessity of that approach. Reviewing a State court decision⁴⁰ which suppressed contraband discovered during the inventory of a vehicle, the Court considered the question whether the inventory was unreasonable, in part, because the owner "could have been offered the opportunity to make other arrangements for the safekeeping of his property."⁴¹

The Court rejected the idea that the fourth amendment requires the police to provide alternatives to the vehicle owner. Noting that giving the vehicle owner an opportunity to make alternate

arrangements would have been possible, the Court cited the language of another of its recent inventory cases:

"... [the] real question is not what 'could have been achieved', but whether the Fourth Amendment requires such steps.... The reasonableness of any particular government activity does not necessarily or invariably turn on the existence of alternative 'less intrusive' means."⁴²

The Court concluded that "reasonable police regulations relating to inventory procedures administered in good faith satisfy the Fourth Amendment, even though courts might as a matter of hindsight be able to devise equally reasonable rules requiring a different procedure."⁴³

The Scope of the Inventory Search

As a general principle, any warrantless search, to be reasonable under the fourth amendment, must be strictly tailored to accomplish the purposes which justified it in the first place. This is true of the inventory search as well. Therefore, an inventory should go no further than necessary to accomplish the legitimate governmental needs recognized by the Supreme Court: Protection of the owner's property; protection of the police from claims and disputes over stolen or lost valuables; protection of the public and police from dangerous items or instrumentalities; and to assist in verifying the identity of the property owner.

With that general principle—and those goals—in mind, a brief review of the three major inventory cases will be instructive. It may also be interesting to observe the manner in which major constitutional rules frequently evolve through a gradual, case-by-case process.

“... reasonable police regulations relating to inventory procedures administered in good faith satisfy the Fourth Amendment...”

South Dakota v. Opperman—Vehicles

In the 1976 decision of *South Dakota v. Opperman*,⁴⁴ the police inventory extended into the interior of a locked and impounded automobile, including an unlocked glove compartment where marijuana was discovered. The Supreme Court upheld that search, noting that lower courts had “recognized that standard inventories often include an examination of the glove compartment, since it is a customary place for documents of ownership and registration ... as well as a place for the temporary storage of valuables.”⁴⁵

The trunk area of the automobile was not an issue before the Court in *Opperman* and so the Court did not discuss it. The vast majority of courts, however, have since taken the position that the trunk area, like the interior and glove compartment, is a common repository for personal property, and therefore, within the scope of a lawful inventory.⁴⁶ That view appears to be entirely consistent with the Supreme Court’s holdings.

Moreover, whether the glove compartment or trunk is locked does not appear to be a relevant issue. In *Opperman*, the entire car was locked.

Illinois v. Lafayette—Containers

In 1983, the Court decided *Illinois v. Lafayette*.⁴⁷ An issue which had not been considered in *Opperman* was whether the fourth amendment permits the inventory of the contents of personal containers. A police officer in Kankakee, IL, arrested Ralph Lafayette for disturbing the peace at a local theater. At the time of his arrest, Lafayette was carrying a purse-type shoulder bag which he took with him to the police station. An inventory of the contents of the bag uncovered 10 amphetamine pills inside the wrapper of a cigarette package. In ruling the inventory invalid, the State court distinguished *Opperman*,

held that there is a greater expectation of privacy in a shoulder bag than there is an automobile, and concluded that the police interests could have been met in a less-intrusive manner by “sealing [the shoulder bag] within a plastic bag or box and placing it in a secured locker.”⁴⁸

The Supreme Court reversed the State court and upheld the inventory. After reviewing the governmental interests served by the inventory of property within its custody, the Court held:

“It is evident that a station-house search of every item carried on or by a person who has lawfully been taken into custody by the police will amply serve the important and legitimate governmental interest involved.”⁴⁹

With respect to the State court’s holding that less-intrusive means—such as sealing and storing the bag—could have satisfied those interests, the Court stated:

“Even if less intrusive means existed of protecting some particular types of property, it would be unreasonable to expect police officers in the everyday course of business to make fine and subtle distinctions in deciding which containers or items may be searched and which must be sealed as a unit.”⁵⁰

Thus, the same principles which justified the inventory of the vehicle in *Opperman* also justified the inventory of the shoulder bag in *Lafayette*.

