



**INTERNAL
AFFAIRS
DIVISION**
OFFICE OF THE FIRST DEPUTY
COMMISSIONER

**a functional guide to
INTERNAL
INVESTIGATIONS**

New York City Police Department

19436

PREFACE

This "Functional Guide for Internal Investigators" was prepared by members of the Training Unit, Internal Affairs Division, under the supervision of Sergeant Roger J. Zimmermann, Training Officer, who also prepared the illustrations.

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The Guide was prepared with a view towards supplementing the Internal Affairs Division Training Program. A text and training program of this scope could not have been possible without the genuine interest and capable assistance of a great many people. We are particularly grateful to the Police Commissioner, Donald F. Cawley, First Deputy Commissioner, McCarthy, Chief of Inspectional Services, Keenan, Assistant Chief Guido, Inspector Ponzini, Captain Sullivan and Lieutenant Pasquale Santamauro. The cooperation of the Training Division, the Trial Commissioner's Office, and all those others who are never adequately honored, but who are always ready to help, is especially appreciated.

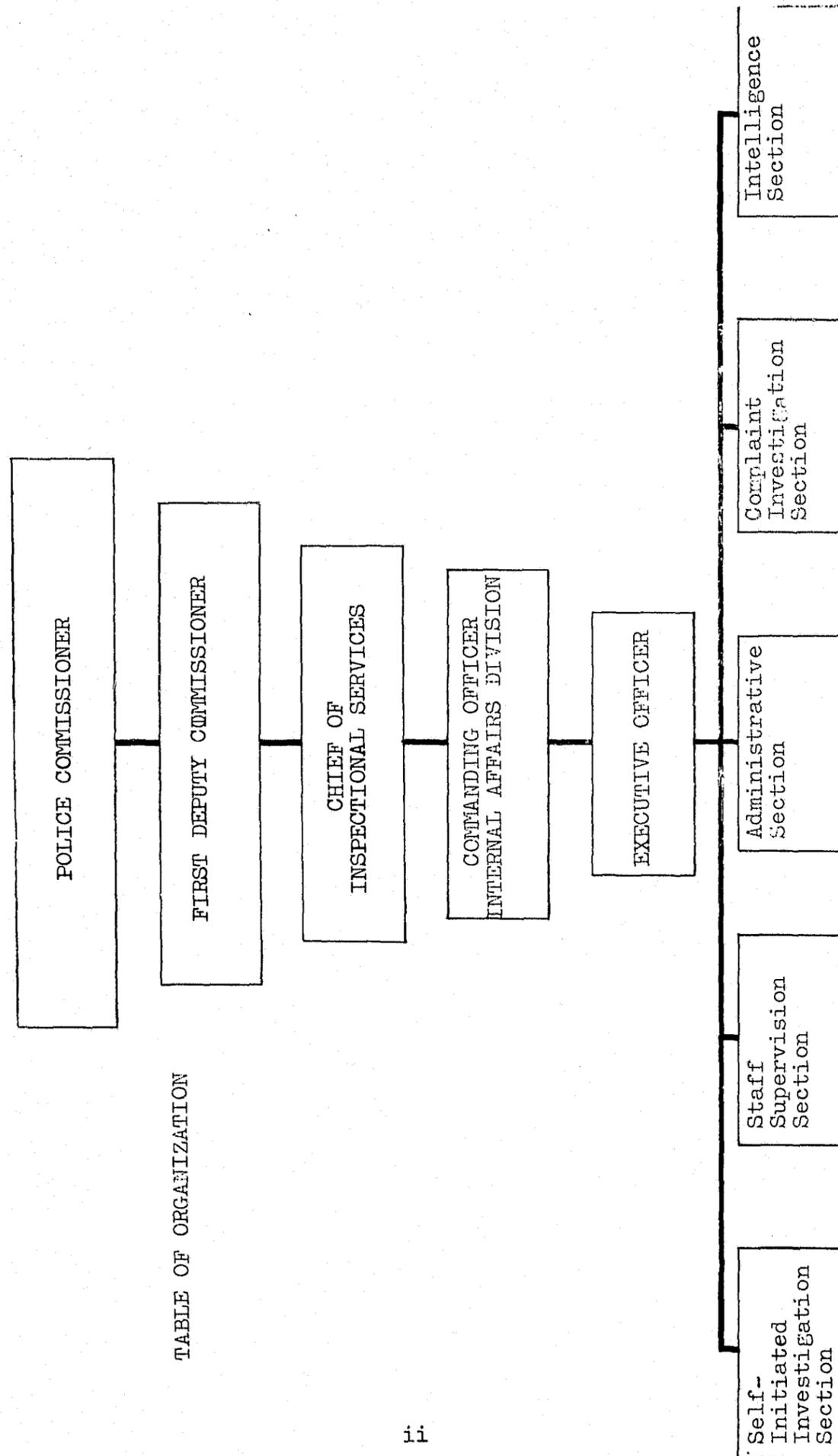
THE LAW ENFORCEMENT OFFICER'S CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence and disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill-will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession - law enforcement.



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INTRODUCTION

"An analysis of patterns of deviations from appropriate policy standards indicates that such deviations usually fall into three (3) categories: situations in which an officer violates department regulations of policies or situations in which an officer's behavior is considered improper, but does not constitute a violation of existing departmental policy; and situations in which an officer's behavior is clearly illegal or improper...."

(TASK FORCE REPORT: The Police)

On October 4, 1969, the International Association of Chiefs of Police during their annual conference, approved a resolution conceding the existence of police corruption. The resolution was the first formal recognition of the problem of corruption in the 76 year history of the association. While hardly revolutionary in terms of the formal machinery maintained by other professional groups to handle the professional lapses of their colleagues, the resolution approved by the association commented, "We're beginning to move toward a real profession - not just a self-proclaimed one."

Accordingly, the Police Commissioner has established a policy requiring field commanders to assume responsibility for the investigation of the latter of those deviations enumerated in the Task Force Report, namely, corruption and serious misconduct. The First Deputy Commissioner has delegated to the Internal Affairs Division the function of receipt, recording, and the assignment for investigation of all deviations in this category.

An Assistant Chief is the Commanding Officer, Internal Affairs Division. In addition to his other duties, he keeps the First Deputy Commissioner informed of serious misconduct cases and also advised of the delinquency patterns occurring within the department. He is responsible for the effective coordination, direction, conduct and control of the investigation of complaints referred to the Internal Affairs Division.

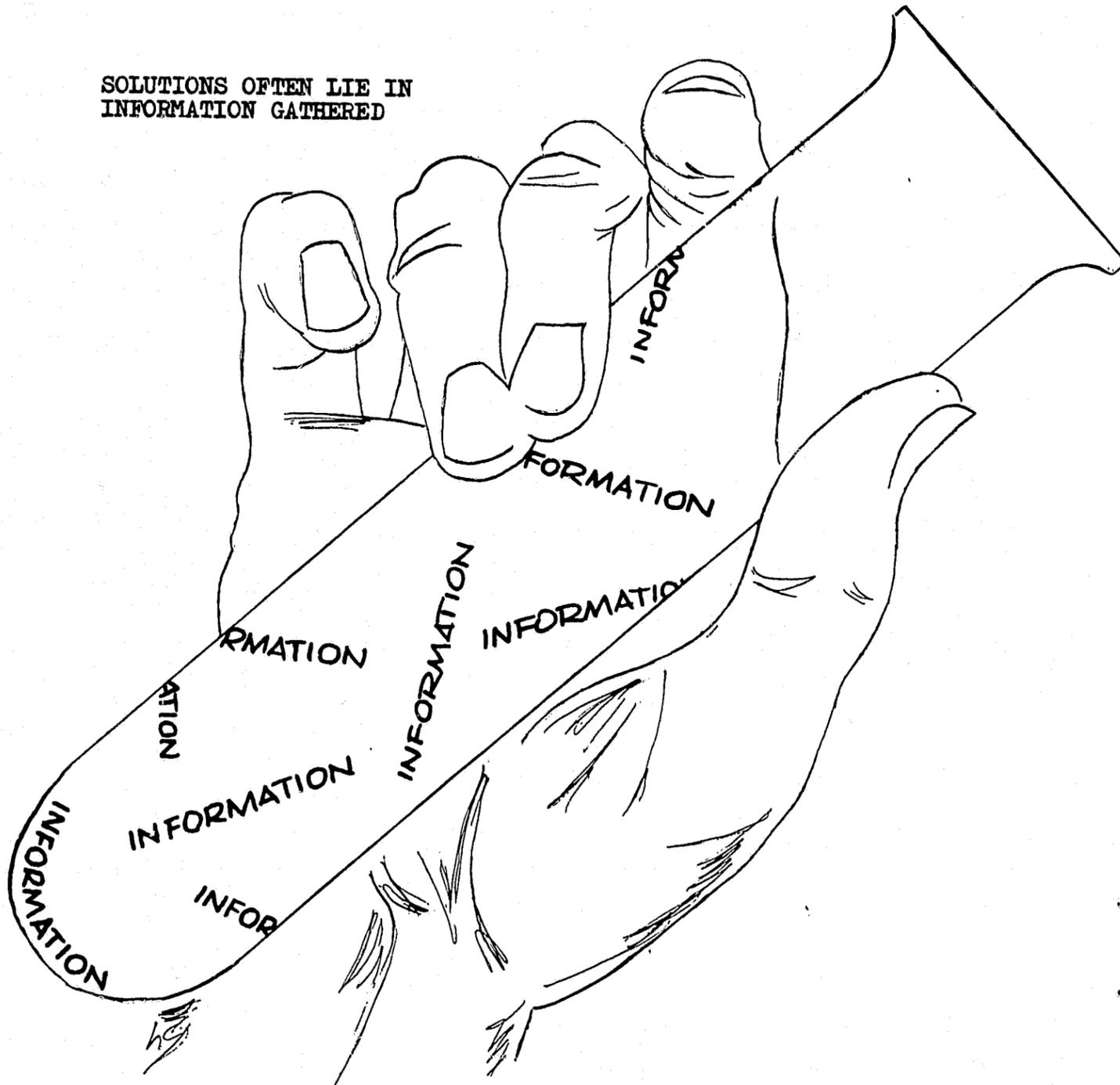
This department has long recognized the problem of police corruption and the need for a strong internal investigating unit. This is evidenced by the present concept and maintenance of the Internal Affairs Division and the operation of Field Internal Affairs Units (FIAU), by this department. The Internal Affairs Division is one of three (3) divisions comprising the Inspectional Services Bureau which is a component part of the Office of the First Deputy Commissioner.

The Internal Affairs Division is charged with the responsibility for recording, registering, supervising and the controlling of investigations affecting the discipline and internal security of the department or corruption or allegations of serious misconduct.

It is the purpose of this "Functional Guide for Investigators" to assist investigators in Internal Affairs, Field Internal Affairs

Units and all those who have a similar responsibility, to establish a uniformity of procedures in recording and processing the investigations; to raise and answer questions most frequently encountered by these units; and to present a step-by-step guide to investigations for neophyte internal investigators, as well as a ready reference for the more experienced man.

SOLUTIONS OFTEN LIE IN
INFORMATION GATHERED



GENERAL FUNCTIONS OF THE INTERNAL AFFAIRS DIVISION

The Internal Affairs Division (IAD) has the major role in assuring the prompt, efficient, and adequate investigation of all allegations of corruption and other serious misconduct. The IAD remains responsible for: the investigation of especially serious or complex allegations; the staff supervision of investigations, and other anti-corruption activities undertaken by Field Internal Affairs Units pursuant to Temporary Operating Procedure #73 s.72, and the development and analysis of information on all conditions affecting the integrity and internal security of the department.

A. Functions of Internal Affairs Field Units

The functions of the Field Internal Affairs Units are as follows:

1. Conduct investigations of alleged corruption or serious misconduct within their jurisdiction (with the exception of complaints falling within the purview of the Civilian Complaint Review Board (CCRB) - Procedure #108-22 of the Patrol Guide.
2. Consult with and offer necessary assistance to subordinate units.
3. Conduct confidential investigations as directed by their Commanding Officers.
4. Maintain active liaison with IAD and other local governmental agencies.
5. Maintain records and files.

B. IAD Unit Officers

Internal Affairs Unit officers shall report directly to their Commanding Officers as a member of his administrative staff. He shall coordinate the activities of his staff to assure priority of efforts and to prevent unnecessary duplication.

C. Authority of Responsibility

Discipline is a function of command and an important purpose of the Internal Affairs Units is to promote the initiation of disciplinary action at the lowest level of command permitted. The responsibility for the conduct of investigations of complaints of corruption or allegations of misconduct against members of the service normally rests within the established chain of command. However, the Internal Affairs Unit will investigate those matters as directed by their Commanding Officers, or higher authority.

D. Investigations

Allegations of serious misconduct, corruption, illegal acts, will be investigated by Internal Affairs Units under the direction of their Commanding Officers. The final report will be prepared by the Internal Affairs Unit conducting such investigation and signed by the Commanding Officer.

E. Guidelines

The investigator shall be responsible for keeping the Commanding Officer of the Field Internal Affairs Unit advised of the progress of the investigation. When the act complained of is a

crime, and the evidence is such that had a private person committed it, the result would have been an arrest, this circumstance should be brought to the attention of the commanding officer of the Internal Affairs Unit for decision as to whether the accused member should be arrested forthwith, and/or suspended, or criminal and/or administrative action be delayed pending further investigation and conference with the District Attorney.

In cases of serious misconduct, the Chief of Operations and the Chief of Field Services will be notified of such action through channels. Further, if said member is to be suspended from duty, the procedures outlined in Procedure #118-11 of the Patrol Guide will be strictly complied with.

The investigation must be conducted in a professional fact-finding manner. Upon the completion of the investigation, any conclusions shall be drawn from an objective analysis of the preponderance of information amassed.

INVESTIGATIONS

A. Principles of Investigation

The most basic of the police functions are to protect life and property, and to maintain the peace. When these fundamental tasks are not fully accomplished, the third basic job must then be undertaken - investigation aimed at bringing the accused before the proper court of law. The fundamental principles which guide the officer in the processing of criminal or traffic cases may be applied with equal effectiveness in such specialized inquiries as internal security investigations.

There are several basic types of investigation or inquiry:

1. Investigations of incidents which are violations of laws, ordinances and/or departmental rules.
2. Personnel investigations of corruption and/or serious misconduct.
3. Investigations of conditions or circumstances which if left unchecked would result in an increase in traditional deviations.

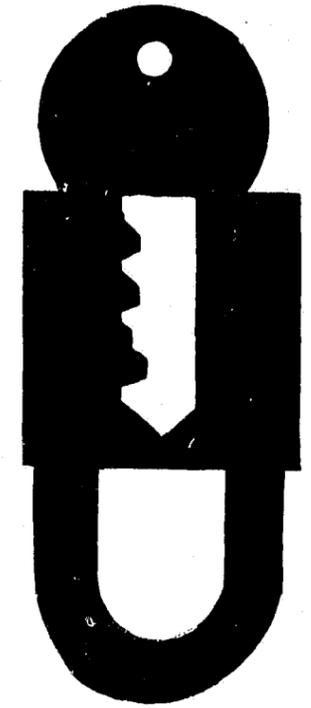
Investigations are conducted for two basic purposes: police must discharge their responsibility to the community; and the investigation, detection and apprehension of a deviant member serves to help prevent crimes which would be committed in the future were the deviant member allowed to remain unchecked.

B. Information versus Evidence

Investigations, regardless of the type or ultimate purpose, involves the task of gathering and evaluating information. It is important that the investigative process be thought of in terms of gathering information rather than evidence. The information which is presented in court, or elsewhere, represents only a small fraction of the total information developed during the investigation. Much of the information gathered is not acceptable to a court according to the rules of evidence.

There are two basic sources of information: people and things. These can be so diverse in gathering and evaluating, that there is sometimes a need for specialization. The field officer deals almost exclusively with people in emotional situations and with the problem of human weaknesses in perception and in communication. Other specialists are often called upon to gather and evaluate those inanimate materials and/or information. The amount and value of information obtained from things depends upon the ability of the field officer at the scene to recognize what does and what does not have value.

In addition to making deviant members accountable, the analysis of making complaints and allegations related in time, place, method



of operation and the like, gives the agency an indication of the general problems and patterns.

C. Relative Weight of Information

The higher relative evidentiary value of information obtained from things as compared to information obtained from persons, has been firmly established by trial and appellate courts throughout the world. Physical information cannot lie, it is not effected by emotions, it cannot be impeached, etc. Courts, therefore, tend to give weight to scientific tests and to those objects which speak for themselves.

D. The Investigative Notebook

Complete notebooks are an effective part of an investigation. Notes supplement every phase of the investigation whether primary or secondary. Record made of every detail that you possibly can because there is no way of evaluating the information as you go along in the investigation. Even the ablest of investigators has no way of knowing what will be important and what will not.

Why note taking? There are many valid reasons: they form the basis for future reports; the notes compensate for loss of memory; the facts that are placed into notes are readily available and can be arranged logically; re-investigations can often be eliminated; other investigators can be brought up-to-date; a witness' or the principle's memory can be refreshed or jogged in the interview or interrogation; the investigator's memory can also be refreshed in court; and there are leads that can be produced by a review of his investigative notes.

E. Forms of Note-Taking

NOTEBOOK: if the investigator uses a notebook, he should only carry the largest size that can easily be carried in his pocket.

INDEX CARDS: some investigators prefer to use the index cards for their note taking. Usually the 4" x 6" cards are the ones most frequently used.

RECORDING DEVICE: there are many recording devices that can be used effectively; the Kel Intelligence Kit (if the conversation is to be recorded clandestinely), the Minifon, the Craig, the Sony, or the Nagra tape recorder (cassettes and reel to reel) are some of the recorders on the market. Before using a recording device in an interview, careful consideration should be given the matter.

However, the investigator should avoid using the backs of envelopes, matchbooks, newspapers, magazines, scraps of paper, etc., for his note taking. This gives a bad impression to the person that is being spoken to, the notes can be easily lost, and more importantly, it is sloppy technique which leads to sloppy thinking and conclusions.

F. Content of Notes

A good investigator takes exhaustive notes which in addition

to being accurate and concise, include: **WHEN, WHERE, WHO, WHAT, HOW and WHY (NEOTWY)**. The answers to these questions often lead the investigator to logical conclusions and accurate investigations which are fair to the complainant and the accused.

There are occasions when the investigator will be in the field to conduct an interview of the complainant and witnesses. Often they will be conducted but they will be in unrelated cases. The identification of his notes so that they will have meaning when he returns to the office, is primary in its importance. The notes should be identified by the case number, the time and place that the interview/interrogation took place, and the identity of the person to whom he spoke. The notes should also include a compilation of his activities including searches, surveillance, any interview evidence ascertained, his personal observations and any other information meaningful to the investigation. In addition to the taking of notes, the investigator should also supplement his sketches, photographs, diagrams, etc., with clarifying notes. When recording quotes from persons interviewed/interrogated, they should be recorded verbatim. If there are statements to be recorded, they should be placed on separate sheets of paper (more about this topic in the "Interview" and "Interrogation" sections of this guide). Among the facts that should also be recorded are those items that may weaken the case. This is required for pre-trial preparation under the "Brady Procedure" and the "Right of Discovery" as well as making himself aware of the case weaknesses. The investigator is cautioned against the inclusion of any personal notes.

G. Checklist of Questions

The following suggested questions are meant **ONLY** to be that and nothing more! Certainly, they are not the only questions to be asked, but they are suggested to assist in clarifying your thinking and approximate your approach to conducting any interview or interrogation.

- | | | |
|-------|--------------------------|---|
| WHEN | <input type="checkbox"/> | When did the alleged acts take place? |
| | <input type="checkbox"/> | When was the complaint received? |
| | <input type="checkbox"/> | When was the suspect last seen? |
| | <input type="checkbox"/> | When was the suspect apprehended? |
| WHERE | <input type="checkbox"/> | Where did the alleged acts take place? |
| | <input type="checkbox"/> | Where were the witnesses during the incident? |
| | <input type="checkbox"/> | Where was the suspect seen? |
| | <input type="checkbox"/> | Where was the victim or complainant? |
| | <input type="checkbox"/> | Where was the suspect assigned? |
| | <input type="checkbox"/> | Where does the victim or complainant reside? |
| | <input type="checkbox"/> | Where is the suspect now? |
| | <input type="checkbox"/> | Where was the suspect going? |
| | <input type="checkbox"/> | Where was the suspect apprehended? |
| WHO | <input type="checkbox"/> | Who reported the allegations? |
| | <input type="checkbox"/> | Who saw or heard anything of importance? |
| | <input type="checkbox"/> | Who committed the wrongdoing? |
| | <input type="checkbox"/> | Who helped the perpetrator? |
| | <input type="checkbox"/> | Who are the witnesses? |

- WHO Who else is involved in the incident?
 With whom does the victim or complainant associate?
 With whom are the witnesses associated?
- WHAT What happened?
 What was the deviation committed?
 What are the circumstances of the allegation(s)?
 What were the actions of the suspect(s)?
 What do the witnesses know of the situation?
 What information or evidence was obtained?
 What was done with the information or evidence?
 What weapons were used?
 What was the modus operandi?
 What was the means of transportation?
 What was the motive?
 What is the present status?
- HOW How were the alleged acts committed?
 How did the suspect arrive at the scene?
 How did the suspect depart from the scene?
 How much damage was done?
 How much property was taken?
 How much time did the complainant and witness have to make their observations?
 How have the complainant or witnesses come to know the suspect?
- WHY Why were the alleged acts committed?
 Why were weapons used?
 Why was the particular method used?
 Why are the witnesses reluctant to talk?

H. Steps in an Investigation

An investigation is a task that is performed by persons who collect information to accomplish a threefold aim: to identify and locate the suspect, and to prove his guilt or innocence. Investigation, then, is an art and not a science and it will be dealt with in terms of suggestions and ideas rather than rigid rules and regulations. To assist the investigator in the accomplishment of his threefold aim, he has at his disposal information, interviews, interrogation and instrumentation. The intelligent use of these tools allows him to successfully conduct and conclude his investigation. The investigation is then considered to be successful when all of the physical evidence has been competently handled, the complainant and witnesses have been intelligently interviewed, the suspect (regardless of the outcome) has been successfully interrogated, all logical leads have been properly developed, and the case has been comprehensively, accurately, and clearly reported.

These, then, are the fundamental steps in an investigation. Our purpose now is to examine them in depth, with a total view toward accomplishing our threefold aim. A point to remember is that a completed investigation, which has been successful, is the end product of team work; the team leader who directs the investigation the investigator who is assigned the case, the men who assist administratively, the technical services that preserve, examine and

record the evidence, the District Attorney who may provide overall guidance to the completion of the case and its presentation in court - all of these are members of the team to whom the successful conclusion may be accredited.

I. Preparation of Name Check Cards (See Appendix A)

Upon receipt of a complaint at the Internal Affairs Division, the Records Section is responsible for the preparation of Name Check cards on each member of the service identified in the initial complaint. The procedure by which Name Check Cards are prepared from the initial receipt of a complaint to the final disposition, is discussed below.

When a member of the service is identified, two cards are prepared and are disposed of as follows: one (1) card is filed at the Internal Affairs Division - Records Section (Round Robin Room File) and one (1) card is forwarded to the Central Personnel Index file of the Personnel Evaluation Section.

Thus, with the receipt of the complaint and the preparation of the Name Check Cards, the complaint is forwarded to the appropriate unit for investigation. If the complaint is unusually sensitive, likely to be of long duration, complex or requires coordination of the activities of several units of this department or other investigative agencies, or the Police Commissioner or First Deputy Commissioner directs, the matter will be investigated by the Internal Affairs Division. In all other complaints, the details are telephoned to the Field Internal Affairs Unit concerned, which is subsequently followed by the relevant reports regarding the complaint. Though the complaint is forwarded first to the Chief of Operations, those complaints of less severity are forwarded directly to the Field Internal Affairs Units effected. Complaints received may be of such nature they they require the investigation by the Office of the Special State Prosecutor or the Department of Investigation, and are forwarded directly to those agencies.

When the complaint is received at the Field Internal Affairs Unit, or as the case may be at the Internal Affairs Division Investigation Unit, three Name Check Cards are prepared. One (1) card is maintained at the unit investigating the complaint, two (2) cards are forwarded with the final report to the Internal Affairs Division.

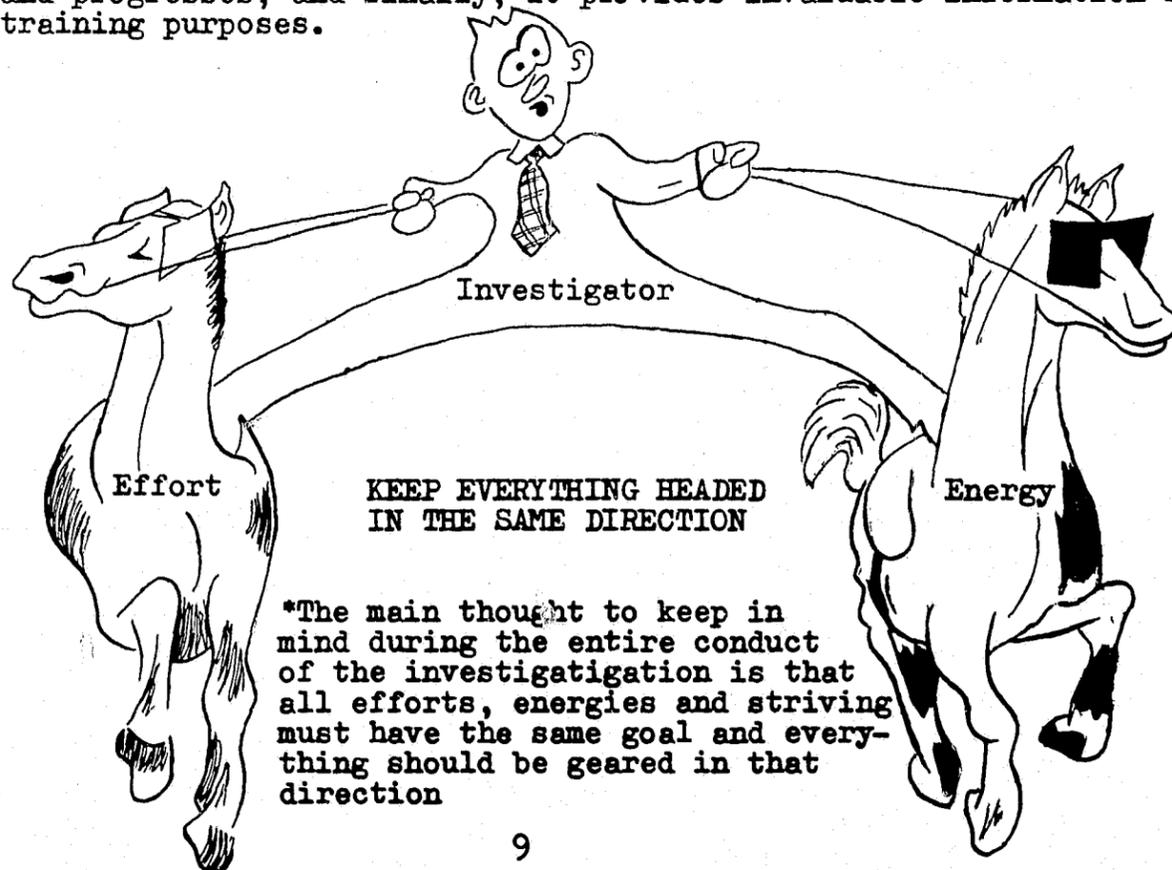
During the course of the investigation, if additional information becomes known concerning the identity of member(s) of the service, five (5) Name Check Cards will be prepared. One card is filed thereat in the Round Robin Room file and one is forwarded to the Central Personnel Index file of the Personnel Evaluation Section. Upon the completion of the investigation, the results should be noted on these cards and one card is maintained on file at the investigating unit and two cards are forwarded to the Internal Affairs Division with the final report. Upon the receipt of the final report, the original Name Check Card will be destroyed and replaced by one of the two cards forwarded with the final disposition. The other card will be forwarded by the Records Section of IAD and to the CPI file of the Personnel Evaluation Section.

J. Receipt of Complaint (See Appendix B)

Upon receipt of the case by the investigator, he should prepare a case folder, the Name Check Cards (if not already included) and his Investigative Plan. This preparation of the Investigative Plan at the initial receipt of the complaint has been found to be the most valid with regard to directions concerning a particular case under investigation. Prepared at a later time, has met with difficulties mainly because of the workload that he is sometimes asked to contend with. This Plan is submitted, when it has been briefly outlined, to the unit commander or the immediate superior for his approval. Once such approval has been obtained, the Plan will be affixed to the case folder. All pertinent papers should also be placed within this folder and as they are included, they are to be given the next sequential number and the notation made in the Reference column of the plan alongside the item numbered.

K. The Investigative Plan (See Appendix C)

Not all units conducting internal investigations use the same Investigative Plan, but there is uniformity in that each unit uses some type of plan or outline to initiate its investigation. The general purpose of a Plan is to improve the efficiency and quality as well as the effectiveness of the investigation. It provides a supervisory tool for the guidance and planning of the investigation, it assists the investigator in the preparation for his investigation, it assures him that all of the investigative steps that he should have taken have in fact been taken, it assists the investigator in the evaluation of his findings as the case develops and progresses, and finally, it provides invaluable information for training purposes.



The Investigative Plan (a sample is given in Appendix C) consists of four main sections or parts:

PART A - the name of the primary investigator assigned and all those investigators who are subsequently added to the investigative team, the name of the unit commander, as well as the case number assigned the investigation and the date investigation is assigned to the team.

PART B - the allegations are briefly stated (after a careful analysis). Include under the caption "Purposes of the Investigation" those goals that are readily foreseeable while preparing the Plan (eg., anticipated criminal action, presentation of case to a Grand Jury, departmental proceedings, and other goals as indicated by the complaint). Under the caption "Additional Allegations Developed" these are usually added to the Plan after an interview with the complainant. Under the caption "Other Points to Cover" a notation should be made where applicable.

PART C - The planned steps of the investigation. Under the caption "Identification of Police Personnel Involved" any records sought regarding such member(s) should be noted in this caption. "Persons to be Interviewed" includes not only the complainant and witnesses, but police personnel where applicable. "Premises and Locations to be Observed" include not only the scene of the alleged incident, but others as indicated by the complaint. Under the caption "Records to be Obtained and Checked" should contain all records that are sought in establishing the credibility of the complainant and witnesses. The "Other Agencies to Contact" are those outside the department that may be conferred with during the course of the investigation (eg., Welfare Department, Housing Authority, Credit Union, etc.) Under the caption "Other Investigative Steps" should be noted whether surveillance can be anticipated, if there is to be a payoff arranged, if informants are to be consulted, the attempt to make a "Field Associate", etc.

PART D.- The Summary of Significant Findings is broken down by the allegation. Such findings are significant only if the allegations analysis has been thorough in the first instance.

L. Allegations Analysis

Upon the receipt of a complaint, in whatever form presented, the investigator should give careful consideration and study to the case, with specific questions in mind to be answered. The "Question Check List" given in this section may be helpful.

M. Interviews

The investigator has accomplished his clerical tasks, he has reviewed and enumerated his allegations, and he has prepared, with supervisory approval, his Investigative Plan. It now remains for

him to begin amassing information to bring his investigation to a successful conclusion. The first step in this process is in his interviewing the complainant and the witnesses.

The statements of these parties should be recorded in some manner but whatever method is used, the investigator should take copious notes. This recording of notes permits a review at subsequent stages. A check of the "Miscellaneous File" which is maintained in the Police Commissioner's Office (Room 200, ext. 7466) should be made - especially if the allegations appear to be rambling or incoherent. Within this file are the names and addresses of those complainants whose allegations have proven to be groundless, unfounded (repeatedly) or that had been made for nuisance value only.

The complainant and witnesses should be interviewed as quickly as possible following the receipt of the complaint, or as soon as is feasible. However, it must be noted that there may be instances in which interview of the witnesses, before other action is taken, may be detrimental to the outcome of your investigation. Careful consideration to this matter should be given.

Resultant from these interviews may be areas where the investigation will broaden in scope:

1. A line-up may be called for
2. Identification of a suspect from photographs
3. A payoff arrangement is called for
4. Development of Field Associates or "turn arounds"
5. Others

With this in mind, whenever possible, the investigator leaves the door open for further interviews and questioning. At the same time, every effort should be made to make the complainant cooperative with the department (he may be needed to carry recording equipment, marked currency, etc.)

N. Surveillance

The question often arises as to which is the most logical step in the investigation, surveillance or interrogation of the subject? It should be kept in mind that surveillance is not restricted to the subject alone. There may be instances where a surveillance of the complainant and/or witnesses may be called for. In either case this is a matter that must be carefully considered by the investigator, usually after consultation with his unit commander. We are assuming here that an interrogation in this investigation, at this point, would serve no other purpose other than to alert the suspect and we are therefore commencing with surveillance.

There are precautions that must preclude active surveillance:

1. What type of surveillance is called for?
2. What are the personnel requirements?
3. What technical equipment will be required?

O. Interrogation

The subject has been identified, there is information that the allegations have some substance, and surveillance has added to that inference. The subject is now brought in for interrogation. Again

consultation with the unit commander and/or the District Attorney should be done prior to his appearance for interrogation. When previously determined, the subject is given the provisions of General Order #15 or his Miranda Rights are read to him. Further information is given in this area under the separate heading of this guide "Interrogations," "General Order #15" and "Miranda Warnings."

P. Follow-up Action

Should the preponderance of information gathered by the investigator be detrimental to the subject, there are logical steps that should be taken:

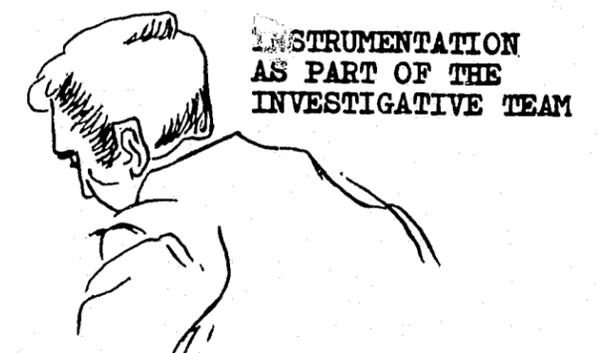
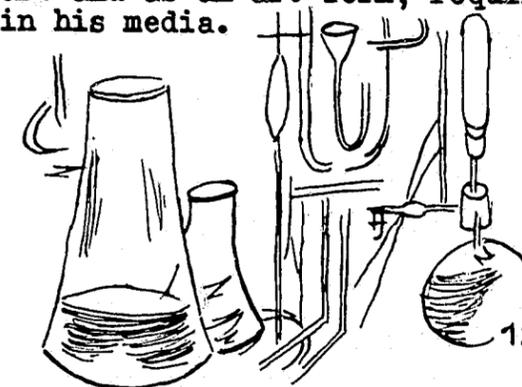
1. The subject has committed serious deviations which are violations of the Patrol Guide, but they do not constitute violations of law. The investigator prepares Charges and Specifications or Command Discipline is recommended. If the deviations call for Charges, each infraction is to be enumerated with its appropriate citation.
2. The subject has committed deviations which are violations of law. The District Attorney has agreed to presentment before a Grand Jury. The investigator then institutes an action suspending a member from duty (see Procedure 118-10 Causes for Suspension and Procedure 118-11 Suspension of a Member of the Service, of the Patrol Guide.)
3. The subject commits a deviation which is a violation of law and summary arrest is called for. The investigator effects such arrest and takes the necessary steps in his follow-up action which the situation demands (conferral with District Attorney, Special State Prosecutor, the suspension of the member of the service, etc.)

Q. Report of Findings

When an investigation has been successfully concluded, regardless of the outcome, the investigator must then prepare a complete and accurate report. This report, prepared with care, can be used as an excellent training tool; it becomes a part of the case history, and it may have value in subsequent investigations.

Summary

We have dealt briefly with the steps involved in an investigation and these are meant only as a guide. Each of the separate topics will be discussed in depth, along with other pertinent information, which when taken as a whole, hopefully will provide the investigator with an investigative outline. Investigations are an art and as an art form, requires the artisan to be fully qualified in his media.



ALLEGATIONS ANALYSIS AND THE INVESTIGATIVE PLAN

An analysis of the allegations of corruption or serious misconduct, in conjunction with the preparation of the Investigative Plan requires that the investigator present his findings in a concise and cogent manner to avoid ambiguity. Our concern in this section is to suggest a method for achieving these objectives.

Upon the initial receipt of the complaint, the investigator should carefully examine the allegations in an effort to determine the classification of the allegations (i.e., corruption, serious misconduct, or an administrative violation), as well as the people involved in the complaint. Although any complaint should be given prompt and efficient investigation, priority must be given according to the severity of the deviation alleged. Every effort should be made to identify an anonymous complainant, witnesses and those people that are implicated, to ensure the credibility of the complaint itself.

In determining the facts as discussed above, the investigator should prepare a synopsis of the complaint and review it with his unit commander. The investigator's preliminary outline should include the necessary elements to insure the objectiveness of the investigation. If a member of the service is implicated and identified, the investigator should determine from official department records the actual identity of the member, his assignment and other facts as pertinent to the investigation. This can most readily be accomplished through a check of the Chief Clerk 1 form, P.A.15, photographs, command printouts, roll calls, diary, the EDPD alphabetical listing, or an Internal Affairs Division name check (round robin).

Persons that are to be interviewed should be classified either as complainants, witnesses, or as members of the service. If the identity of the complainant or witnesses is suspect, a name check made through the following sources for proper identification may be valuable: the Post Office Department, public utilities, the Motor Vehicle Bureau, Board of Elections, Board of Education, credit bureaus, Welfare Department and criminal records are some of the suggested vehicles. A surveillance may have to be initiated if all other efforts prove futile.

Observations of premises and locations where illegal activities are being conducted, should be listed to substantiate the allegations, identify the people involved, and the methods by which the activity is being carried out (eg., use of motor vehicles, cameras, etc.) The use of photographic equipment such as the 16mm movie camera, the 35mm still camera, video tape, binoculars, telescopes and other material that will enhance the proper identification of those persons involved. This material can also be used to identify the type of activity carried on at a particular location. The electronic devices such as tape recorders, bugs and other equipment can be used to record the human voice.

The following records should be checked and/or obtained where applicable: for members of the service, scrutiny should be given to their personnel folders, evaluations, disciplinary records, medical

records, memorandum books/activity records, IAD Name Check file, and the P.A.15; for civilians, ascertain whether or not the individual has a criminal record (DD24), employment information, the background information, residence verification, the Police Commissioner's Miscellaneous file, photographs, the Motor Vehicle Bureau, the Public Morals files, Organized Crime Control files, the telephone records, Board of Elections and Education, the Welfare Department, etc.

In all instances a check with other agencies might provide valuable information during the course of the investigation. In many instances, the records kept are enclosed in a jacket and there is often space for entry by the party who has been looking at such record. Careful notation of these names can often prove to be a good source of further information. Among the agencies that the investigator may have to contact are: The District Attorney's Office, the Special State Prosecutor's Office, Department of Investigation, N.Y.S. Joint Narcotics Task Force, Organized Crime Control Bureau, the United States Attorney, the Federal Bureau of Investigation, and others.

As the investigation proceeds, the occasion may arise where a search warrant may become a necessity (see the section of the Guide on "Warrants" for further information.) A payoff might have to be arranged for, a lengthy surveillance instituted, a member of the service may be "turned" (made a clandestine agent), or a "field associate" is to be developed. Whatever the circumstance, an investigator should be thoroughly knowledgeable in all facets of the investigative techniques to assure successful investigations of all complaints.



SELF-INITIATED INVESTIGATIONS

On April 19, 1972 there was promulgated within the Police Department the "Manpower Allocation Review System" which is better known as the "MARS" Project. In its review, it was pointed out that there are six (6) problem areas that require sustained action on the part of the department and the Self-Initiated (or Generated) investigations. These problems include:

1. Narcotics (the biggest offense area)
2. Traffic
3. Gratuities
4. Gambling
5. Stolen Property
6. Arrests effected

In June, 1972 the Internal Affairs Division published its Master Plan for its operations and functions. In the description of the self-initiated investigations section, the problems, the assumptions, objectives, and the scope of the program were outlined. Since the publication of this plan, there has been an added adjunct to the program - the Field Associate. It will be our purpose in this section to briefly outline the functions of the program, touching on such additional areas as "Entrapment" versus "Affording an Opportunity" as well as the "Field Associate Program" versus the "Turn Around" procedures.

The self-initiated investigations have been isolated for consideration because of its increasing importance in the anticorruption field, and also, because of the general lack of substantive information disseminated to the field units regarding this area of investigation.