Although not specifically addressed by the Court in *Lafayette*, its decision implied that the inventory could permissibly extend into separate containers located inside a lawfully impounded vehicle, and the language of the case seemed to make no allowance for the container being locked or sealed. Consequently, the lower courts were divided. All that could be clearly said after *Opperman* and *Lafayette* was

that the fourth amendment would permit inventories of lawfully impounded automobiles, as well as the personal property—including containers—taken from a lawfully arrested person. At least one more Supreme Court decision would be required to resolve the remaining questions. It was not long in coming.

Colorado v. Bertine—Containers in vehicles

In January 1987, the Court decided the case of *Colorado v. Bertine*.⁵¹ A police officer in Boulder, CO, arrested Steven Lee Bertine for driving his van while under the influence of alcohol. An inventory of the van located a closed backpack behind the front seat. Inside the pack was a nylon bag containing metal canisters. Inside the canisters the officer discovered cocaine, methaqualone tablets, cocaine paraphernalia, and \$700 in cash. Inside a sealed envelope, which was found in an outside zippered pouch, he found an additional \$210. Bertine was charged with driving while under the influence of alcohol, unlawful possession of cocaine with intent to distribute, and unlawful possession of methaqualone.

The trial court noted that the impoundment and ensuing inventory were reasonable under the fourth amendment to the U.S. Constitution, but granted Bertine’s motion to suppress on the ground that the evidence was discovered in violation of the State constitution. The Colorado Supreme Court gratuitously provided the prosecutor with a basis for appealing to the U.S. Supreme Court by holding that the inventory search violated the U.S. Constitution as well. The State supreme court based its ruling, in part, on the theory that the privacy interests in closed containers are greater than in automobiles, and that unlike *Lafayette*, there was no danger that contraband or weapons would be introduced into a jail facility.

Moreover, the court considered it necessary, as a preliminary to the inventory of a container, for the police to weigh the individual's privacy in a particular container against the possibility that the container might be a repository for dangerous or valuable items.

The Supreme Court disagreed with the conclusion of the Colorado courts on virtually every point, including the scope of the inventory. Citing, by analogy, another of its recent cases, the Court quoted the following pertinent language:

"When a legitimate search is under way, and when its purpose and its limits have been precisely defined, nice distinctions between closets, drawers, and containers, in the case of a home, or between glove compartments, upholstered seats, trunks, and wrapped packages, in the case of a vehicle, must give way to the interest in the prompt and efficient completion of the task at hand." ⁵²

The Court added:

"We affirm these principles here. . . . While both *Opperman* and *Lafayette* are distinguishable from the present case on their facts, we think that the principles enunciated in those cases govern the present case." ⁵³

These three cases provide a fairly broad and clear definition of the proper scope of an inventory search. In light of these decisions, it seems logical to conclude that an inventory may extend to any lawfully seized personal property wherein valuables or dangerous items might reasonably be located. This would encompass the interior of vehicles (including glove compartments, trunks, etc.), as well as other personal property (e.g., purses, luggage, packages, etc.), and is not constrained by

the fact that such items are locked or sealed. Such broad and clear scope appears necessary to accomplish the dual purpose of satisfying the legitimate governmental interests recognized by the courts, and at the same time, providing a "single familiar standard to guide police officers." ⁵⁴

Standardized Procedures

Given this broad authority to conduct inventory searches, it is understandable that the courts closely scrutinize police inventory practices to assure that they are not investigatory searches for evidence of criminal activity disguised as caretaking functions. As a safeguard, the Supreme Court has emphasized the "requirement that inventories be conducted according to standardized criteria." ⁵⁵ Conversely, "reasonable police regulations relating to inventory procedures administered in good faith satisfy the Fourth Amendment. . . ." ⁵⁶

If the governmental interests in conducting inventories are indeed legitimate, then presumably they arise whenever the police are faced with the need to safeguard the property of another. Failure to establish regular procedures creates the risk of confusion and inconsistent actions by the police, with the result that neither the governmental interests nor the property and privacy interests of the individual are protected; and in those instances where police discover evidence of crime during an inventory, serious questions of good faith can arise.