A. Problem - to develop systems, programs, and techniques to detect, expose and ultimately eliminate corruption within the police department that ordinarily escapes detection at its inception.

B. Assumptions - reported incidents of corruption should remain constant until the self-initiated section personnel have developed a degree of expertise. Money will be made available in amounts adequate to develop a reasonable paid informant system/program.

C. Objectives - identify and take summary action against department personnel who engage in prohibited or criminal activities. Identify and arrest civilians that bribe or otherwise corrupt public officials to avoid arrest or to obtain permission to engage in unlawful activities.

- uncover conditions and administrative procedures within the department that lend themselves to extortion and to make proper recommendations to eliminate them.

- the development of skilled, swift, and moving groups of personnel that would project an omnipresent threat to department personnel engaged in corrupt activities.

Investigators will be well established in legitimate activities to test the integrity of department personnel. Attempts will be made to penetrate groups that might be engaged in a systematic

arrangement of payments to police personnel. Enforcement patterns will be observed to detect preferential treatment to certain individuals or parties.

Active gambling locations will be observed to determine whether "protection" money is being paid to permit their unlawful operation in given areas. The enforcement activity and suppression efforts will also be observed and commented upon.

Other areas of inquiry and investigation will also include, but will not be limited to prostitution, narcotics, licensed premises, "deviant bars", after-hours clubs, parking lots, auto wreckers, licensed tow trucks, contractors, construction sites, etc.

Efforts will be made to "turn around" persons caught engaging in illegal activities with the implied permission of authorities. If successful, this technique will provide the intelligence needed to expose individuals who would ordinarily escape detection. An effort will also be made to recruit "field associates" to supplement the "turn around" operatives.

Criminal informants will be recruited to obtain information that would identify department personnel who may engage in any illegal or criminal activity.

Generally speaking, then, the self-initiated investigations will never be conducted as merely a "fishing" expedition. There are more than sufficient catalysts that will justifiably provide areas of investigation for the investigator. These catalysts may include, but are not restricted to reliably developed intelligence in these areas, locations that are corruption prone, careful case analysis, previous complaints, the time of the year (holidays, summer details, vacations, etc.) and the job function within the department that has previously proven most susceptible.

While on assignment on self-initiated investigations, the investigator should be advised that he is wise to pre-construct an escape plan. The investigative effort (if the investigator is "burned" - "blown" or otherwise detected) is completely meaningless if the investigator has not previously developed a cover story. Such cover is restricted only by the imagination and ingenuity of the individual. Where credentials may be called for, the unwary investigator risks detection if he is not previously prepared.

There is also the possibility that the investigator may be subjected to an arrest by non-informed police officers. In this regard, before submitting himself to such an eventuality, full approval of his anticipated activity should be secured prior to the field assignment to make superiors fully knowledgeable, in order that they can prepare contingency plans. These plans should include procedures to be employed in order to abort such arrests.

Entrapment versus Afford an Opportunity

Under no circumstances will entrapment by anyone (a member of the service or civilian) be condoned as approved methodology. Although the investigator should be aware that a defense of entrapment may be introduced by the suspect, care should be taken to

avoid the mere suggestion of entrapment. This area has not yet been fully defined and remains a "gray area" which does not make the investigator's task easier. A good rule of thumb would be to take every legal means to identify and apprehend deviant persons, remembering that the rights of the individual should not be impinged.

The Legal Division has been requested to formulate guidelines for internal investigators in this most sensitive area. To date, such guidelines have not been issued, but upon publication these will be included as a supplement to this guide and written up in the Monthly Bulletin.

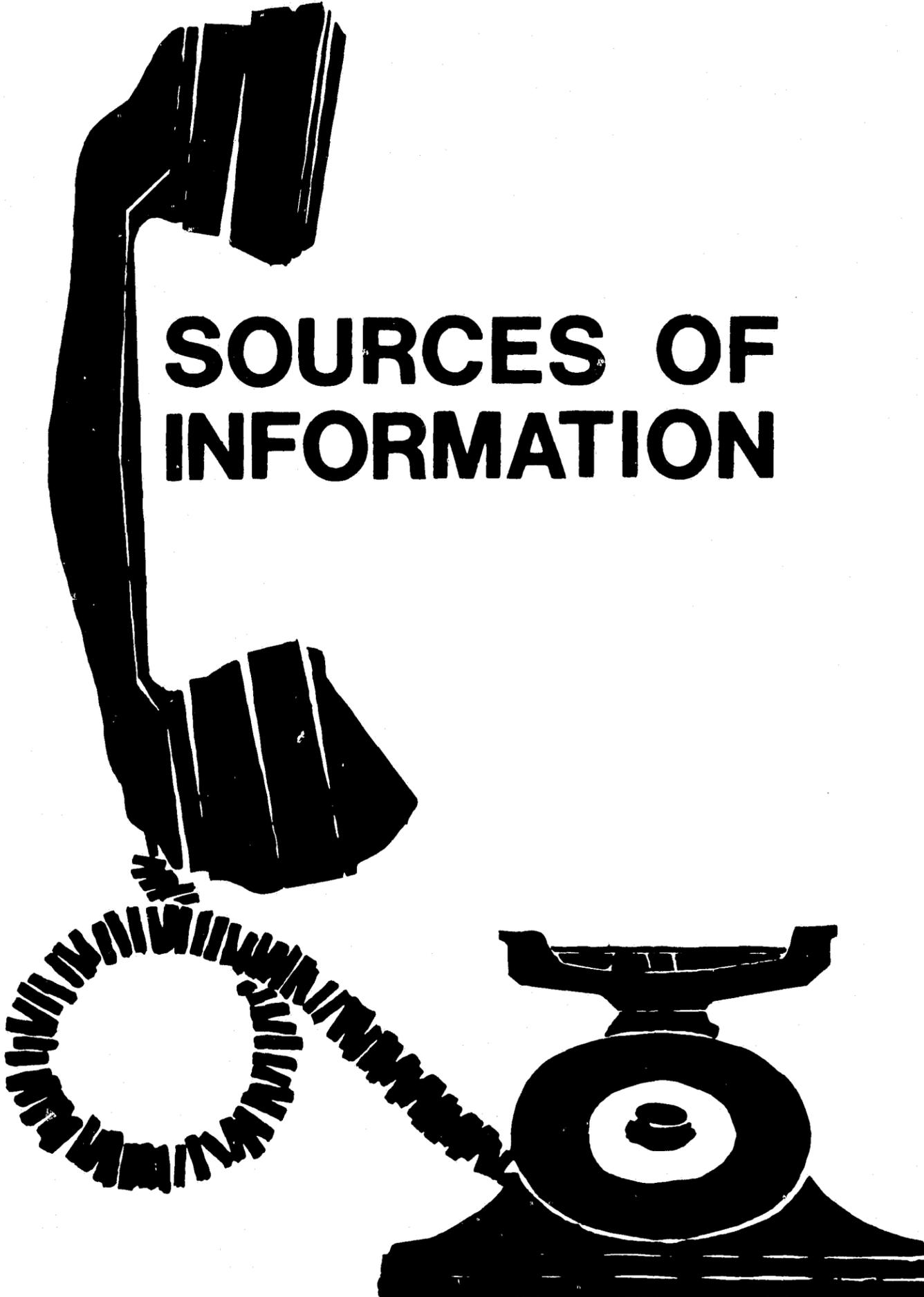
There is, however, every legal right for the investigator or his agent (which could be the complainant) to afford an opportunity to the suspect to have him commit a deviant act, provided the propensity already exists. As soon as this "affording" goes beyond the bounds of opportunity and there is even the slightest doubt of integrity or suggested coercion, we are back again into the area of entrapment. Again we offer a rule of thumb: avoid enticement or inveiglement.

Field Associate versus "Turn Around"

The Field Associate Program has proven successful on numerous occasions. These are members of the service who are usually recruited from the various commands on a self-initiated basis, and their only motive is an anti-corruption attitude and a desire to upgrade the department's integrity in general, and the policeman's demeanor in particular. The recruitment of such personnel is of prime interest to the department and is an on-going program.

A Field Associate is a member of the service assigned at a particular command, who reports corruption activities of his contemporaries, or his suspicions. From this intelligence, an investigation is instituted to attempt to validate such allegation. These are instances where the associate is asked to have himself included in the command "club" - to be put on the "pad" or, he is asked to investigate a situation since he is on the inside and has the best opportunity for further investigation. At no time does he entice or inveigle another to join in the activities, but only attempts to have himself accepted as a reliable candidate.

"Turn around" members, on the other hand, are those personnel who may have been previously involved in a wrongdoing and has been requested to cooperate with the department in an investigation to uncover those who would otherwise remain undetected. The difference being that a field associate is self-motivated while the turn around has been recruited.



SOURCES OF INFORMATION

SOURCES OF INFORMATION

Information is the foundation upon which good investigations are based. Every facet of the investigation in one form or another, produces information. Complainants give information of an alleged incident; interrogations give informative answers that either confirm or deny the allegations; interviews give information on the particulars of the alleged incident; and so on down the line of investigative steps.

Sometimes information has to be gathered by the investigator in various ways which can include: physical traces, persons (informants), records and documents. Information, then, is the life blood of the investigative process. Without this vital element, the total capability of investigative skills and technology are meaningless.

A. An Investigator Must

In order for an investigator to be a better than adequate practitioner of his art, he must recognize his dependency on information to:

1. Furnish him with investigative leads or evidence,
2. Recognize, develop and maintain productive sources of information, and
3. Know where to locate the information that he needs to successfully conclude his investigation.

B. Sources of Information at the Investigator's Disposal

Consider the numerous sources of information at the investigator's disposal. Learn to examine and collect the physical trace evidence of the suspect left at the scene; interview and interrogate people, study documents and records to corroborate or disprove verbal information, make use of confidential informants that have been developed and maintained, and above all, know where to locate the sources available.

Physical traces can be as many and as varied as there are suspects. They can include, but are not restricted to:

1. Hand written documents,
2. Personal items,
3. Trace evidence
 - a. fingerprints
 - b. tool marks
 - c. tire marks
 - d. hair and fibers

C. Interviews and Interrogations

Definitions: **INTERVIEWS:** the questioning of a person believed to possess knowledge that is of official interest to the investigator. In an interview, the investigator encourages the person being questioned to give an account of the alleged incident in his own words and in his own way.

INTERROGATIONS: the questioning of a person that is believed or suspected of having committed an offense, or of a person who is reluctant to make a full disclosure of information in his possession.

During the process, the task of gathering information for an investigation, the investigator almost invariably utilizes one of the most valuable sources of information - PEOPLE - and he does so by interviewing and interrogating. These sources can be used for the following purposes:

1. To establish the facts of a crime
 - a. Identify the perpetrator
 - b. Identify the accomplice or witnesses
2. To verify information that is already known
 - a. Corroborate or disprove statements
 - b. Verify inferences derived from physical evidence
 - c. Link the physical evidence of a case with suspect
 - d. Vindicate a suspect (develop evidence which eliminates an individual as a suspect in the commission of a wrongdoing)
3. To secure evidence that may establish the guilt or the innocence, complicity or non-involvement of a suspect, facilitate the recovery of the fruits of a crime.

D. Records and Documents

Information concerning a suspected person by the complainant may be found in one form or another, in some records and documents of governmental or private agencies. The number of these investigative resources are limited only by the imagination and native inquisitiveness of the investigator himself. These resources may range from governmental files (federal, state and local), to a report of a credit rating investigation conducted by a local business enterprise.

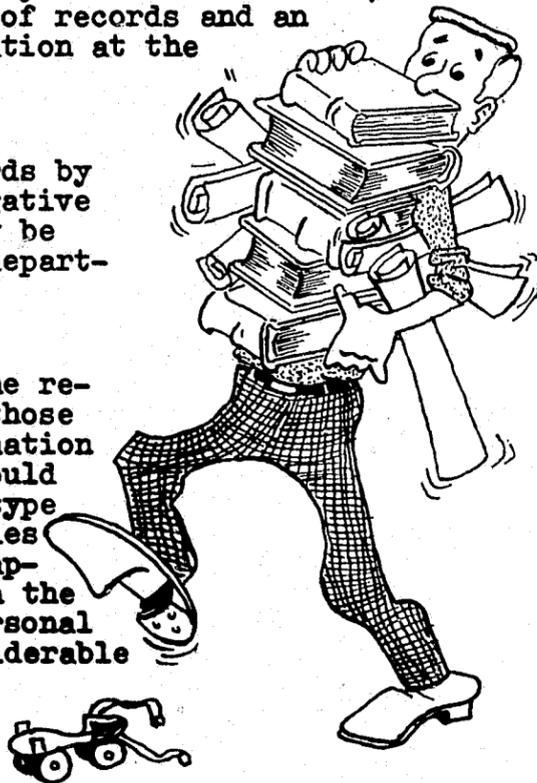
The search for persons (suspects, witnesses, etc.,) and/or the verification of information that is already known and amassed, commonly requires a concomittant search of records and an application to various sources of information at the investigator's disposal.

Police Records and Reports

The examination of departmental records by the investigator is basic to any investigative effort. Numerous investigative leads may be found within the confines of the police department's records-keeping system.

State and Local Agencies

An effective investigator examines the records and documents of all agencies and those organizations that may furnish the information that the investigator is seeking. He should be aware that he must not only know the type of information a particular agency provides but he should also be known to persons capable of providing such information within the agency. The investigator establishes personal contacts as they can often save him considerable time and effort.



Private Organizations/Agencies

Quite frequently people are reluctant to abandon life-time habits, interests and hobbies. They keep in touch with the organizations and the publications dealing with their interests. The manner in which an investigator approaches the task of obtaining information from these agencies will determine the extent of his success. The number of private organizations and businesses capable of providing information are as numerous as the investigator will permit them to be. Almost any business entry, membership role, or a credit investigation can become a valuable source of information.

NOTE: There is a tendency on the part of most people to make an impression when preparing a credit questionnaire. They therefore are more honest.

People

The effectiveness of the investigator is related to his ability to obtain information from people. The experienced man recognizes the importance of this investigative resource and devote considerable time in maintaining old contacts and developing new ones. He does not ignore the people that he encounters in his daily activities, but rather, he projects his needs to the time when their assistance may be necessary.

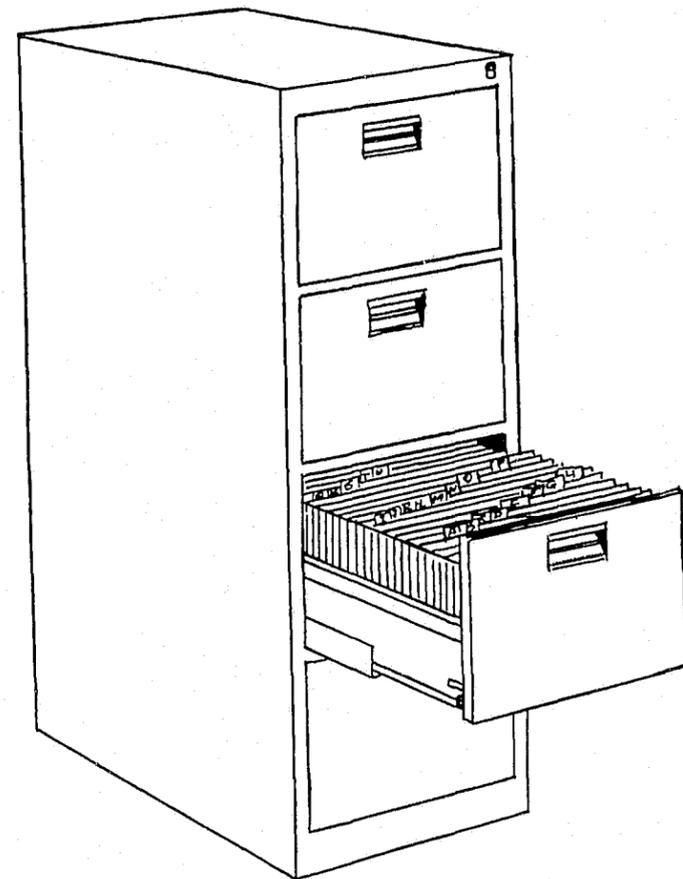
Victims and/or complainants, as well as witnesses and confidential informants, that have been courteously and compassionately treated, are always potential sources of information.

Confidential Informants

All people with whom the investigator comes in contact can be valuable sources of information and in the strict sense of the term can be referred to as informants. They include but are not merely restricted to:

1. Close personal friends
2. Milkmen
3. Mailmen
4. Storekeepers
5. Barbers
6. Bartenders,
7. Other

The investigator's most valuable source of information is likely to be a person who is now, or has been a part of the criminal group. The informant can provide significant bits of information that can help develop an accurate picture of the alleged act.



Others

During the canvass of the scene, from his interviews and interrogations, and in searching through various records and documents, the adroit investigator may come across the names of persons who control information which would otherwise remain untapped. Every consideration should be given them when requesting they turn over to you, information from their files. Give sufficient time for them to comply with your requests.



Summary

Practically all professions and employments that have directories listing the members of their group or organization, are willing to open their files to the police investigator, if they are approached properly. These sources are valuable for the development of investigative leads and for quick checks or for verifications, particularly in interviews and interrogations. It is not possible to list all of the available sources that are at the investigator's disposal.

Sources of information are as many and as varied, and their discovery and usage, in the final analysis, depends in large measure upon the individual investigator's resourcefulness.

INTERVIEWS AND INTERROGATIONS

A. Interviews

Each step in the investigative process has important significance to the investigator. However, without interpersonal communications, the investigative steps have little or no value. Only when the investigator learns from other individuals, by his communications with them, do the other steps have meaning. Therefore, to become successful, one must become an effective communicator.

The importance of interviewing is further illustrated by the fact that approximately 80% of an investigator's time is spent in this function, and 90% of court evidence (criminal and administrative) is obtained through interviews. However, there is a vast difference between a good interviewer and an information gatherer. Proper questioning, by a competent interviewer, often uncovers information which the subject would have concealed, forgotten or did not consider pertinent.

Although the word "interview" may be defined in numerous ways, a good working definition for our purposes is: "...a conversation with the hope or idea of eliciting certain information known to a person." Here we are limiting ourselves to interviewing complainants, witnesses and informants. Interrogations, another method of gathering information, will be discussed in this section under its separate heading.

Traits of a Successful Interviewer

Interviewers are often called upon to be salesmen, actors, and frequently, psychologists. To successfully accomplish this, the interviewer must have:

1. Fact
2. Skill
3. Training
4. Experience
5. Preparation

Preparation

Before the investigator can hope to develop facility in the interviewing skills, and before supervisors can hope to exert effective influence on their subordinates in respect to their interviewing techniques, all must acquaint themselves with the fundamental principles involved in the interview, and with the techniques most frequently used by successful interviewers. The development of the basic understanding and attitude must precede the development of skills in respect to interviewing, as it is true in all skill-developing learning situations.

Preliminary preparation by the investigator includes the proper selection of the time and place for interview. Investigators are often called upon to seek their information in surroundings that are psychologically advantageous to the subject. This advantage can be turned to the interviewers best interests. In such surroundings and when questioned as quickly as possible, the subject

is more likely to give important facts, may add imagined facts to add to their credibility, and more importantly, the investigator can readily reach the subject when he is in command and on his own grounds.

A few salient facts must be remembered. Whenever you make an appointment for an interview, keep that appointment and be on time. As far as you are able to control the environment, keep the interview as private as possible, in order to afford the subject an atmosphere most conducive to his speaking freely. In this regard, try to minimize interruptions as they may prove disastrous if interjected at the wrong time.

Plan the interview carefully as time will allow. In order to do this, the interviewer must have a clear purpose in mind. He should first review all developments in the investigation. Thus armed, one subject is interviewed at a time (and again, as quickly as possible), so that those people interviewed have little opportunity to collaborate. If time permits, the interviewer finds as much as possible about the subject (habits, background, occupation, weaknesses, etc.) It is therefore imperative that he prepare a check list of questions that he wants answered.

Some investigators advocate the presence of witnesses at all times during an interview. Particularly during the period of warning of rights (where applicable) and at such times when corroboration of testimony might be needed or desired. When women are to be interviewed, the investigator should consider providing a witness, preferably another woman, in order to avoid charges of compromise which an unscrupulous woman may later interject as a mitigating circumstance.

Physical setup of the interview room (where applicable) should be:

1. Simply furnished
2. Clean and neat
3. Properly ventilated
4. So situated that there will be no intrusion
 - a. To maintain control of the interview
 - b. To avoid distraction
 - c. To prevent the train of thought of either party to be broken
5. All necessary equipment available
6. Reference material and material for note taking
7. Business and professional-like appearance
 - a. Makes a good impression
8. Recording devices should appear as normal room furnishings
 - a. Kel Intelligence Kit
 - b. Cassette recorders
 - c. Tandberg recorders

Uses of Interviews

The primary goal of any interview is ultimately to get at the truth. The investigator conducts an interview in order to gain information to establish the facts in the investigation; to corroborate or disprove statements made to him; to verify the inferences

derived from the physical evidence; to link the physical evidence to the suspect; to eliminate a suspect; or to identify the perpetrators, accomplices, or additional witnesses in the investigation.

An interview is used to secure evidence that may establish the guilt or complicity of a suspect. It may facilitate the recovery of the fruits of a crime, and may identify accomplices. Relevant and material evidence legally obtained by means of an interview may be used in court or administrative trial.

Definitions: INTERVIEW: conversation with the hope or idea of eliciting certain information known to a person.

ADMISSION: a self-incriminating statement that falls short of an acknowledgement of guilt.

CONFESSION: a complete self-incriminating statement which acknowledges guilt.

STATEMENT: a written or oral assertion of certain facts pertinent and material to an investigation

INTERVIEWER: the person who extracts the required information from the subject.

SUBJECT: the person in possession of certain information pertinent to an investigation.

Beginning the interview (See Appendix D if recording device is used)

At the outset of an interview, the investigator identifies all persons present, including himself, by name, rank, and command. The first few minutes of an interview often determine its success of failure. Opening with a friendly remark does much to establish rapport with the subject. Investigators often couple this with the presentation of their credentials and then make general statements concerning the purpose of the interview. The investigator as part of his technique, attempts to "size up" his subject prior to the interview. If he can determine the subject's type (friendly, hostile, disgruntled, etc.,) the depth of his intelligence and his prejudices. He has a distinct advantage in his questioning.

The subject should be allowed to give his account in his own words, in his own way and without distraction or interruption. The investigator or his assistant, should take hand-written notes specifically noting inconsistencies and points that need some clarification. Note taking, at the discretion of the interviewer may be eliminated if the interview is being recorded.

The Interview

There are six (6) basic questions in an investigator's repertoire: (NEOTWY) when, where, who, what, how and why? Human factors affect the investigator's success in stimulating the subject to talk freely, and influence the accuracy or truthfulness of the information that the investigator secures from him. The investigator must evaluate ("size up") each subject and the evidence furnished; attempt to understand the subject's motivations, fears and mental makeup; and use his understanding of the subject to gain useful information. In selecting his interview technique, the adroit investigator must consider the following factors:

1. Perception and memory: validity depends on the ability to

1. ...perceive correctly what has happened in his presence, to recollect that information, and to transmit it correctly to the investigator.
2. Prejudice: when the subject makes statements he may have been influenced by his prejudice. Be alert to this and attempt to discover his motivation. When this occurs, a careful evaluation and close examination may divulge reliable and useful information.
3. Reluctance to speak: the investigator may encounter a person who is reluctant to divulge his information. This tendency should be overcome wherever possible. This may involve:
 - a. Fear of self-involvement
 - b. Inconvenience
 - c. Resentment toward police and their methods
 - d. Guilty in an unrelated matter
4. Conflict: where the investigator and subject have a personality conflict
5. Refusal to speak: a recognized weakness of the interview technique is that no person can legally be made to speak if he is unwilling to do so. In this eventuality, the investigator should seek to find a wedge to overcome this handicap (licenses, record, etc.)

Basic Interviewing Approaches

There are three (3) basic approaches to interviewing:

1. Direct: direct questions are to be asked
 - a. Complainant questioned regarding his record and his reputation (establish his reliability), the reason for his complaint (motivation), chronic complainant, and the basic elements present
 - b. Exhibit an interest regarding the importance of the complaint, your appreciation for his report and be sympathetic of his problem
 - c. Assure the subject of the department's cooperation; prompt action on his complaint; do not promise a fast arrest or any other promises that cannot be kept; most importantly, do not express any of your own opinions
2. Indirect: permits the person being interviewed to talk in conversational tones without having to answer specific questions
3. Strategic or psychological: usually an uncooperative subject requires this approach. The reasons for his being uncooperative can be many and varied:
 - a. Subject does not like police because of an unfortunate experience or from uncomplimentary newspaper articles.
 - b. Fears of retaliation
 - c. The subject feels that it does not pay to testify in court:
 - 1) loss of his time
 - 2) abuse on the witness stand
 - 3) unfavorable publicity
 - 4) clannish because of race, creed or nationality
 - 5) relatives know the subject

- 6) personal reasons
- 7) code against informing

Techniques of Interviewing

Often an investigator has a cache of physical evidence, real or simulated and by the intelligent introduction of these items, he is often able to break down the walls of resistance.

Depending on the circumstances, sometimes the investigator has to appeal to the emotions of the subject to elicit information he is seeking. These can include but are not restricted to: his fears, family resentment, ethics, religion and patriotism.

When the subject is obviously lying, the investigator should allow him to continue talking as it is impossible for him to continue lying with consistency. In a subtle way, have the subject repeat the key fabrications. While doing so, place particular emphasis on places, events and times which can be readily checked and verified, or discounted.

Mute witnesses are the most difficult type of person to break down for interview purposes. Sometimes this can be accomplished by inducing conversation with him on a neutral subject of interest to him. He may also be induced by an appeal to the subject's debt to his family, his community, etc.

Evaluation During the Interview

The investigator, in addition to psychologically evaluating the subject prior to his interview, must now be ready to evaluate him during the course of the interview. If there is evasiveness on his part, hesitation, or an apparent unwillingness to discuss situation facts, it may signify a lack of cooperation; if he has a dry mouth, indicated by frequent wetting of his lips, fidgeting, or vague movements of his hands, this may indicate nervousness or an attempt at deception; a "cold sweat" or a pale complexion may indicate fear or anxiety; a slight gasp, holding the breath, or an unsteady voice, these may indicate that the knowledge of the investigator has the person being interviewed quite concerned; also look for the pulse in his neck, or a flushed complexion.

Informants

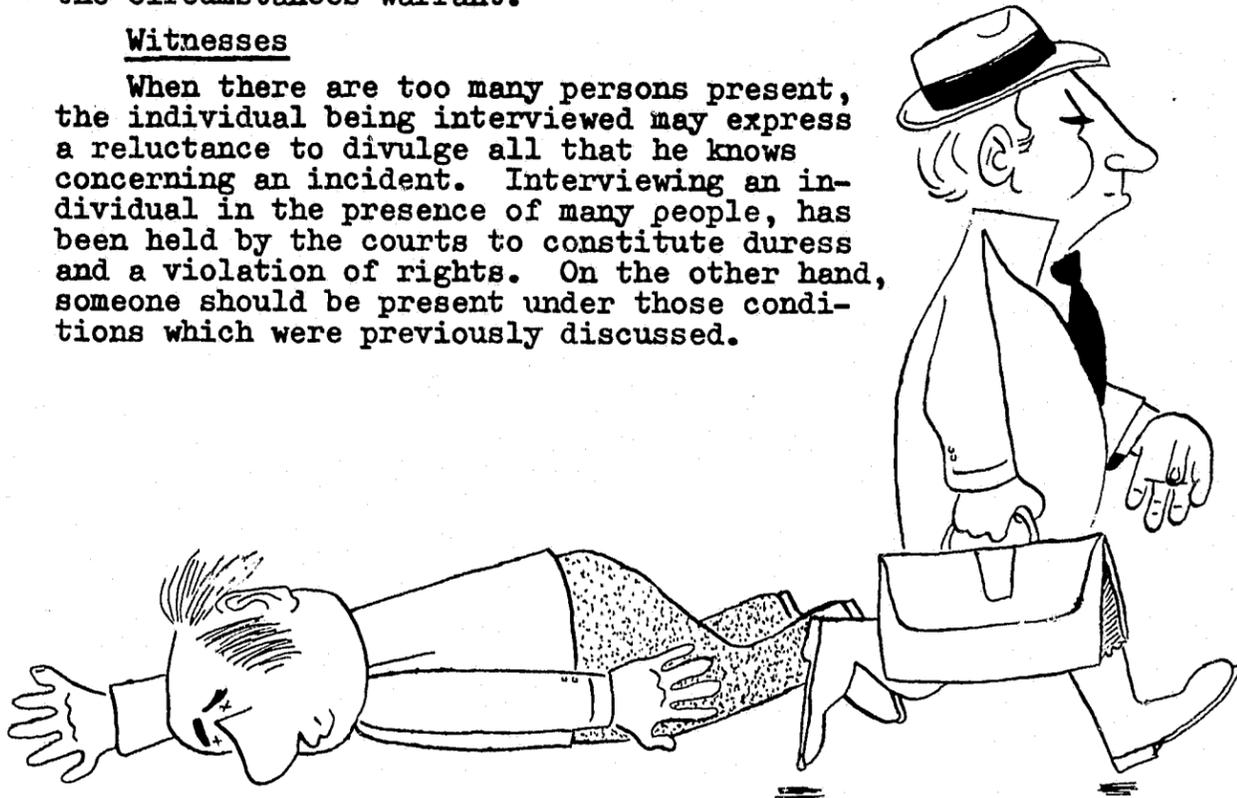
There is a tendency on the part of many investigators to narrowly think of informants only as those persons who are confidential informants, obtained through personal effort or who are willing to inform for a fee. This is not so. Anyone who gives the investigator any information is in fact an informant by definition alone. There are many people that are fascinated by the police and are willing and eager to cooperate.

With regard to those other informants with whom we are most familiar, the success and efficiency of an investigator may depend to some extent on a person who for pay or other reason furnishes information about a suspect and his activities. This source of information is protected by the investigator who often interviews the informer under conditions of the informer's own choosing. A statement is not generally taken from an informant because of his

reluctance to commit himself on paper or to make an appearance in court. However, a concealed recording device may be considered if the circumstances warrant.

Witnesses

When there are too many persons present, the individual being interviewed may express a reluctance to divulge all that he knows concerning an incident. Interviewing an individual in the presence of many people, has been held by the courts to constitute duress and a violation of rights. On the other hand, someone should be present under those conditions which were previously discussed.



A witness may be a victim, complainant, or an accuser who first notified the police of the incident. He must be sought by the investigator as he is the person who can testify as to the actions and whereabouts of the accused at the time of the wrongdoing and its commission.

Interview Notes

The taking of notes, taped or hand-written, are essential to effective investigation and reporting. Generally, most people have no objections to note-taking. Make no attempt to take notes, however, until there has been an opportunity to evaluate the person and anticipate his reactions, since note-taking may create a reluctance on the part of the person interviewed to divulge his information.

If there should be an objection to note-taking, at the first opportunity following the conclusion of the interview, record all the pertinent information while they are still fresh in your mind. Record the date, time, and place of the interview; the complete identification of the case and of the person(s) being interviewed; the name(s) of all person(s) present during the interview; and the summary of the interview itself.

Every reasonable effort should be made by the investigator to obtain a signed statement from any subject who implicated himself. Should such incident take place, the investigator is advised to

take the proper and appropriate action and to ensure that all of the proper safeguards have been incorporated.

Closing the Interview

The closing of the interview should be carefully planned and executed as any other segment of the interview. In closing, the investigator should make sure that he has accurately noted all of the information given, a brief summary just prior to the investigator's departure should disclose any mistakes or inconsistencies both in the subject's account and in the investigator's understanding of the information. He should then show his appreciation for the subject's cooperation and emphasize the importance of the information that he has just received. Where appropriate, assure the subject that the matter will be handled with confidentiality and that all proper police action will be taken where warranted. Thought should be given to leaving the door open for re-interview for clarification of contradictory information.

The time required can sometimes be used successfully to secure valuable information in addition to that already obtained. With a reluctant subject, he may drop his guard after the formal questioning has been concluded and the investigator has put his notebook or tape recorder away. A concealed recording device at this point can prove invaluable. If no recording device has been used, be sure to put the thoughts into your written notes as soon as possible.

NOTE: Use of Recording Device: we have mentioned recording devices but it should be remembered that this is not an endorsement for their use. This should and must be at the discretion of the individual investigator/interviewer. Serious consideration against their use should be given where:

1. The complainant/witness have faulty memories
2. The complaint is not very recent
3. Reluctance on the part of complainant/witness to have their interview on record

It should also be remembered that under the "Right of Discovery" and the "Brady Procedure" the defense is entitled and the investigator is compelled to turn over all information germane to the investigation, whether it be detrimental or beneficial to the subject.

Evaluating the Interview

Following the closing, the investigator should strive to make an objective evaluation of the subject, the information that he has given, and the performance of the investigator (self-analysis).

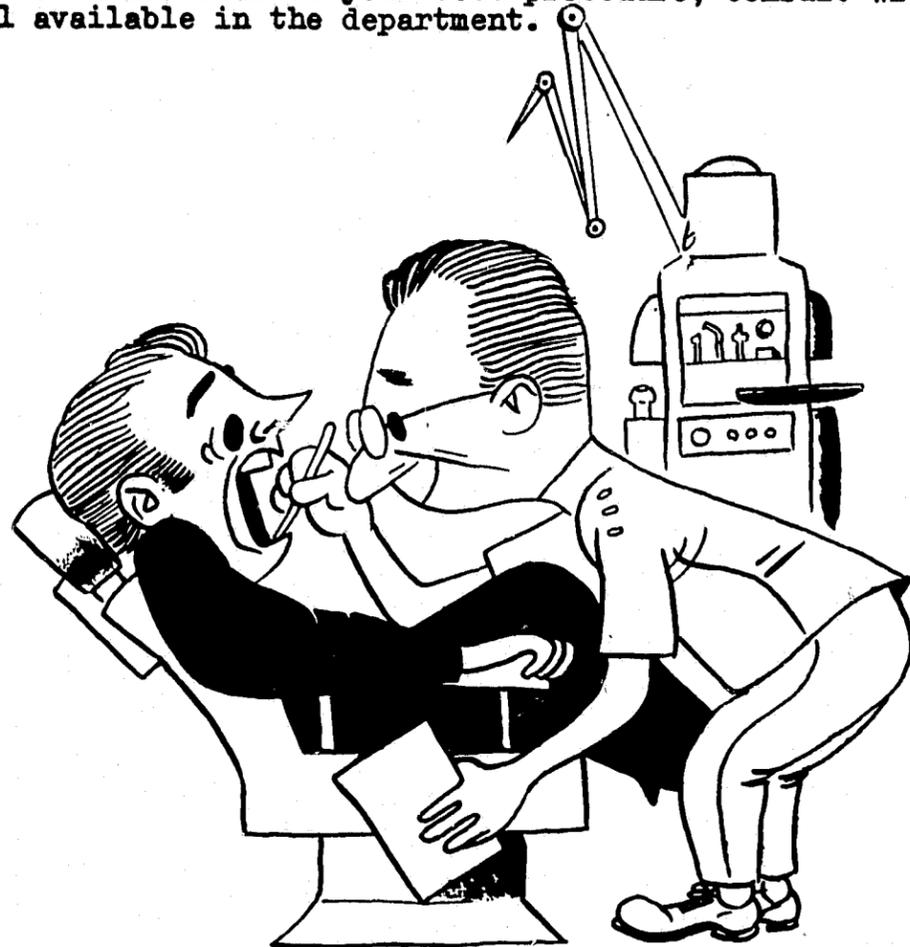
1. **SUBJECT:** have you successfully detected the telltale signs of evasiveness, reluctance, and outright lying? Whenever possible, substantiate all of the statements by other investigative means.
2. **INFORMATION:** check the information divulged for accuracy and truthfulness
 - a. Compare facts in general and in particular.
 - b. Human factors affect the powers of perception and memory. Prejudice can also be a motivating factor.
3. **SELF-ANALYSIS:** the investigator should review the entire

3. ...case as it has developed and should give particular attention to the remaining gaps in his knowledge of the case. The investigator who is conscientious about the improvement of his ability to interview persons successfully, evaluates his performance during and after each interview conducted. He evaluates both his approach and his manner. This procedure is particularly necessary when the investigator has been unsuccessful in extracting from the subject all the information that he was believed to possess. A critical self-analysis is probably the most difficult task of the investigator.

Excising Information

It has been mentioned that all information that is germane must be turned over to the defense. And yet, it should also be recalled that for every rule, there are exceptions.

When we come into possession of information that is detrimental to the subject, but it is not in the area under present interest (gratuitous statement, separate crimes, etc.), are not covered by the "Right of Discovery" or the "Brady Procedure" and therefore, may legally be withheld. When there is questionable data gleaned and you are unsure as to your best procedure, consult with legal counsel available in the department.



B. INTERROGATIONS

The illustration depicted at right is the picture that the public generally credits to the police agencies when conducting interrogations of suspects. We know that in reality our procedures differ drastically from that depicted.

Interrogations are one of the more useful tools that is available to the investigator. In recent years the Supreme Court has refined quite drastically the legal guidelines affecting the conduct of this highly important investigative activity. Granting that these rules call for re-appraisal and development of new procedures, they do not mean that we must allow them to restrain our investigative effort. On the contrary, our responsibility remains unchanged while our task has become more challenging.

Guidelines of Admissibility

Re: Confessions - the qualifications determining the admissibility of a confession fall into three (3) general areas:

1. Involuntary or coerced
2. Unreasonable delay in arraignment
3. Failure to have legal counsel present during interrogation

The Supreme Court's decisions challenging the legality of police practices during interrogation have changed over the years. At one time the voluntariness of a confession was the only point that was considered. However, the court now has extended the individual's right to counsel at the station house or any point after the suspect has been placed under arrest. The court has also re-interpreted the constitutional guarantees that a citizen should be brought before a magistrate within a reasonable period of time. It is then understandable that the constant change in these democratic guidelines has caused concern among the police personnel.

Re: Miranda Warnings - the most recent Supreme Court decisions in the area of warnings given to the suspect are: *Massiah v. United States* (377 US 201 - 1964); *Escobedo v. Illinois* (378 US 478 - 1964) and *Miranda v. Arizona* (384 US 436 - 1966) which are the basis for the rights extended to a person at the time that arrest is effected or about to be effected.

The core of the Miranda decision is that in order for a statement by an accused who has been questioned in police custody to be considered free from any form of compelling influence, it must have



been made with the understanding on the part of the accused that he did not have to speak at all.

Interrogation Warnings to Persons in Custody

The following warnings must be given to a suspect before the interrogation begins and an arrest has been made or is imminent:

1. "You have the right to remain silent and refuse to answer questions." Do you understand?
Subject replies: (NOTE: if the suspect does not reply to any or all of the questions, record: "Subject remains mute.")
2. "Anything you do say may be used against you in a court of law." Do you understand?
Subject replies:
3. "You have the right to consult with an attorney before speaking to the police and to have an attorney present during any questioning now or in the future." Do you understand?
Subject replies:
4. "If you cannot afford an attorney, one will be provided for you without cost." Do you understand?
Subject replies:
5. "If you do not have an attorney available, you have the right to remain silent until you have had an opportunity to consult with one." Do you understand?
Subject replies:
6. "Now that I have advised you of your rights, are you willing to answer questions without an attorney present?"
Subject replies:

NOTE: in the reading of the Miranda Warnings, should the subject make any statements, record as accurately as possible the content of such statements.

Directions to Police Officers

If the subject indicates that he does not understand any portion of the instructions, they may be explained to him further in substantially similar language.

If the subject does not understand English, the statement and any explanation shall be given in whatever language he does speak or understand.

If the subject states he wants an attorney, he may not be interrogated until an attorney is present. If the subject states he wishes to remain silent and make no statements, he must not be interrogated. If the subject is talking to the police and then indicates his desire to stop, the interrogation must cease and he must not be interrogated further.

If the person in custody indicates he has an attorney and wants to consult with him, the officer conducting the interrogation shall ascertain the identity of such attorney and make every effort within reason to contact him.

Custodial interrogation means questioning begun by police or law enforcement officers after a person has been taken into police

custody, or otherwise deprived of his freedom or action in any significant way.