Standardized procedures provide guidance to police officers "who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront." ⁵⁷ Such procedures not only assist the police by

removing a heavy decisionmaking burden from the officers but they also provide greater protection to the privacy interests of the citizen by minimizing police discretion. This limitation on police discretion "ensures that inventory searches will not be used as a purposeful and general means of discovering evidence of crime." ⁵⁸

Given the variations in statutory and case law among the States, it is hardly feasible to suggest a detailed policy statement which would have universal application. However, certain general points may be drawn from the cases which can assist in tailoring a specific agency policy. For instance, standardized procedures should encompass guidelines for determining when property is to be seized, whether an inventory is to be conducted, and the scope of the ensuing search.

Seizure

It has been previously noted that items of property on or in the possession of a person lawfully under arrest are lawfully seized by virtue of the arrest, and no decision as to their seizure is necessary. But property not falling within that category presents different problems for the police. The most obvious example is the disposition to be made of a motor vehicle following the arrest of the operator. Absent some lawful justification for seizing the vehicle—e.g., probable cause to believe the vehicle constitutes or contains evidence—the police must determine its disposition. That determination should be guided by standardized procedures.

The circumstances under which impoundment will occur, possible alternatives to impoundment, factors to be considered by officers in deciding whether to offer alternative arrangements to the arrestee—e.g., the avail-

"... courts closely scrutinize police inventory practices to assure that they are not investigatory searches for evidence of criminal activity disguised as caretaking functions."

ability of a licensed driver to take custody, the feasibility of leaving the vehicle parked and locked in a safe area, and the mental capacity of the arrestee to make rational judgments—all of these points should be considered in the establishment of an inventory policy. The availability of a licensed driver may solve the problem in most cases. In the absence of someone to take control of the vehicle for the owner, caution should be exercised in accepting alternatives to impoundment.

In *Colorado v. Bertine*,⁵⁹ the police impounded the vehicle without offering an alternative to the driver. The Supreme Court made it clear that while offering the arrestee an alternative was undoubtedly possible, it was not required, and in fact, may not address the legitimate interests in protecting the property, the public, or the police. Furthermore, the Court indicated that some degree of discretion left to the police in deciding whether to impound or park and lock a vehicle does not automatically render a policy defective:

"Nothing in *Opperman* or *Lafayette* prohibits the exercise of police discretion so long as that discretion is exercised according to standard criteria and on the basis of something other than suspicion of evidence of criminal activity."⁶⁰

The Court noted that the police directives established several conditions which were necessary before an officer could pursue the park-and-lock alternative to impoundment. For example, the policy did not approve the park-and-lock alternative if there existed a reasonable risk of damage or vandalism to the vehicle or where the approval of the arrestee could not be obtained. (It should be remembered that Bertine was arrested for driving while under the

influence of alcohol.) The Court concluded:

"Here, the discretion afforded the Boulder police was exercised in light of standardized criteria, related to the feasibility and appropriateness of parking and locking a vehicle rather than impounding it. There was no showing that the police chose to impound Bertine's van in order to investigate suspected criminal activity."⁶¹

Inventory

Once property has been lawfully seized by police, the Supreme Court holds that important governmental interests justify an inventory of that property. But like the seizure itself, the question whether to inventory should also be governed by standardized procedures. As the cases illustrate, whenever an inventory uncovers evidence of crime, the defendant will invariably argue that the inventory was not necessary and that less-intrusive means were available to the police. In *Bertine*, for example, the State court considered the inventory of Bertine's van to be unreasonable because the van was towed to a secured, lighted facility. The State court made the point that those factors reduced the risk of theft or vandalism and made the inventory unnecessary. The Supreme Court was not impressed, noting that "the security of the storage facility does not completely eliminate the need for inventorying; the police may still wish to protect themselves or the owners of the lot against false claims of theft or dangerous instrumentalities."⁶²

The Supreme Court has rejected the need to consider the existence of less-intrusive means of protecting the police and the property in their custody, while repeatedly emphasizing the requirement that inventories be conducted according to standardized criteria.