Re: General Order #15 - the Supreme Court has recently ruled that if a police officer invoked his constitutional privilege against self-incrimination in an inquiry specifically directed and narrowly related to the performance of his official duties, he may be subjected to a departmental disciplinary proceeding pursuant to the Civil Service Law. However, if he does not invoke his constitutional privilege and elects to answer questions, neither his statements nor the fruits thereof may be used against such member in a subsequent criminal proceeding. He may, however, be subjected to such criminal charges if enough independent evidence is gathered against him. Accordingly, the following rules are applicable:

NOTE: General Order #15 was published under the provisions of the old Rules and Procedures of the Police Department. These same guidelines have now been incorporated within the Patrol Guide, Procedure #118-9:

- PURPOSE: To protect the right of members of the Department in an official department investigation.
- PROCEDURE: Prior to questioning a member of the department who is the subject or a witness in an official investigation:
- INTERROGATING OFFICER:
1. Inform member concerned of
 - a. Rank, name and command of person in charge of investigation
 - b. Rank, name and command of interrogating officer
 - c. Identity of all persons present
 - d. Whether he is subject or witness in the investigation, if known
 - e. Nature of accusation
 - f. Identity of complainant (address need not be revealed)
 - g. Information concerning all allegations
 2. Permit member to obtain counsel if:
 - a. A serious violation of the rules is alleged
 - b. Sufficient justification is presented although the alleged violation is minor
 3. Direct postponement until 1000 hours, the following day, if practicable, when member is permitted to obtain counsel
 4. Permit representative of department line organization to be present at all times during the interrogation
 5. Conduct interrogation at reasonable hour, preferable when member is on duty during daytime hours
 6. Insure that interrogation is recorded mechanically or by a department stenographer at a specifically designated location
 - a. A transcript may not be required in non-criminal minor violation cases

7. Prohibit:
 - a. All "off-the-record" questions
 - b. Offensive language or threats (transfer, dismissal, etc.)
 - c. Promises of reward for answering questions
8. Regulate duration of question periods, with breaks for meals, personal necessity, etc.
9. Record all recesses
10. Assign member to 2nd platoon, if possible
11. Answer questions specifically directed and narrowly related to official duties. (Refusal may result in disciplinary action)
12. Submit LOST TIME REPORT (PD138-064) if lost time accrues as result of investigation
13. Notify the desk officer/ station house supervisor immediately when a member of the force is directed to leave his post or assignment to report for an official investigation
14. Insure that notifications re: official investigations made to or received from:
 - a. Complainants
 - b. Witnesses
 - c. Lawyers
 - d. Defendants
 - e. Other interested parties
 are properly recorded in appropriate departmental records
15. Record in appropriate department records and notify the investigating command immediately concerning notifications or messages received from:
 - a. Lawyers
 - b. Witnesses
 - c. Complainants
 - d. Other interested parties
 involved in the subject investigation.

COMMANDING
OFFICER OF MEMBER

MEMBER OF THE
SERVICE

SUPERIOR IN
CHARGE OF
INVESTIGATION

DESK OFFICER/
STATION HOUSE
SUPERVISOR

NOTE: if a member of the department is under arrest or is the subject of a criminal investigation or there is a likelihood that criminal charges may result from the investigation, the following warnings shall be given to the member concerned prior to the commencement of the interrogation:

"I wish to advise you that you are being questioned as part of an official investigation of the Police Department. You will be asked questions specifically directed and narrowly related to the performance of your official duties. You are entitled to all the rights and privileges guaranteed by the laws of the State of New York, the Constitution of this State, and the Constitution of the United States, including the right not to be compelled to incriminate yourself and the right to have legal counsel present at each and every stage of this investigation."

"I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official

duties, you will be subject to departmental charges which could result in your dismissal from the Police Department. If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges."

Definitions: INTERROGATION - a questioning of a person suspected of having committed an offense or of a person who is reluctant to make a full disclosure of information that is in his possession which is pertinent to the investigation.

SUSPECT - a person whose guilt is considered on reasonable grounds to be a practical possibility.

SUBJECT - the person who is being interrogated
INTERROGATOR - the person responsible for obtaining all of the pertinent information from the subject relative to an investigation.

Purposes of Interrogation

A subject is ordinarily interrogated for one of the following purposes:

1. To obtain a confession of a crime or wrongdoing
2. To induce the subject to make admissions
3. To learn the facts and circumstances surrounding an incident
4. To learn the identity of accomplices
5. To develop information which will lead to the recovery of the fruits of a crime
6. To learn the details of any other involvement on the subject
7. To corroborate or disprove statements
8. To verify inferences derived from physical evidence
9. To link physical evidence to the suspect
10. To develop evidence which eliminates an individual as a suspect

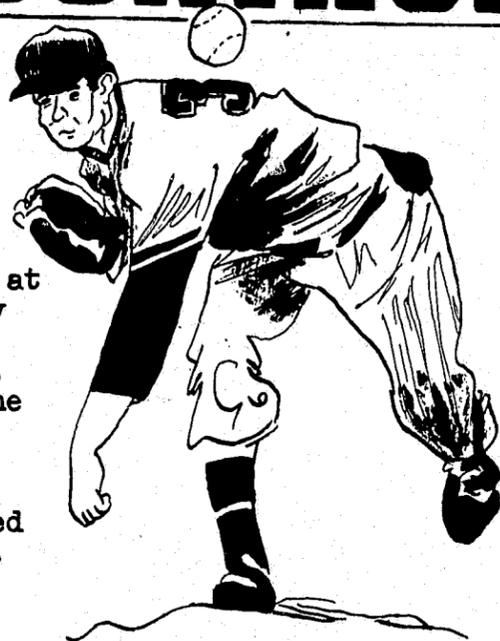
The Interrogator

The investigator in his role as an interrogator, must be able to dominate his subject, not through the use of formal authority, but because his personality commands respect. He should strive for and maintain complete control throughout the interrogation. He must be professional in his attitude and performance. These traits should be tempered with sympathy and understanding. The interrogation should be on a man-to-man basis.

1. Qualifications and traits of a good interrogator
 - a. General knowledge and interests. He should have an intellectual curiosity and a keen sense of observation
 - b. Alertness. Constantly alert to analyze subjects accurately, adapt techniques to the individual case, uncover and exploit leads, alter techniques when needed
 - c. Perverserance. Patience is mandatory if complete and accurate information is to be obtained. This is es-

- pecially true when a lack of cooperation is evident
- d. Integrity. Never make promises that cannot be kept
 - e. Logical mind. Develop questioning along a logical line which clearly defines your objectives beforehand. The plan of questioning should be built around the requirements of establishing the elements of the offense
 - f. Ability of observation and interpretation. The investigator should not only "size up" their subject but must also learn to observe and interpret his reaction to the questions
 - g. Power of self control. Maintain control at all times. The loss of your temper results in neglect of important details.
 - h. Playing the part. It is justifiable for the investigator to act as though he were angry or sympathetic to suit the needs of the situation.

CONTROL!



Conduct of the Interrogator

The behavior of the interrogator at the outset of the questioning usually establishes the atmosphere that will prevail throughout the interrogation. It therefore becomes important for the investigator to develop an effective personality that will induce the desire to respond in the subject. Any personal mannerisms must be controlled wherever they distract or antagonize. The following are some suggestions concerning attitude and demeanor:

1. Dominate the interrogation. Always be in control of the situation! The strength of your personality must constantly be felt by the subject. You must never lose command through hesitancy or obvious fumbling for questions as a result of a lack of preparedness or resourcefulness.
2. Distracting mannerisms. Subject must be impressed with the seriousness of the interrogator's purpose. Pacing the room, "doodling" and similar forms of behavior should be avoided since they tend to convey a sense of inattentiveness or a lack of concentration. Distance or an obstruction provide the subject with a small degree of confidence and relief.
3. Language. The speech of the interrogator should be adapted to the subject's cultural level. Simple forthright diction should be employed. Slang may be used if

- it provides ease of speech or fluency to the subject. It is a natural tendency for a person to describe his conduct in terms of euphemisms. However, profanity should be avoided as it is not indicative of professionalism
4. Dress. Civilian dress will more likely inspire confidence and friendship than a uniform will. The accoutrements of the police profession should be removed from view.
 5. Attitude. The interrogator is not seeking to convict or to punish. He is endeavoring to establish the facts of the case; to discover the truth; to simplify matters; to see what he can do to assist the complainant and himself; and use other locutions with which the investigator can attractively decorate his role in the administration of justice
 6. Preliminary conduct. In our field it is mandatory that we identify ourselves and the identities of our associates. We suggest that investigators also present their credentials to eliminate any doubt of their purpose. Then, in general terms, state the purpose of the interrogation. Where applicable, the subject must be given the provisions of G.O.#15 or the Miranda Warnings. Which of the two will be given, is usually decided by the investigator and the unit commander following conferral on the matter
 7. Presence of other persons. Restrict the number of persons present during an intercourse with the subject. Where confessions are elicited, a defense of duress may be forthcoming. Other parties may be brought in for specific purposes, (i.e., an assistant who observes the interrogation, notes any discrepancies and falsehoods, and passes written notes to the interrogator.) This is strictly a matter of personal preference.

Location of the Interrogation

Interrogation should take place in the investigator's office or at least in a room of his own choosing. Deprive the subject of any psychological advantage. On home grounds, the subject may evince confidence, indignance and be recalcitrant. In the investigator's offices, the atmosphere suggests the invincibility of the forces of the law. The structure, the personnel, and all of the observable activities have but one purpose -the discovery of the truth and the detection of deviants.

Selection of Technique and Approach

The principle of economy of means should guide the investigator in his approach to an interrogation. Where applicable, a preliminary interview will often assist in determining the character and personality of the subject and in the planning of the technique to be used in the impending interrogation.

1. With the experienced, the stern approach sometimes proves to be the most effective. Often the subject will be more likely to accede to the logical cogency of the case that has already been built up against him
2. With others of lesser experience, particularly those subjects who feel regret, repentance, and mental anguish, a

direct appeal on a friendly basis has proven more effective.

Interrogation Techniques

The selection of the proper techniques by the investigator depends on the nature of the complaint under investigation, the character of the subject to be interrogated, and on the personality and limitations of the investigator himself.

1. Emotional appeal. The investigator should provide emotional appeal/stimuli that will prompt the subject to unburden himself by confiding in the investigator. It therefore is important that the interrogator be sympathetic in his approach and evince kindness and understanding.
2. Friendly approach. Although similar to the emotional appeal, it is not as simple nor direct. The investigator should try to be:
 - a. The helpful advisor,
 - b. The sympathetic advisor,
 - c. Able to extenuate, or
 - d. Shift the blame
3. Anxiety. The subject is in a state of emotional confusion. He cannot think clearly since his affected sense of values are distorted and are distorting his perspective. In this instance, the investigator can:
 - a. Exaggerate his fears,
 - b. Pretend to have an unlimited store of knowledge,
 - c. Conduct a line up, or
 - d. Divide and conquer (a partner has told all, etc.)
4. Stern approach. An upright, indignant interrogator can often "shake" the subject. To induce dismay, the investigator can:
 - a. Pretend to have physical evidence (use caution)
 - b. Choose a propitious moment to shout a pertinent and cogent question,
 - c. Evince indifference,
 - d. Give the impression that the questioning is merely a technical formality, or
 - e. Afford the subject an opportunity to fabricate.

Planning the Interrogation

The investigator, prior to his interrogation of a subject, gives careful consideration to the environment that is to be used. He then predetermines his goals in the interrogation (eg., extract a confession, admission, or confirmation of details). Before he schedules any interrogation of the subject, the investigator conducts an extensive study of the facts of the case and prepares his questioning accordingly. NOTE: be certain that all of the preliminary investigative steps that should have been taken, have in fact been taken, prior to the scheduling of the interrogation.

Conducting the Interrogation

When the situation warrants, the investigator should first issue the Miranda Warnings to the subject (again we stress the prior conferral with either the unit commander, the District At-

torney, the Special State Prosecutor, or all three). If Miranda is not applicable, perhaps the provisions of G.O.#15 are called for. The interrogator selects the interrogative approach which he feels most comfortable with and that will be the most successful in the case under investigation. Once this has been decided upon, the investigator informs the subject that the conversation will be electronically recorded. The interrogator then records the appropriate tape heading (see Appendix E for a sample) before he commences the interrogation of the subject.

Whenever a member of the service is being interrogated, there are prescribed precautions that the investigator must adhere to:

1. If there has been a summary arrest, the Miranda Warnings shall be recorded on the tape as well as the responses that have been made to each question asked
2. The member of the service shall be fully identified and should he be represented (counsel or line organization representative or both) the identity of such person(s) is also recorded
3. If the hearing is narrowly focused on administrative deviations, the member shall be allowed to invoke the G.O.#15 provisions. NOTE: it should be remembered that if a member questioned remain silent, a waiver of his rights is not implied
4. The interrogation shall be for a reasonable duration with sufficient breaks to eliminate the suggestion of duress

Evaluating the Interrogation

Every interrogation result should be criticized and reviewed. Here the investigator thinks of what approaches he forgot, what approaches he feels could have/should have been handled differently, and what approaches he feels were well handled. This critique and review becomes especially meaningful when the interrogation has been unsuccessful.

The interrogation critique and review should be made with a third party, preferably not involved in the investigation. Any suggestion that may be forthcoming, should be recorded and when/if the interrogation is rescheduled, these suggestions could be the basis for questioning at that time.

Ending the Interrogation

Terminate the interrogation amiably, because if there has to be a resumption of the interrogation at a later date, the subject will be favorably inclined towards the investigator.

The opening of the interrogation is of great importance but the termination is equally vital. Naturally, the investigator wants the innocent to leave relaxed and the guilty to get the feeling that you will eventually know the complete truth.

Summary

We have spoken of the rights of an individual with regard to the Miranda Warnings and the provisions of G.O.#15. However, it should be kept in mind that if the subject gives the investigator gratuitous statements or if he enters into a subject area that has

no familiarity to the interrogator, the interrogation should be immediately halted and the investigator confers with his unit commander or the District Attorney where applicable. Once the provisions of G.O.#15 has been extended, it does not constitute a blanket immunity. Gratuitous statements outside the realm of the allegations under investigation can be used against the subject, but it is wise to call a halt and confer on the matter.

A wise interrogator in the preparation of his interrogative plan, should make every effort to foresee all of the possibilities and make the appropriate investigative moves prior to his conduct of the interrogation.

SURVEILLANCE

A. Introduction

There is a point in the investigation when no further information can be obtained from interviews or through the further search of records and documents. It then becomes necessary for the investigator to go into the field, locate and identify the suspect(s), or if known, study his habits and activities. The experienced investigator and the neophyte should be aware of the value of a systematic procedure and the methodical employment of certain needed precautions. There is, in other words, a technique of making observations. There are also pitfalls and errors which readily lead to predictable failure. A surveillance which has failed may carry a double misfortune:

1. The investment of time has been dissipated in the space of a few minutes, and
2. The situation is often immeasurably worsened than before because the subject is now aware and alerted and he will increase his precautions.

B. Definitions: SURVEILLANCE - police surveillance is the systematic observation of person(s), places or things to obtain information. Normally, a surveillance is covert and is primarily concerned with persons. Places and things are observed incidental to or as they specifically relate to persons.

SURVEILLANT - the person(s) who does the watching
SUBJECT - the person, place or thing that is

being observed.

CONVOY - one or more person(s) who may accompany the subject in order to detect surveillance.

DECOY - a person who attempts to divert surveillance away from the subject.

MADE - BURNED - BLOWN - terms used to relate that surveillance or the identity of a surveillant has been discovered by the subject, his associates or the convoy.

CONTACT - beginning the surveillance, or any person with whom the subject, his associates or the convoy comes in contact with.

TAIL - another term used for surveillance.

C. Purposes of Surveillance

The art of surveillance is an important adjunct to successful investigatory techniques. The purposes of surveillance are:

1. To obtain evidence of a wrongdoing
2. To obtain evidence of a subject's involvement
3. To determine some pattern of operations
4. To locate and/or identify the subject/witnesses/etc.
5. To prevent the commission of a crime
6. To keep person available for arrest, testimony or for prosecution
7. To verify reliability of informants
8. To obtain information difficult or otherwise impossible to secure in any other manner

D. Types of Surveillance

Competent surveillance includes practices and procedures which have been time-proven and are found to provide the investigator with a firm basis that can be augmented extemporaneously to overcome exigencies as they arise.

Mobile surveillance can be conducted either by mechanical means (automobile, helicopter, motorcycle, and other forms of transportation), or on foot. It can also include a combination of mechanical and foot surveillance, which are dictated by the actions of the subject.

1. Forms of Mobile Surveillance:

- a. **TIGHT or CLOSE** where the contact with the subject must be maintained regardless of detection. (The exposure is preferable to the loss of the subject). Close can mean tailing the subject without his knowledge. However, it can also mean maintaining contact with the subject even though he is aware that he is being surveilled (eg., to prevent contact, force the subject's hand, cause him to panic and perhaps reveal something that he would not normally do). This technique can be employed as a tactic during an investigation.
- b. **LOOSE** where extreme caution is taken by the investigator. Where contact with the subject will be suspended when it is reasonably assumed that the subject is suspicious. Detection is avoided and secrecy is paramount. A general pattern of the subject's activities is sought.
- c. **PROGRESSIVE** surveillance is done in stages; each stage is separated by an interval of time depending upon the caution required (eg., on the 1st day, the surveillant stays with the subject from his home to a bus stop; 2nd day he is followed from the bus stop to his destination; 3rd day he is followed from his destination through his daily activities or he is pointed out to another surveillant, etc.)
- d. **FIXED/PLANT/STAKEOUT** is utilized when the subject is stationary or when all the required information can be gathered in one location. Even on fixed surveillance the investigator may have to remain mobile (to avoid detection, gain a better vantage point, keep the subject under observation when a surveillance may be called for, etc.)

E. Preparation for the Surveillance

When the investigator has determined that a surveillance is necessary he should prepare a Surveillance Plan which should include the following:

1. Preliminary survey of the area
2. Familiarization with the case
3. Description and identification of the subject
4. Anticipation of problems
5. Equipment that may be required
6. Personnel that will be required
7. Establishment of a Command Center
8. Appropriate codes for communication

9. Briefing of personnel
10. Other

Preliminary survey or reconnaissance of the location to be surveilled or the residence of the subject is not always possible but whenever it is feasible, it should be done. Results of this preliminary surveillance enables the surveillant to:

1. Determine possible entrances and exits that can be used by the subject
2. Available vantage points from which the surveillance can be conducted
3. A knowledge of the area and its characteristics is another of the essentials. A knowledge can be beneficial in the development of a "cover story" or in determining how the surveillants can best blend with their surroundings, or in determining the personnel requirements, etc.

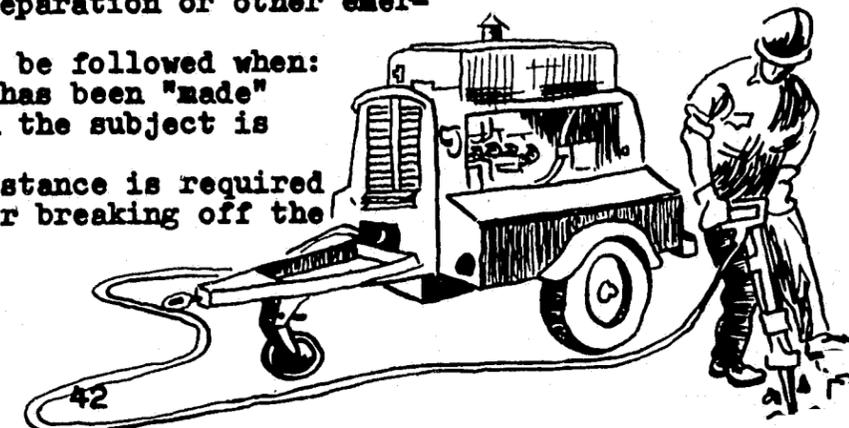
Familiarization with the case is mandatory by all personnel involved in the surveillance. They are made aware of the nature of the complaint, the identity of the subject, and what the goals are that they are trying to achieve.