The simplest policy would be to mandate an inventory of all personal property within police custody.

Scope of the inventory

As noted above, once an inventory is undertaken, its scope must be reasonable under fourth amendment standards. The scope should also be defined as a part of the standardized procedures. The importance of this point is clear in the Supreme Court decisions.

In *South Dakota v. Opperman*,⁶³ the Supreme Court upheld the inventory of the interior of a locked and impounded automobile, observing that deference must be accorded to police caretaking procedures designed to secure and protect vehicles and their contents within police custody. The Court further observed that standardized procedures followed by the police tended to "ensure that the intrusion would be limited in scope to the extent necessary to carry out the caretaking function."⁶⁴

In *Illinois v. Lafayette*,⁶⁵ the Court upheld the inventory of the contents of a shoulder bag taken from a person who was under arrest and to be incarcerated. The Court held that "it is not 'unreasonable' for police, as part of the routine procedure incident to incarcerating an arrested person, to search any container or article in his possession, in accordance with established inventory procedures."⁶⁶

And finally, in *Colorado v. Bertine*,⁶⁷ the Court approved the inventory of the contents of closed, and even sealed, containers found inside an impounded vehicle, noting that the police department's procedures "mandated the opening of closed containers and the listing of their contents."⁶⁸ Further emphasis was given to this point by Justice Blackmun in his concurring opinion:

"... one of the most important points to note is that reasonable standardized procedures provide an objective basis for conducting inventory searches."

"Thus, it is permissible for police officers to open closed containers in an inventory search only if they are following standard police procedures that mandate the opening of such containers in every impounded vehicle."⁶⁹

The requirement that inventory searches be governed by "standardized procedures" does not suggest the need for a highly detailed statement designed to anticipate every possible contingency. On the contrary, just as the Supreme Court decisions have emphasized the need for "bright-line" rules to clearly guide police actions, an inventory policy should have the same objective.

Perhaps one of the most important points to note is that reasonable standardized procedures provide an objective basis for conducting inventory searches. When those procedures exist, and when they are followed, the subjective intent of an individual officer should be irrelevant to a court's determination of the reasonableness of the search. Two recent cases—one Federal, one State—make this point clearly.

In *United States v. Trullo*,⁷⁰ a routine vehicle inventory uncovered cocaine inside a tin which was disguised as a motor oil can. In considering whether the officer suspected the presence of contraband before opening the tin, the Federal appellate court stated:

"As long as a container is ostensibly searchable for inventorying, it is improper for a court to make inquiry as to the officer's subjective thoughts on a piece by piece basis.... The test must be one of objective reasonableness, not subjective state of mind."⁷¹

In *State v. Friend*,⁷² the defendant was detained pursuant to a State statute authorizing "civil" detention for up to 12 hours of a person believed to be intoxicated. A search conducted pur-

suant to standard procedures discovered marijuana in the defendant's pocket. The court declined to distinguish between an arrest and a civil detention insofar as an inventory search applied:

"Inventory searches have been upheld not because of their relationship to an arrest, but because of their relationship to legitimate custodial purposes."⁷³

Regarding the question whether the search was motivated by a suspicion that the defendant possessed contraband, the court stated:

"The mere suspicion that contraband and or evidence will be found will not invalidate an otherwise valid inventory search conducted pursuant to standard jail house procedures."⁷⁴

Reasonable, standardized procedures accomplish several important goals: By guiding the actions of officers through objective criteria, they serve to safeguard both individual and governmental interests. By ensuring "good faith" on the part of police, they also satisfy the fourth amendment standard of reasonableness.⁷⁵

CONCLUSION

There can be no disputing the fact that the fourth amendment to the U.S. Constitution permits the inventory of property lawfully within police custody. The inventory is justified by the legitimate interests in protecting the owner's property, protecting the police from claims and disputes, protecting the public and the police from dangerous instrumentalities which might be in the property, and assisting in identifying the owner of the property. The scope of an inventory may include impounded vehicles and their contents—including closed or sealed containers—as well as every item carried on or by a person who has lawfully been taken into

custody by the police.