Description and identification of the subject is needed. The complainant has identified the subject (either by name, shield, physical description, or the area frequented). Investigation know-how can focus attention on a single individual. Other information that should be known would be:

1. Name, age, residence, and employment of the subject (where known)
2. Premises frequented (residence, employment, haunts)
3. Criminal or personal background (where applicable)
4. Photographs (if available)
5. Associates, relatives, friends, etc.
6. Habits, hobbies, etc.
7. Other pertinent data

Anticipation of problems that may be encountered during the surveillance activity:

1. Gas for the car (perhaps an extra 5 gallon can)
2. Enough loose change for telephone calls, tolls, etc.
3. Subway and/or bus tokens
4. Cover stories (where applicable)
5. Disguises, credentials, permits, etc.
6. Appointment of leadership and succession in case of any separation or other emergency
7. The procedure to be followed when:
 - a. Surveillant has been "made"
 - b. Contact with the subject is broken
 - c. Further assistance is required
 - d. "Dropping" or breaking off the tail



Equipment that will be required while on the surveillance either mobile or fixed:

1. Mobile Surveillance

a. Vehicle or foot

- 1) cameras (Minox, Nikon, etc.), film, lenses
- 2) radios (handie/walkie talkies) extra batteries
- 3) binoculars (either night or daylight)
- 4) other (disguises, and equipment that is dictated by the circumstances)

b. Fixed, Plant or Stakeout

- 1) cameras (Minox, Nikon, etc.) film, lenses
- 2) radios (handie/walkie talkies) extra batteries
- 3) binoculars (either daylight or night)
- 4) telescopes, tripod with camera attachment
- 5) bugging devices
- 6) other (as dictated by circumstances)

Personnel requirements. From the preliminary survey or reconnaissance, the investigator is knowledgeable concerning the scope of the surveillance problem. He has determined what type of surveillance is best, the equipment that he requires, and he is now better able to estimate his personnel needs:

1. To conduct the surveillance adequately
2. To operate the equipment that will be used
3. To relieve the personnel when surveillance is for an extended period of time

A Command Center must be established from which location all activities will be coordinated and controlled. The telephone number of such location will be provided to all personnel for their use as required.

Appropriate codes for use while on surveillance. Due to the limitation of radio frequencies available, and the number of receivers already in use, the use of codes by surveillants is vital to avoid detection and being overheard. Code names should be given to important locations and persons, in order that anyone overhearing communications between units, will not be made aware of what is taking place, or the identities of persons and places (eg., code names for the command center/station house, surveillant teams, street names, subject, and any other pertinent identities.)

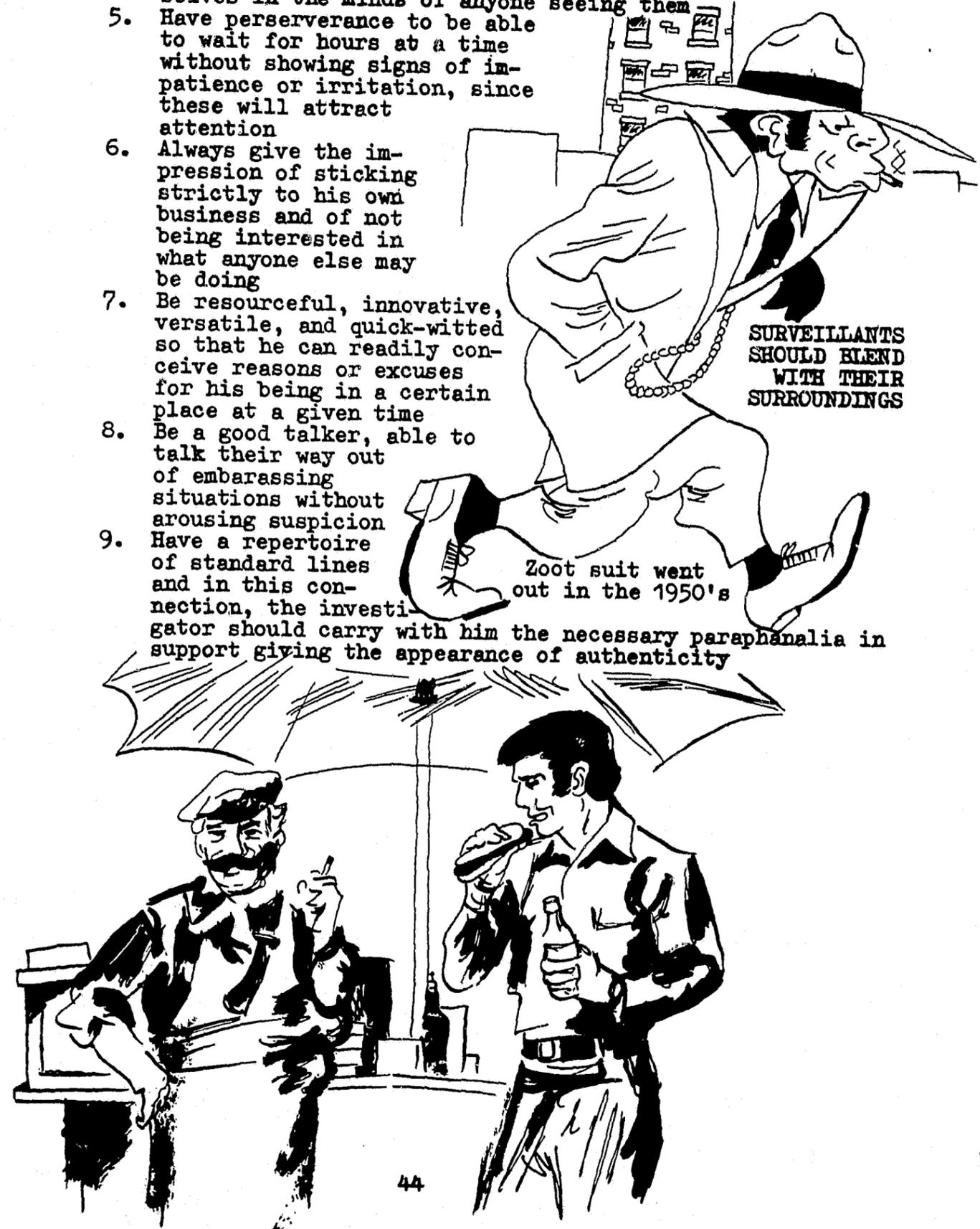
Briefing of personnel is another vital requirement of the Surveillance Plan. In addition to the above benefits which have been enumerated in paragraph E, the briefing sessions may elicit important steps or methodology that the investigator may have overlooked.

F. Requirments and Appearance of the Surveillant

From the reconnaissance, surveillants have learned the ethnic makeup and the general characteristics of the area to be surveilled by the team. With this in mind, the proper personnel should be chosen. They should:

1. Be of average size and build, as well as general appearance
2. Have no noticeable peculiarities in appearance or in their mannerisms
3. Wear no conspicuous clothing or jewelry

4. Have nothing about them to attract attention or fix themselves in the minds of anyone seeing them
5. Have perserverance to be able to wait for hours at a time without showing signs of impatience or irritation, since these will attract attention
6. Always give the impression of sticking strictly to his own business and of not being interested in what anyone else may be doing
7. Be resourceful, innovative, versatile, and quick-witted so that he can readily conceive reasons or excuses for his being in a certain place at a given time
8. Be a good talker, able to talk their way out of embarrassing situations without arousing suspicion
9. Have a repertoire of standard lines and in this connection, the investigator should carry with him the necessary paraphernalia in support giving the appearance of authenticity

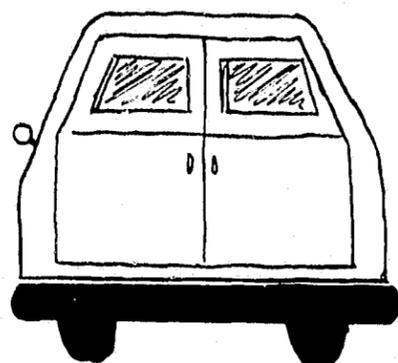


G. Methods of Operation In Surveillance

Previously enumerated were the types of surveillance (mobile, tight, close, fixed, loose, progressive and foot). Also discussed were the time-proven techniques. Now are considered the methods of operation in each of the categories mentioned:

1. FIXED SURVEILLANCE (Plant or Stakeout)

- a. The investigator, following his reconnaissance, selects the most advantageous position to conduct his observations
- b. He has also prearranged for a "cover story" in case of detection
- c. Inside surveillance is used when the period of observation will be for an extended period of time (also called Fixed or Stakeout)
 - 1) predetermined as far as possible, all the equipment that will be needed as well as the manpower requirements
 - 2) appearance of manpower activity in the area can be reduced by using teams that are similar in appearance (where possible) or at least all should be of the same approximate height and weight (this allows an exchange of clothing)
- d. Outside surveillance is used when short or intermittent coverage is called for or when no other site is available
 - 1) investigators may pose as disabled vehicle operators, truck drivers, deliverymen, outdoor workmen, etc. When seated in a passenger car, vacate the driver's seat as this attracts less attention.



PANEL TRUCKS

- * Make excellent observation locations
- * Photographic/electronic equipment can be used

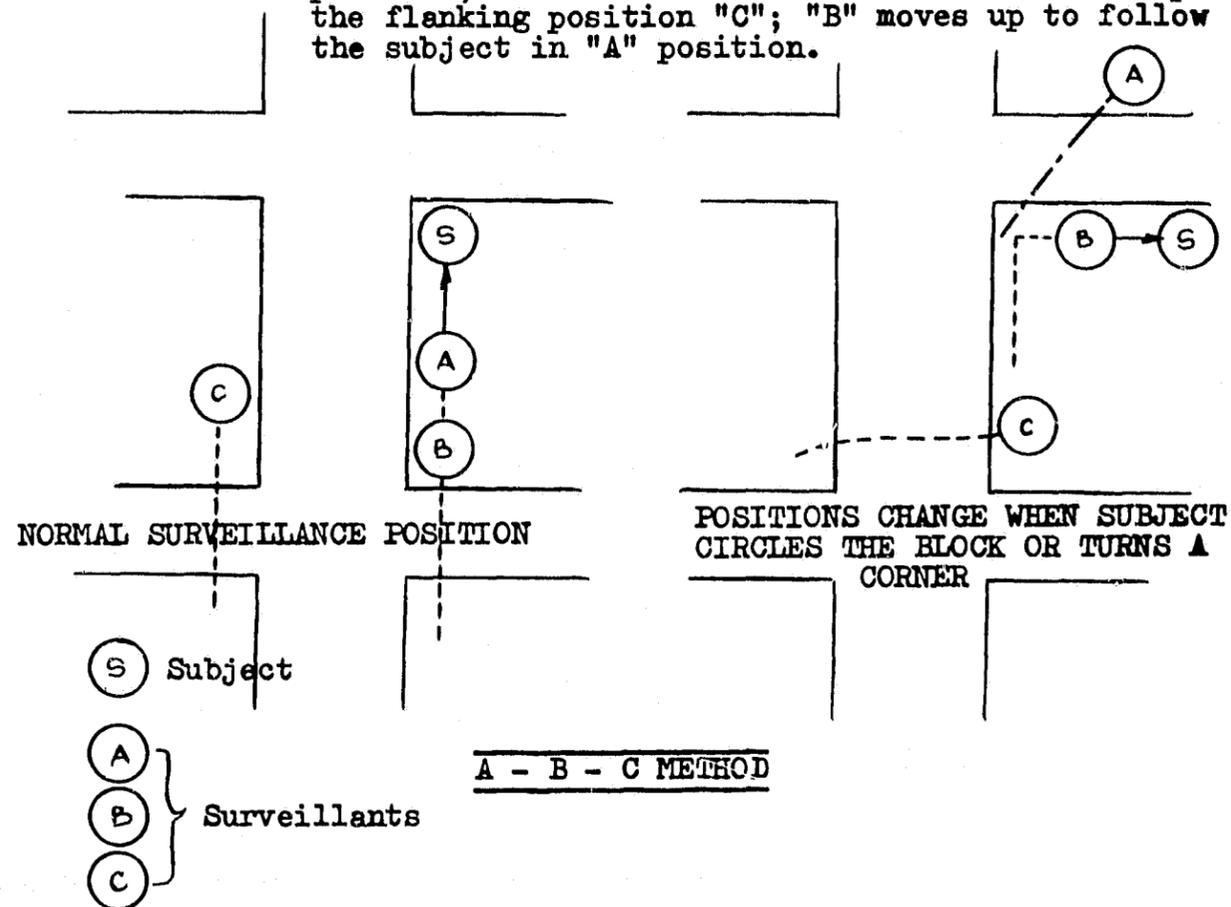


OUTDOOR WORKER
 * Credentials
 * Union cards
 * Proper dress

2. MOVING SURVEILLANCE (Foot Tail)

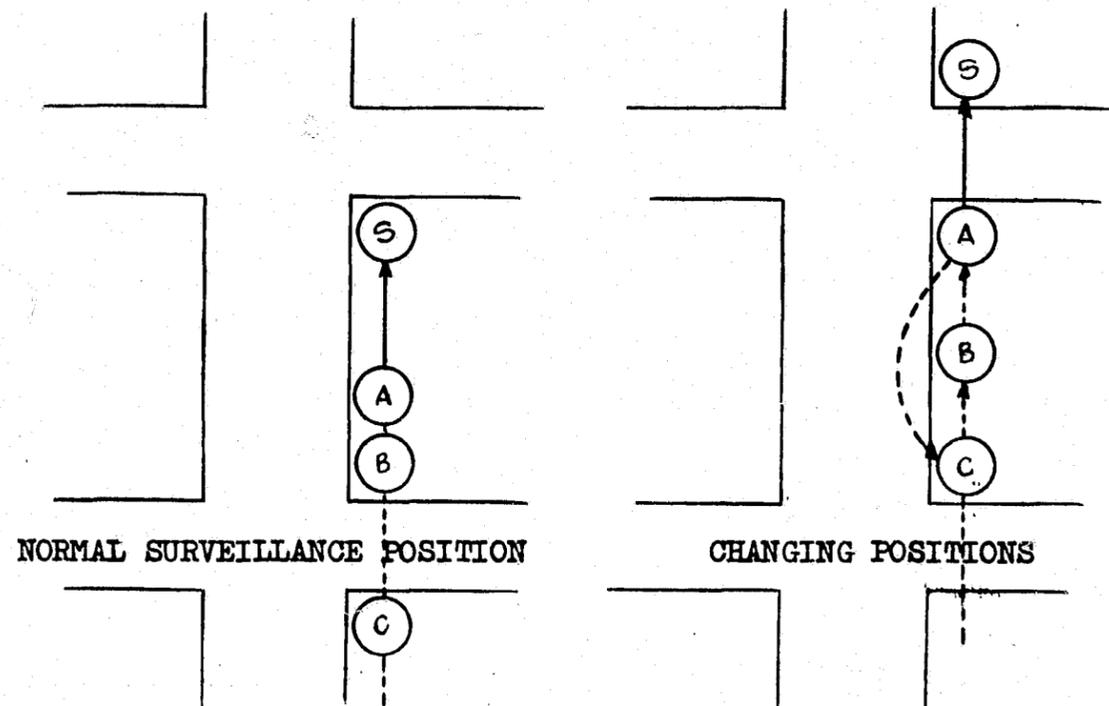
- a. A one man tail is different and difficult to maintain as it is easier for the subject to detect and easier for him to break off the contact
- b. A - B - C Method or group surveillance is generally used when close contact with the subject is necessary to the assignment. Each man is alternately moved up to maintain contact with the subject. Usually two men follow behind, while the third man flanks the subject (abreast or slightly behind). The men exchange their positions whenever the subject turns a corner or the situation demands such maneuver.

1) the "flank man" ("C" in the diagram below) crosses the street to follow behind the subject in "B" position; "A" then crosses the street to take up the flanking position "C"; "B" moves up to follow the subject in "A" position.



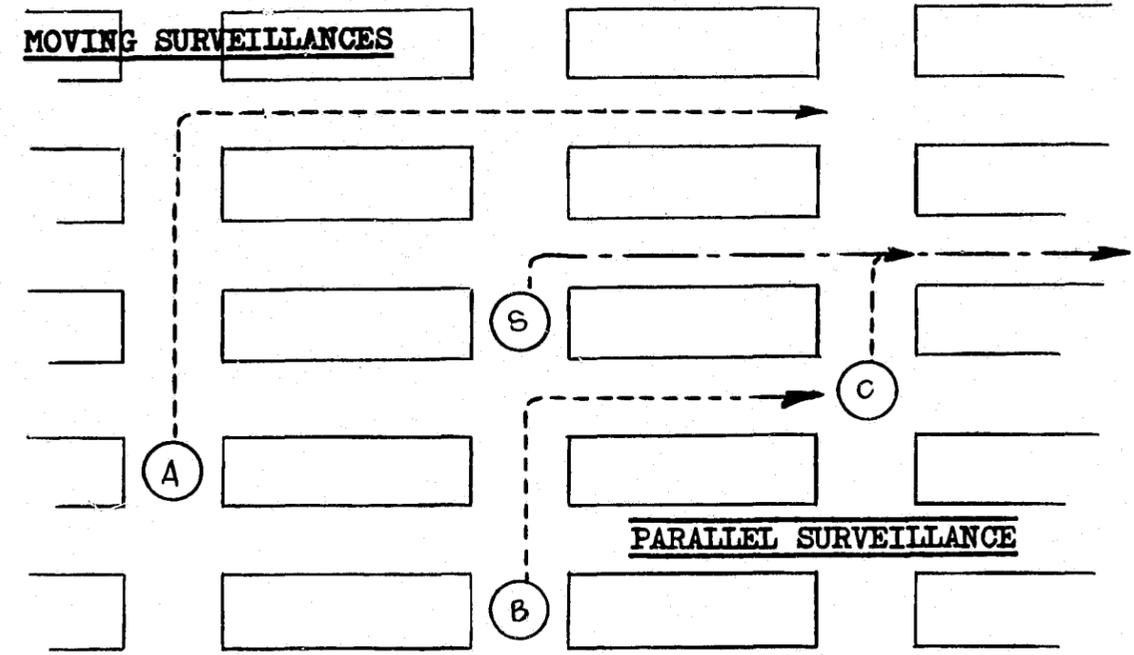
- c. Leap Frog Method - usually three men are used, but the lead man is the only one to maintain contact with the subject. The following men maintain "series" contact with the lead surveillant. Men keep "feeding up" at intervals, while the lead man drops to the rear. Thus, the feeding up maneuver must be done on a prearranged signal

LEAF FROG METHOD



- 1) in the normal position, the team maintains a series contact with the subject
- 2) if the "eyeball" (lead surveillant) has been in that position for a long period of time, or if he feels as though he may have been "made" - on a given signal he drops to the rear and each of the others move up
3. Moving Surveillance by vehicle
 - a. Automobiles are generally used but motorcycles, scooters, panel trucks, etc., can also be used. They should, however, be of a common variety and otherwise inconspicuous
 - b. Arrange beforehand to alter the appearance of the vehicle and its occupants (variations in the headlight arrangement, changing the license plates, changing the accessories, change the seating arrangements, etc.) If a couple is seen in a vehicle, this attracts less attention
 - c. To facilitate the surveillance of another motor vehicle sometimes it is worth the while of the investigator to place some sort of identifying marking on the car or truck. (A white cloth tied to the tail pipe, a punctured tail light, etc., can make this easier.)
 - d. In parallel vehicle surveillance (pictured on page 48) two or more vehicles, blocks apart, travel in parallel directions with the subject's vehicle between them; the surveillant vehicles (whenever possible) beat the subject to the intersections to better follow its progress. On turns, the surveillant vehicles alter their position which facilitates communication (car radios, handie or

or walkie talkies, etc.