To assure good faith application of this community caretaking function, standardized inventory procedures should be established which guide the discretion of the police, and thereby ensure that inventory searches will not be used as a purposeful and general means of discovering evidence of crime.

FBI

Footnotes

³¹*United States v. Jacobson*, 466 U.S. 109, 113 (1984).

³²*Illinois v. Lafayette*, 462 U.S. 640, 646 (1983).

³³*United States v. Edwards*, 415 U.S. 800 (1974).

³⁴*Id.* at 804.

³⁵*People v. Schultz*, 418 N.E.2d 6, 9 (Ill. 1981).

³⁶428 U.S. 364 (1976).

³⁷*Id.* at 369.

³⁸*Id.*

³⁹*State v. Houser*, 622 P.2d 1218, 1225 (1981).

⁴⁰*People v. Bertine*, 706 P.2d 411 (Colo. 1985).

⁴¹*Id.* at 415.

⁴²*Colorado v. Bertine*, 93 L.Ed.2d 739, 747 (1987), citing *Illinois v. Lafayette*, 462 U.S. 640, 647 (1983).

⁴³*Id.*

⁴⁴*Supra*.

⁴⁵*Id.* at 376.

⁴⁶See, e.g., *United States v. Wilson*, 758 F.2d 304 (8th Cir. 1985); see also, *United States v. Staller*, 616 F.2d 1284 (5th Cir. 1980), cert. denied, 449 U.S. 869 (1980).

⁴⁷*Supra*.

⁴⁸*People v. Lafayette*, 425 N.E.2d 1383, 1386 (Ill. 1983).

⁴⁹*Illinois v. Lafayette*, *supra* note 42, at 648.

⁵⁰*Id.*

⁵¹*Supra*.

⁵²*Id.* at 747. Citing, *United States v. Ross*, 456 U.S. 798, 821 (1981); but see *State v. Casteel*, 392 N.W.2d 168 (Iowa App. 1986).

⁵³*Id.* at 748.

⁵⁴*New York v. Belton*, 453 U.S. 454, 458 (1981).

⁵⁵*Colorado v. Bertine*, *supra* note 42, at 747.

⁵⁶*Id.* at 747.

⁵⁷*Id.* at 748, quoting *New York v. Belton*, *supra* note 54.

⁵⁸*Id.* at 749 (Blackmun, J., concurring).

⁵⁹*Supra*.

⁶⁰*Id.* at 748.

⁶¹*Id.*

⁶²*Id.* at 747.

⁶³*Supra*.

⁶⁴*Id.* at 368.

⁶⁵*Supra*.

⁶⁶*Id.* at 648.

⁶⁷*Supra*.

⁶⁸*Id.* footnote 6 at 747.

⁶⁹*Id.* at 749.

⁷⁰790 F.2d 205 (1st Cir. 1986).

⁷¹*Id.* at 206. See also, *Wagner v. Higgins*, 754 F.2d 186 (6th Cir. 1985).

⁷²711 S.W.2d 508 (Mo. 1986).

⁷³*Id.* at 511.

⁷⁴*Id.*

⁷⁵See, e.g., *United States v. Wilson*, 758 U.S. 304 (8th Cir. 1985); *United States v. Maldonado*, 735 F.2d 809 (5th Cir. 1984); and *United States v. Johnson*, 734 F.2d 503 (10th Cir. 1984). See also, *State v. Badgett*, 512 A.2d 160 (Conn. 1986); and *Hill v. United States*, 512 A.2d 269 (D.C. App. 1986).

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.



Photograph taken 1979

Neville McBean,

also known as Mack Bean, Tom Bean, Frank Davis, Mack Davis, Cephas Alexander McBean, Cephus Alexander McBean, Nevelle McBean, Nevill McBean, Neville McBeam. B; born 1-4-30; Higgin Town, St. Ann, Jamaica (not supported by birth records); 6'0" to 6'1"; 190 to 220 lbs; med bld; blk hair; brn eyes; dark comp; occ-farm laborer, house painter, scrap metal dealer, truck driver; scars and marks: Scar left finger, knife scars on abdomen, gunshot wound scar right side of spine, pock marks on left side of face; remarks: Speaks with British accent; illiterate.

Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

PI1862CIP11716PMPOCI

Fingerprint Classification

18	I	12	Ur	Ref:	11
	L	22	U		22

I.O. 4904

Social Security Numbers Used:
244-18-8835; 494-42-1188

FBI No. 193 336 D

Caution

McBean is being sought for the murder of a female victim, whom he shot in the face with a .38-caliber handgun. McBean is known to possess dangerous weapons and should be considered armed, dangerous, and an escape risk.



Right middle fingerprint



Photographs taken 1979

Frank Charles Anderson,

also known as Frank Anderson, Frank C. Anderson. B; born 7-8-36; Colliers, WV (not supported by birth records); 5'11"; 200 to 220 lbs; med bld; blk hair; brn eyes; med comp; occ-boilermaker, steel worker, truck driver; scars and marks: Scar on outer edge of upper right lip, back of right hand, back of left middle finger and left knee; remarks: Diagnosed in the past as having epilepsy and should take medication for the remainder of his life.

Wanted by FBI for INTERSTATE FLIGHT—SEXUAL ASSAULT.

NCIC Classification:

22131215121711121512

Fingerprint Classification:

22	M	I	U	000	12
	L	I	U	000	

I.O. 4912

Social Security Number Used: 298-28-8781
FBI No. 90 264 F

Caution

Anderson, an escapee from custody, is being sought in connection with first degree sexual assault. Consider Anderson armed, dangerous, and an escape risk.



Right middle fingerprint



Photograph taken 1985 Date photograph taken unknown

Mickey Lee Davis, Sr.,

also known as Mickey Lee David, Mickey Leon David, Mickey L. Davis, Mickey Lee Davis, Bruno Smith, Roger Smith, "50-50." W; born 10-19-49 (true date of birth) 11-19-44, 11-9-49; Chattanooga, TN; 5'7"; 200 to 210 lbs; heavy bld; brn hair; brn eyes; med comp; occ-automobile transmission and body repairman, mortar and brick mason, laborer on an offshore oil well; scars and marks: Tattoos: Dog's head on upper left arm, heart and ribbon on left forearm, snake on left wrist, dagger and rose on upper right arm, confederate flag with the word "Rebel" on right forearm; remarks: Reportedly has a "beer belly" stomach and has worn a full beard in past.

Wanted by FBI for INTERSTATE FLIGHT—MURDER

NCIC Classification:

P01415CM0322CI110907

Fingerprint Classification

14	0	9	U	OOM	3
	L	19	W	IOI	

I.O. 5041

Social Security Numbers Used:
412-94-4215; 315-78-5539; 412-25-0132
FBI No. 231 918 G

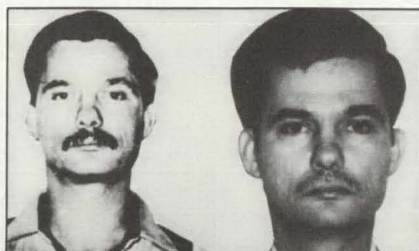
Caution

Davis, an escapee from custody, is being sought in connection with a murder wherein the victim was killed with a shotgun blast to the face. Davis should be considered armed, dangerous, and an escape risk.