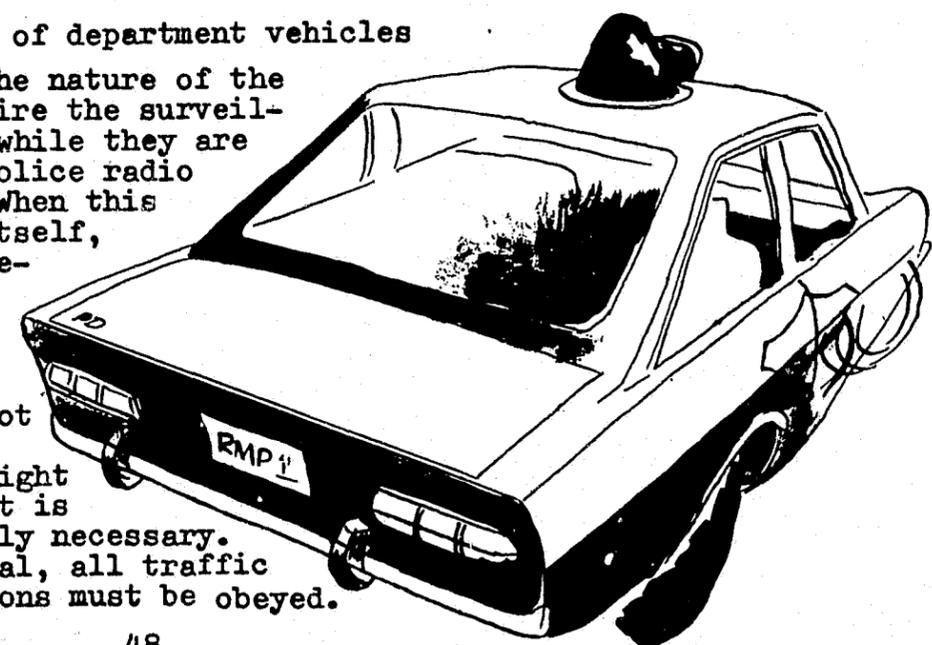


- (B) Maintains visual contact
 - (A) Move in parallel positions
 - (C) Picks up visual contact
 - (A) Move to parallel positions
 - (B)
- WHEN VEHICLE MOVES IN FORWARD DIRECTION
- WHEN SUBJECT MAKES A TURN

4. Surveillance of department vehicles

Oftentimes the nature of the allegations may require the surveillance of subject(s) while they are performing duty in police radio motor patrol cars. When this situation presents itself, there are certain precautions which must be followed:

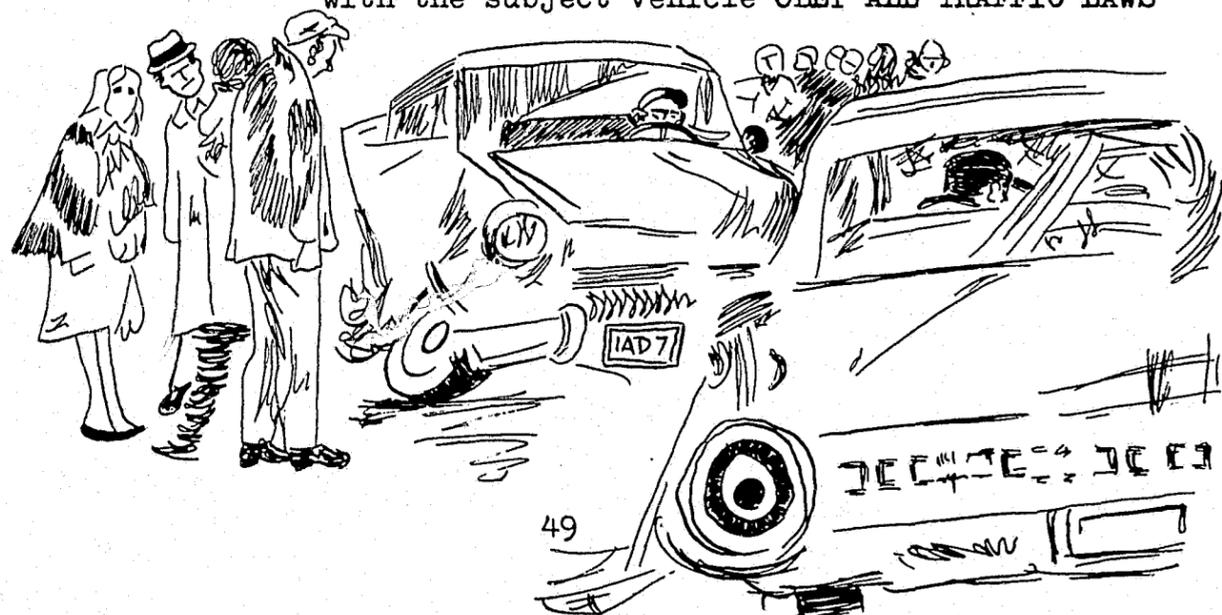
- a. Surveillants should not "take" a signal light unless it is absolutely necessary. In general, all traffic regulations must be obeyed.



- b. The area of the sector wherein an RMP operates is generally limited and highly trafficked. Surveillance at all times will be intermittent and a prior knowledge of the subject's habits is beneficial.
- c. Each surveillant should arrange to carry a radio to monitor service calls for the auto being observed; in arriving at the scene of a high hazard location before the subject vehicle can make observations easier and less discernable. Be sure that the radio frequency is the same as the area being monitored.
- d. A department vehicle should not be used (it is easily recognizable) and the occupants of the civilian auto used should have a predetermined "cover story" if they are questioned.
- e. RMP crews often have friendly elements in their sectors that may detect your presence. This information is then passed on to the subject(s). Avoid overt behavior that could arouse the suspicions of such persons.

5. Automobile surveillance follows the same general guidelines as enumerated above. There are, however, some additional points it would do the investigator well to remember:

- a. Whenever possible a "beeper device" or some other type of transmitting signalling device could be implanted on the subject vehicle. With the proper receiving equipment in the surveillant's vehicle surveillance would be facilitated
- b. Alter the appearance of the surveillant vehicle as frequently as it is possible:
 - 1) removeable decals
 - 2) change headlights from normal to bright, to park
 - 3) an extra set(s) of license plates to replace those that are on the car
 - 4) an enlarged gasoline tank (where feasible) or extra gas cans reduce the necessity for refueling
 - 5) Caution: lighted cigarettes and/or cigars being smoked or thrown from a parked vehicle at night, can arouse suspicions
 - 6) unless there is an emergency or the need to stay with the subject vehicle OBEY ALL TRAFFIC LAWS



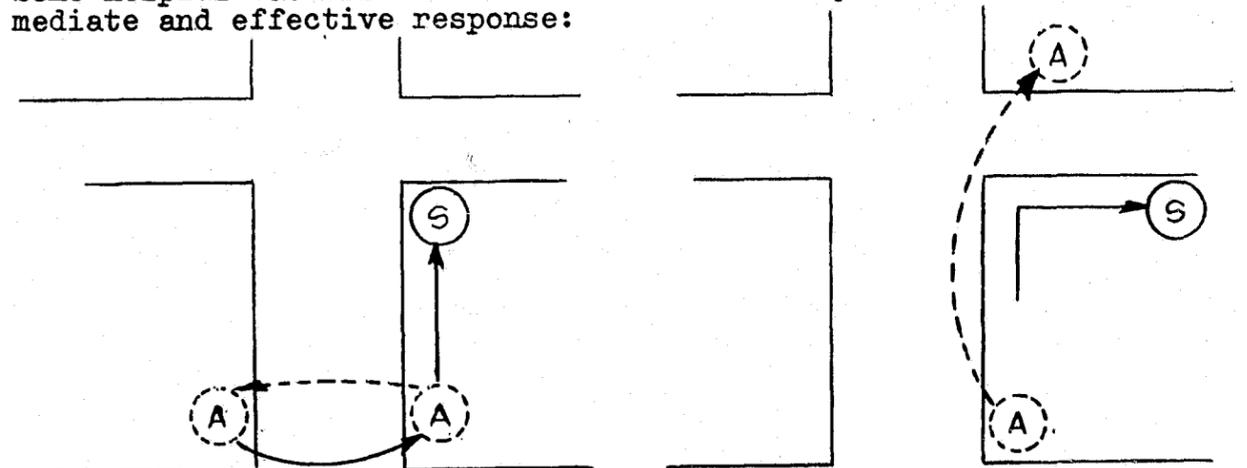
- 6. Cross-country surveillance is actually a misnomer. It can however, include surveillance of a suspect vehicle that will take the investigator between boroughs or even out of state. The above points mentioned for ordinary in-town surveillance have applicability here, with these additional reminders:

NOTE: it is not our purpose to suggest that these points are the methodology that should be used by the surveillants, they are merely meant to be suggestions and nothing more. It is left to the investigator to adopt those methods that will make his task easiest to accomplish.

- a. If destination is known, try to "lead" the subject vehicle instead of tailing it
- b. When the subject pulls to the side of the road, the surveillant should continue on for a distance (enter a gas station or just park) and await the actions the subject may take
- c. A change of clothing, coupled with altering the vehicle can prolong the chances of detection
- d. Bringing along food, where extreme caution is called for, reduces the chances of recognition and detection
- e. Make sure that you have extra money for any expenses that may occur (eg., staying over-night at a hotel, motel, etc.) Credit cards are also helpful and helpful while on surveillance as false identification
- f. Surveillant automobiles should alternate in gassing up so that the subject is constantly under surveillance by at least one of the surveillant vehicles

H. Tactics In Surveillance

The subject in surveillance is usually meant to be kept unaware that such tailing is or has taken place. Some situations demand instant response and ingenuity on the part of the investigators. Some helpful tactics in certain situations may facilitate an immediate and effective response:



SURVEILLANT MOVES FROM ONE SIDE OF THE STREET TO THE OTHER

WHEN (S) TURNS A CORNER, (A) (WHICHEVER SIDE OF THE STREET HE IS ON) CROSSES THE STREET TO PICK UP THE SURVEILLANCE

1. Turning corners (as illustrated on preceding page) on foot surveillance, the surveillant when working alone, moves from one side of the street to the other (alternately) to prolong occasions of surveillance. When the subject turns a corner the surveillant (whichever side of the street he is on) should not hurry (unless called for). Neither does he turn the corner directly, thereby possibly avoiding a confrontation with the subject. Instead, he should cross the street and again pick up the subject.
2. When entering a building, the type of building determines the tactics to be employed. If it is a department store with numerous exits, the subject must be followed into the store. Should there be limited exits, the subject (unless suspicious) will exit by the same door he entered. Should the subject enter a building with an elevator, the operator often requires the floor designation be called out. Investigator-enter the same elevator and proceed to the floor. (Caution: this may be a ruse, so check floors above and below that given). If the elevator is a self-starting one, do not enter the same elevator with the subject. Try to ascertain the floor designation from the indicator or the control panel. If you have entered the same elevator, step to the rear of the car and allow the subject to debark before you (whenever possible). When following this close, be sure that you have a "cover story."
3. Taking the bus, the surveillant should take the same bus as the subject. It is suggested that you sit behind the subject and on the same side of the bus. Entry onto the bus



should be as natural as it is possible. An automobile should be assigned to follow the bus. A last minute leap is too conspicuous. If tokens are required, be sure to have a supply.

4. Taking a taxicab: when the subject enters a taxi, listen for the destination, if possible, or missing that, record the date, time, taxicab company, license number and the exact location where the pickup was made. A check of the taxicab companies can disclose the destination from the trip ticket or card of the driver.
5. Boarding a train: the surveillant should endeavor to get on the ticket line (if there is one) directly behind the subject; he should try to overhear the destination given by the subject. If the investigator cannot get on the same ticket line, every effort should be made to overhear the destination. If the subject enters a subway, try to board the same car, using a different door than the subject (where this is feasible). Try to sit on the same side as the subject. If crowded, the surveillant may have to stay close to the subject.



FOLLOWING TOO CLOSE:

- * Keeps subject in view
- * Keeps surveillant in view as well

WHEN IT IS NECESSARY

- * Act in a natural way
- * Avoid eye contact

6. Entering a restaurant: the surveillant should allow some time to elapse before following the subject in. An obscure location should be found in the restaurant (where possible) and he should try to finish his meal before the subject does. Request your check as soon as you order in case the subject leaves before the surveillant.
7. Entering a hotel: the surveillant can often determine the subject's destination by making an inquiry of the desk clerk. (Use this technique only when no other alternative exists.)
8. When the subject uses a public telephone, stand as near as you can and try to overhear; use the adjoining booth, or note which directory he uses and the page at which it is left open (if possible).
9. When entering a theater, the surveillant should make note of existing exits, and, it is recommended that he sit as close to the subject as he can.

I. The Convoy

The investigator must keep in mind that a shrewd subject is often guarding against surveillance by having one (or more) of his associates follow him at a reasonable distance to observe whether or not the same person is constantly in the rear. Therefore, a surveillant must keep a lookout behind himself to detect such presence. If it is determined that there is no convoy with the subject, continue the surveillance. If, however, a convoy is detected, it may be to the advantage of the surveillant to contact his commanding officer at the command center and ask for a tail to be put on the convoy. The surveillant then "carries" the convoy until he is informed that the tail has picked up the convoy and at this point, the investigator drops his surveillance. The convoy is then followed to determine where he is from or what his connection is to the subject.

J. Distance Between the Surveillant and the Subject

There is no hard and fast rule to determine the proper distance between the surveillant and the subject. The distance to be maintained, regardless of the method used depends on:

1. The number of persons or vehicles on the street
2. The time of day (daylight or darkness)
3. The character of the area, or
4. The type of investigation being conducted

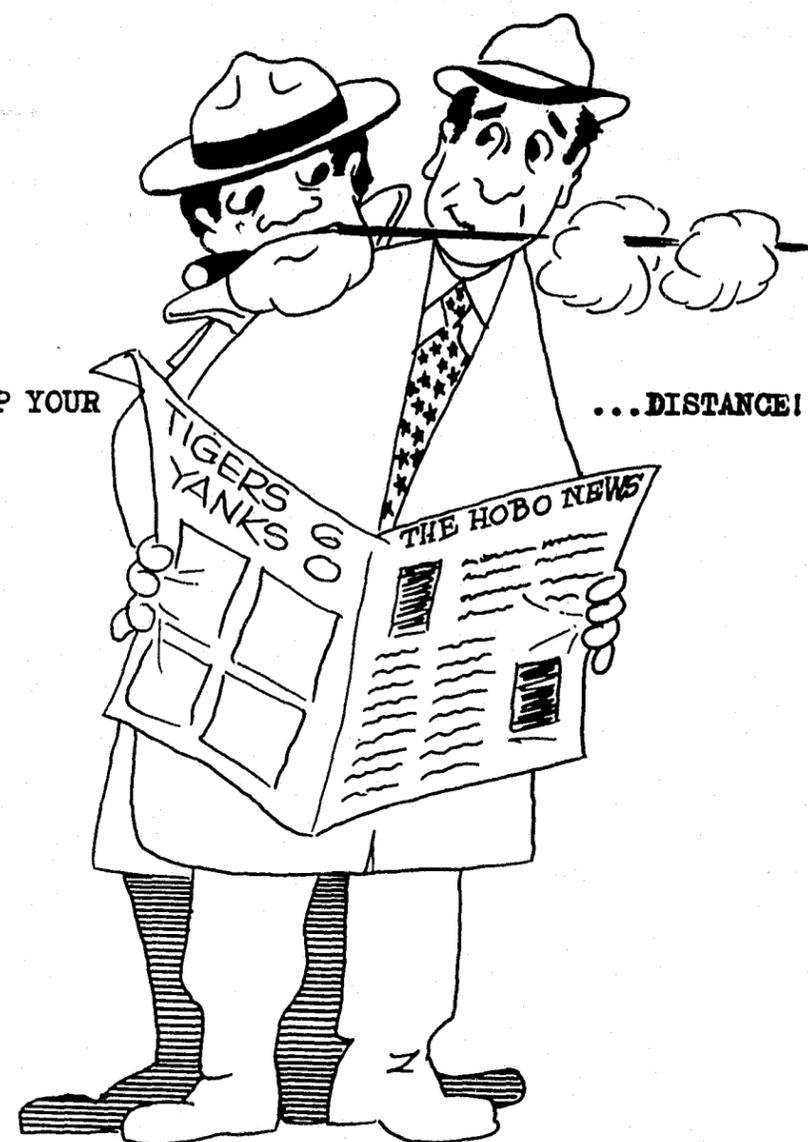
A good rule of thumb to follow in this regard would be:

Shorten the distance in crowds (or heavy traffic) or when the subject approaches buses, trains, etc.

Lengthen the distance in sparsely occupied areas.

When following closely, remember that you can keep the subject in sight and determine what his actions are, but he too is able to make observations of you. The nature of the surveillance may demand that the subject be kept in contact regardless of the hazards. If so, make sure that the surveillants have a cover story in the event their cover is blown or they are otherwise detected.

REMEMBER! KEEP YOUR



...DISTANCE!

K. Broken Contact

Generally, there is more than one surveillant assigned to a subject. If one maintains contact, he should, at the first opportunity (usually when the subject enters a restaurant, movies, bar and grill, etc.,) make a telephone call to the command center and inform them of the subject's recent location.

When the investigator has lost contact with the subject, he should immediately telephone the command center, giving his recent location and remain thereat. If the situation is such that there is more than one team on surveillance, perhaps the command center would be in a position to know of the subject's whereabouts. If they were to come into possession of that information subsequent to your call, in remaining at your location, the command center can call back and bring you up to date. In this fashion, the investigator can again pick up the surveillance.

NOTE: often it is possible to second guess the subject. By having previously learned the subject's habits, haunts, associates, etc., this knowledge may enable the investigator to proceed to what he feels may be the subject's next destination and thereby re-establish contact with the subject.

Other information determined: _____
Time of relief: _____ hours Case number: _____
Relieved by: _____
Investigator preparing report: _____

N. General Observations

The investigator should try to be natural while conducting the surveillance. He should be neither too surreptitious nor too far off-handed. As far as possible the investigator should try to predict problems and be prepared to meet them successfully. A good "cover story" may be called for.

The surveillant is often required to kill time inconspicuously. Forethought should be given to this procedure.

If the subject has become lost during the surveillance and the contact is broken upon entering a store, building or hotel, unless the subject's suspicions have been aroused, he is likely to exit where he entered such premises. If he is suspicious, assume the exact opposite.

Too frequently surveillants think that they have been "made" long before they have in fact been detected. The investigator is not as conspicuous as he may think! Unless absolutely demanded by the situation or if secrecy is to be maintained, try to ascertain from further surveillance, that you have in fact been "made."

THE INVESTIGATOR IS NOT AS OBVIOUS AS HE MAY THINK



When turning corners on foot surveillance, take them as wide as possible to avoid face-to-face confrontations and decrease the possibility of detection. The investigator should treat doorways and alleyways with the same caution.

In parked surveillant vehicles, when the driver's seat is left unoccupied, it is less suspicious and conspicuous. Sit low in the vehicle and present as little of your profile as possible. In this position, the surveillant(s) is less obvious from a distance.

The surveillant should avoid as far as possible, taking any liberties with either the traffic or the parking regulations. It is far better to lose the subject (he may be picked up later) than to never have a chance because of an accident.

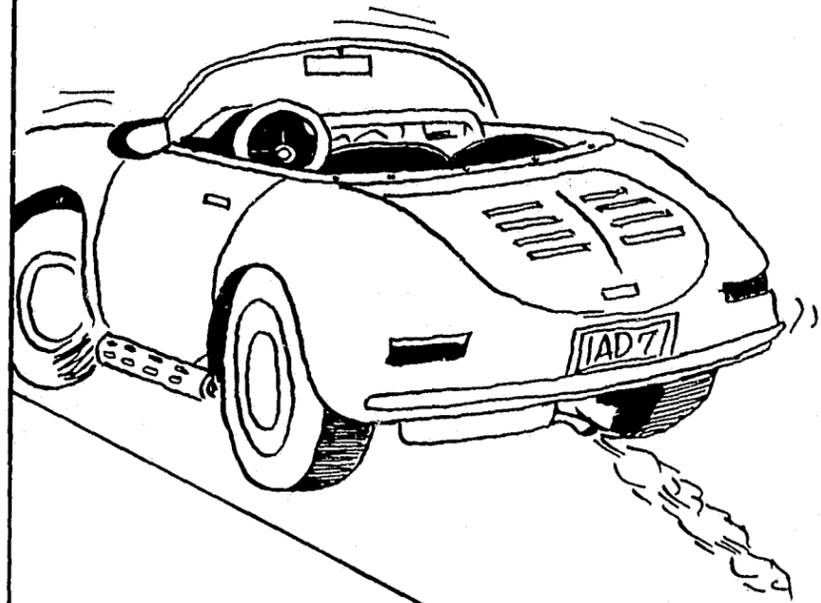
If there is an opportunity to have a female assigned to the surveillant team, and the surveillance is to be conducted in a car, couples attract less attention.

A Surveillance Plan or Check List can lead to success:

1. Avoid, as far as possible, following too closely. It affords the subject the opportunity to study your appearance.
2. Have enough money for gas, food, tolls, lodging, etc.
3. Have a good "cover story"
4. Have adequate manpower
5. Learn what equipment will be needed
6. Secure the service of an electronic equipment operator
7. Brief the relief/relay team(s) on all pertinent information that they may require
8. When possible, make a record of the times, places, people affecting the subject
9.
 - a. it may become evidence
 - b. it may be a strong psychological factor in a later interrogation
 - c. taking license numbers can lead to the subject if lost during the surveillance (eg., taxicabs must keep trip records)
10. When deliberately "dropping" a surveillance (break off the contact) do so as naturally as possible, not obviously. That way, subject will have doubts re: his being tailed.