Left index fingerprint

WANTED BY THE FBI



Photograph taken 1985 Date unknown

Louis Ray Beam, Jr.,

also known as Turner Ashby, Louis R. Beam, Nathan Bedford Forrest, Nathan Bedford Forrest, Nathan Bradford Forrest, Ken Harrison, Robert Johnson, Travis Wilkerson, "Calvary General," "Lonestar." W; born 8-20-46 (true date of birth) 3-6-42, 8-20-45; Lufkin, TX; 5'7"; 125 to 150 lbs; small bld; blk hair; brn eyes; ruddy comp; occ-computer repair and salesman, safety engineer; scars and marks: Tattoos: "DC" on left shoulder, "Born to Lose" on upper left forearm; remarks: Beam may be accompanied by his wife Sheila Marie Beam, also known as Sheila Marie Toohey, a white female, born 1-13-67, and his 7-year-old daughter Sarah Hadassah Beam. Sheila Beam is not wanted by law enforcement authorities.

Wanted by FBI for SEDITIOUS CONSPIRACY

05TTTT020307AA040402

Fingerprint Classification

5	S	1	Tt	3	Ref: A
S	1	A			A

I.O. 5040

Social Security Number Used: 466-82-8830

FBI No. 598 741 H

Caution

Beam is being sought in connection with conspiring to overthrow the U.S. Government by force. He is known to associate with members of the Aryan Nations Movement (a white supremacist group). He has access to large supplies of ammunition and weapons. Consider armed and extremely dangerous.



Left thumbprint



Photograph taken 1978

Photograph taken 1976

Hector Brito,

also known as Hector Victor Brito, Hector Maurice Brito, Hector Briton, Arcadio Checo, Hector Maurice Lopez, Hector Maurice Brito Lopez, Marice Lopez, Maurice Lopez, Julio Martinez, Juan Ortiz, Rolando Ruiz, "Cutchy," "Kutchy." W; born 1-2-59; Santo Domingo, Dominican Republic (not supported through birth records); 5'9" to 5'10"; 145 to 150 lbs; med bld; blk hair; brn eyes; dark comp; occ-clerk, contractor, dishwasher, laborer, roofer; scars and marks: Scar above left eye, pierced left ear; tattoo: "KUTCHY" on left forearm. Wanted by FBI for INTERSTATE FLIGHT—MURDER, AGGRAVATED ROBBERY, ATTEMPTED AGGRAVATED BURGLARY.

NCIC Classification:

2108161713180912PI13

Fingerprint Classification

21	M	1	U	IOO	13
	L	2	U	IOI	

I.O. 4906

Social Security Numbers Used:

058-53-4703; 072-30-3977; 076-52-3977

FBI No. 826 998 P2

Caution

Brito is being sought in connection with the murder of a paraplegic who was shot with a .45 colt revolver during the robbery/burglary of his residence. Brito is known to wear body armor and has carried a 9-millimeter pistol in the past. Consider Brito armed and dangerous.



Right index fingerprint

Interesting Comparison

It is interesting to note the subtle as well as the marked difference in appearance of inked impressions which are effected by scars, pressure, inking variations, and other factors. Close examination of the presented impressions disclose that they are identical. The impression on the left did not fully accept inking, thus, the resultant crease obscured detail needed for classification. The same impression without the crease appears on the right. It is classified as a central pocket loop whorl, outer tracing.



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, D.C. 20535

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

The Bulletin Notes

Minneapolis police canine officer Ron Johnson and his dog Bravo, who has since died, are credited with saving the lives of another officer and an FBI Agent during an arrest in Bemidji, MN. Officer Johnson, sworn as a Special Deputy U.S. Marshal to allow him and Bravo to work with the Minneapolis FBI SWAT team, gave a pre-arranged signal to Bravo to distract a heavily armed domestic terrorist. On cue, Bravo distracted the subject, and the officer and Agent were able to subdue him without firing shots. The Bulletin joins Minneapolis Agents in saluting Officer Johnson's skills and in expressing sympathy over Bravo's untimely death.



Officer Johnson and Bravo