XIV. CONCLUSION

It is assumed that the treatment of this subject will not provide the individual investigator with an unfailing method of dealing with every surveillance eventuality that may arise. A surveillance is a minor form of conflict. No fixed pattern can be prescribed. The general principles should be studied with the prevailing reservation that the strategy will depend for its success upon an intelligent implementation of innovations and tactics. The procedures, in order to remain effective, must frequently be improved to suit the requirements of the individual situation; the nature of these will depend on the investigator's resourcefulness.



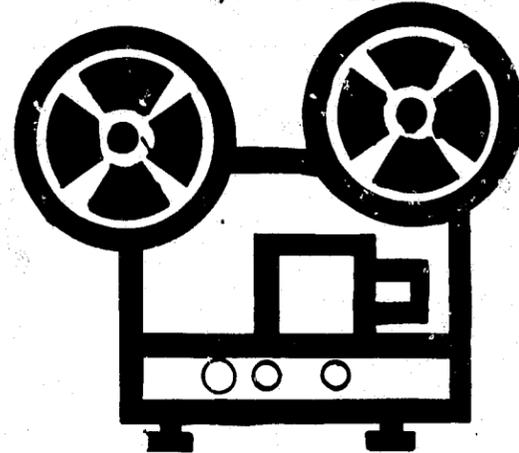
You're not going to be happy chief... I lost him.



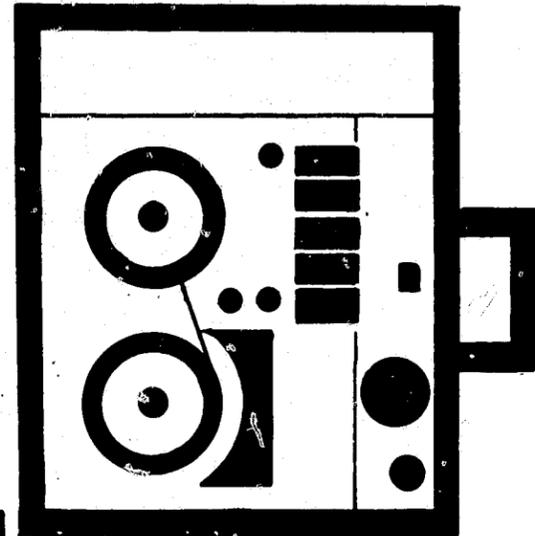
TRY TO REMAIN
INCONSPICUOUS

EQUIPMENT

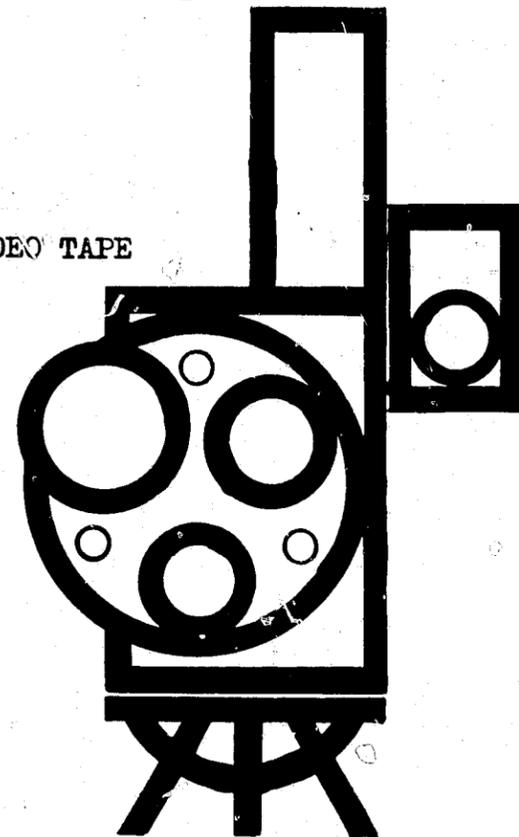
MOVIE CAMERA/PROJECTOR



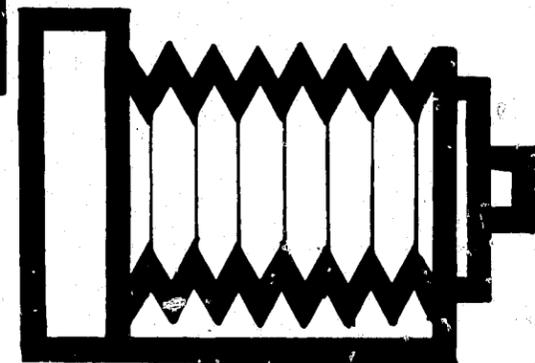
KEL INTELLIGENCE KIT



VIDEO TAPE

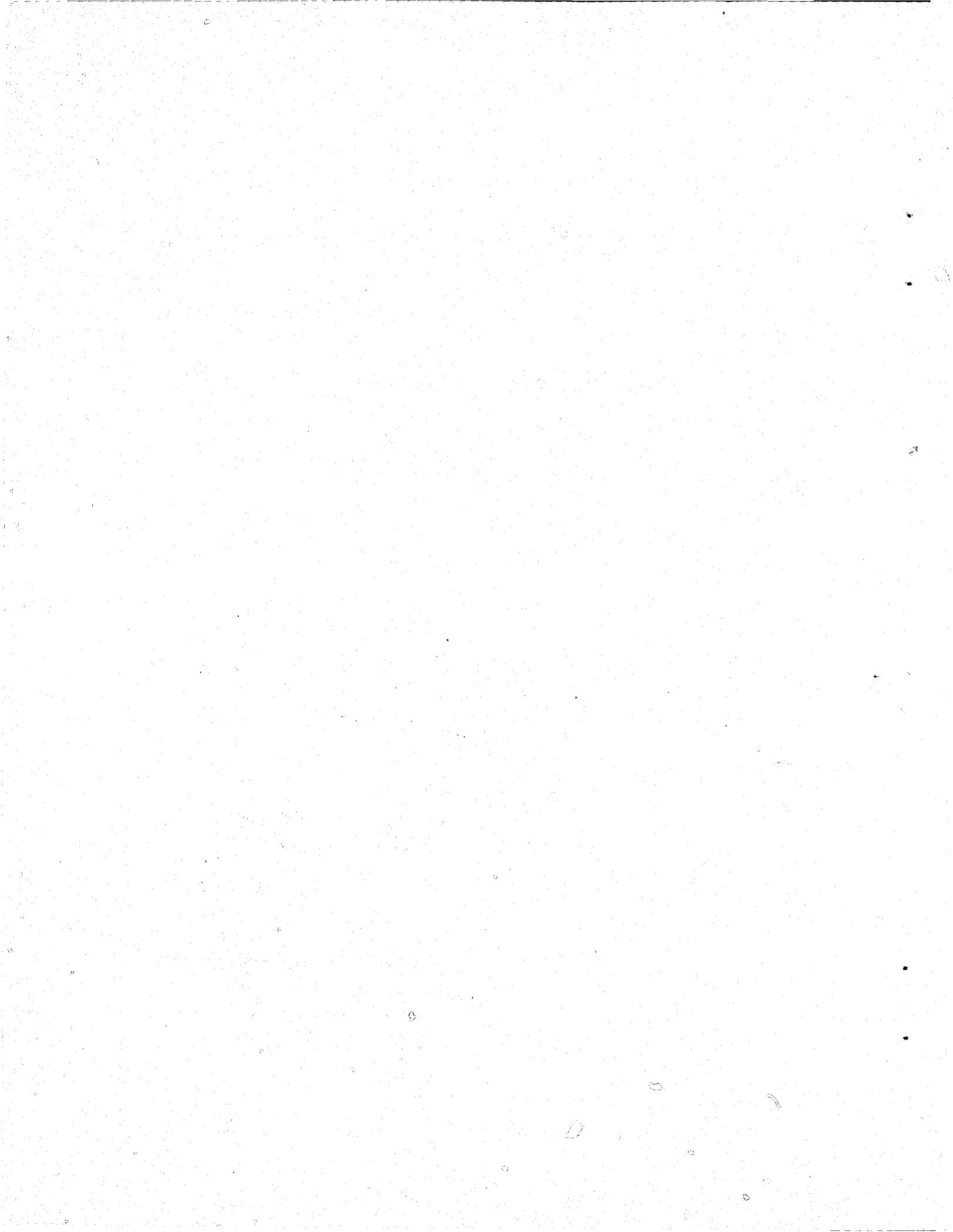


RECORDERS



STILL CAMERA





USE OF TECHNICAL SERVICES AND EQUIPMENT

There are investigative situations which will require the investigator to utilize every device that he has available to him in order that he can bring his investigation to a successful conclusion. At these times, in addition to being an investigator, an interviewer, an interrogator, as well as a researcher, he is now called upon to be a photographer, recording specialist, and a laboratory technician. There are no specific qualifications for these tasks other than a knowledge of knowing what he can use, when he can use it, and where it can be used.

I. Tandberg Tape Recorder

The Tandberg tape recorder is used primarily for the recording of interviews and interrogations, but the model used can also be utilized when addressing a gathering (at a lineup, etc.) by the use of the built-in amplifier, or for wiretap purposes.

Before commencing the recording, the investigator must:

1. Check the recorder before using.
 - () Is the tape of sufficient size to record the entire conversation, if not, are extra reels available?
 - () Is the recorder operable?
 - () Is the microphone operable?
 - () Is the recorder and microphone situated so that all speakers can be recorded?
2. Inform the subject (complainant, witness, suspect) that your conversation will be recorded
3. Record the proper tape heading (introduction at the start of the tape. See Appendix H for further information.)
4. Introduce yourself and any other member(s) present. The investigation may have the need for you to have them identify themselves for voice identification.
5. Have the subject introduce himself fully (name, shield number, residence, telephone number, command, etc.) Also have anyone present with him (counsel, representative, etc.) identify themselves for voice identification.
6. State the purpose.

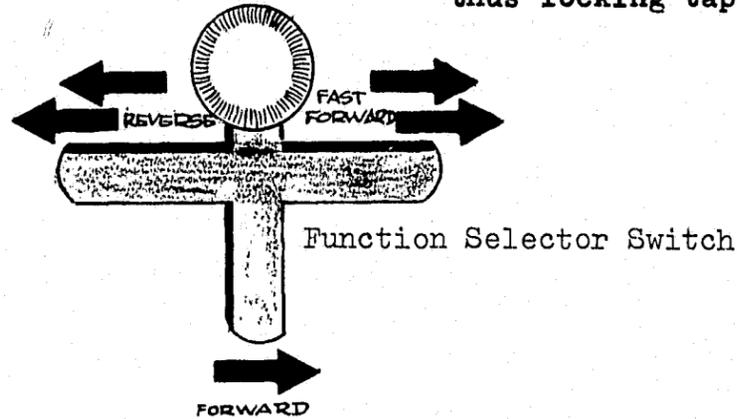
Operating the Recorder

1. Usually on the right side of the recorder, under the tape reel, there is a footage counter. Record this reading at the start of the tape (usually 000). When the conversation is concluded, record the counter reading.
2. The Function Selector Switch is then placed in the

"Free" position. The tape (usually virgin) is placed on the left sprocket. The glossy side of the tape should face you. The tape is then placed in the opening in the recording head (see diagram #1) and brought to the empty spool; the end of the tape is made fast to the cutout in the spool.

FREE

Then take one complete turn on the spool, thus locking tape onto the takeup spool.



Function Selector Switch

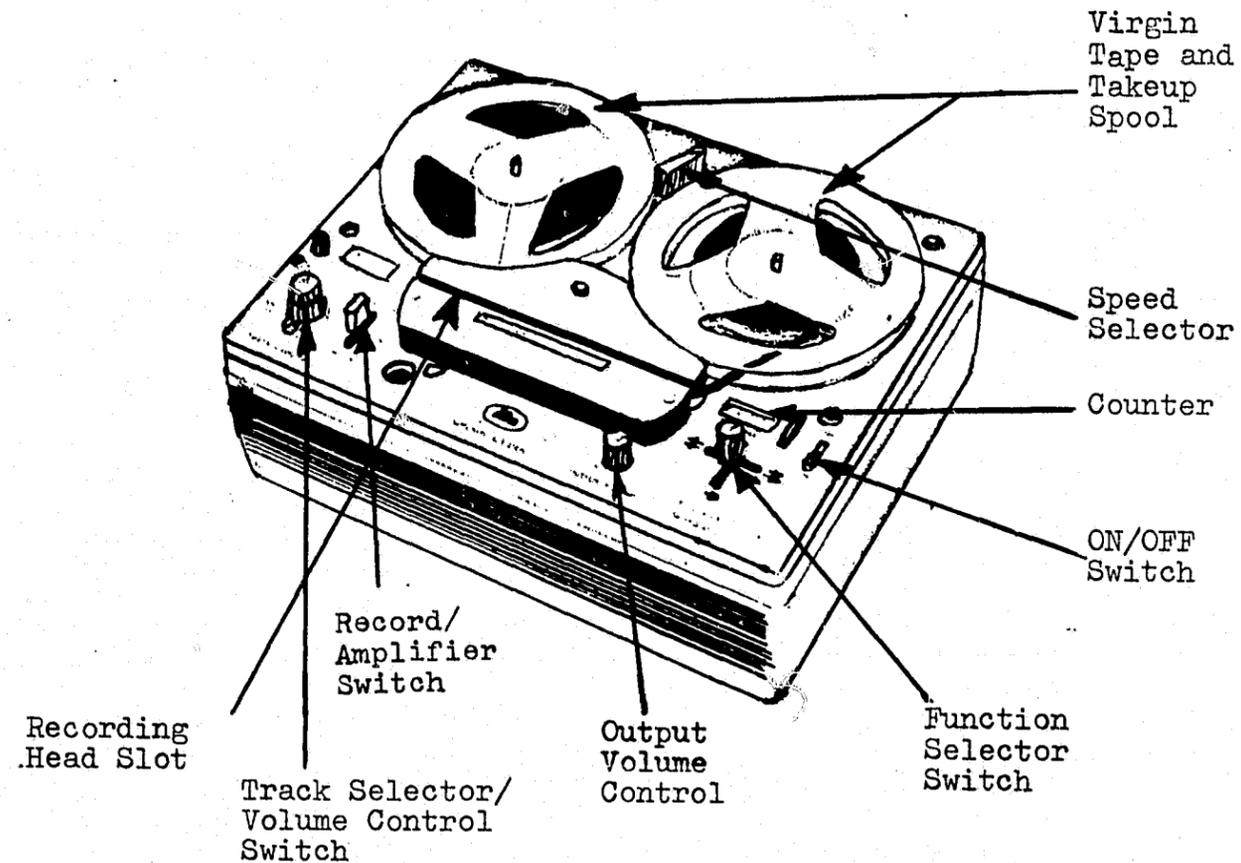


DIAGRAM 1

3. Microphone jack receiver is located at the lower left

side of the recording head, and it is marked "MIC". When you place the microphone jack into its receiver, make sure that it is seated firmly. (See Diagram #2)

4. The speed selector should be set at 1-7/8ths. Make a notation in your investigative notes of the speed.
5. The "ON-OFF" switch is then placed in the "ON" position.
6. To record: the "RECORD/AMPLIFIER" switch is pulled down to the "RECORD" position and held. At the same time, the "FUNCTION SELECTOR" switch is also pulled down into the position where there is a single arrow pointing to the right. When both are in the down position they will lock in place. The recorder is now functioning.
7. To stop the recording: there are two ways that the recording can be stopped, either for a recess or at the conclusion of the recording, the "FUNCTION SELECTOR" switch is pushed to the center position. The "RECORD/AMPLIFIER" switch will neutralize automatically. The same procedure must then be followed to record, as in #6 above. If there is a recess called, push the "MOMENTARY START/STOP" switch to the right (see Diagram #2). To continue recording, the switch need only be returned to the left and recording continues.

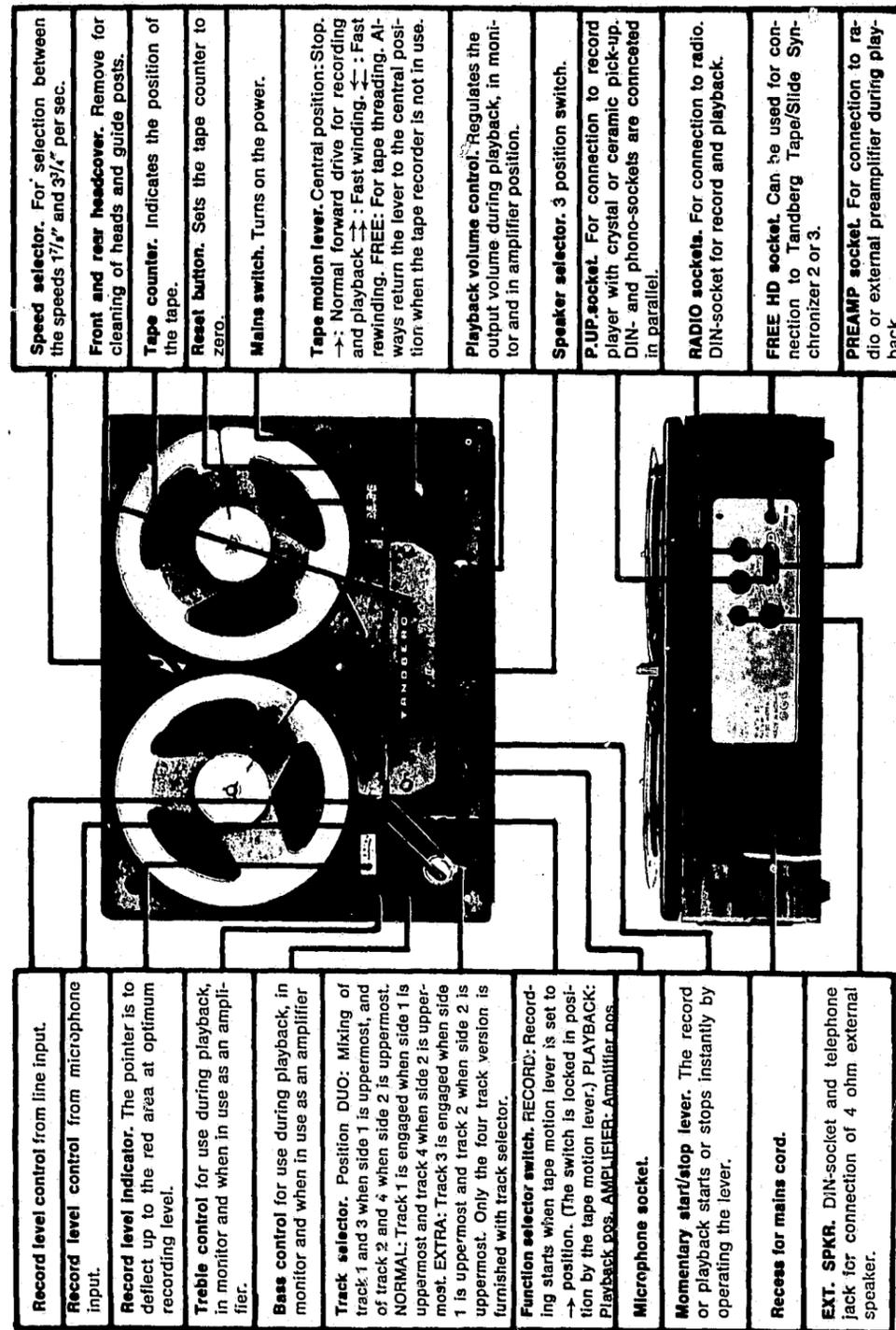


DIAGRAM #2

8. To use the recorder as an amplifier: the "RECORD/AMPLIFIER" switch (Diagram #2) is pushed to the "AMPLIFIER" position and the microphone is moved from the recorder (there will be "feedback" if this is not done). By adjusting the volume to the desired setting, the recorder can then be used as an amplifier.

II. Sony TC-40 Tape Recorder

The Sony TC-40 Tape Recorder is used primarily to record interviews and interrogations in the field. It is pocket sized and portable. It can also be secreted on the person for clandestine recording or carried in an attache case, etc.

The operator has the same check list and tape headings as the Tandberg.

Operating the Recorder

- Place a cassette into recorder

1. On top of the cassette is the "Operating Lever", to be used for recording and playback. For recording, press the red RECORD button and keep it depressed while pushing the OPERATING LEVER forward. The built-in microphone can be used or there is a receptacle for an external microphone jack. The RECORD/BATTERY INDICATOR is an automatic voice leveler and the volume control has no effect on it.
2. To halt recording, pull back on the OPERATING LEVER to the "Stop" position.
3. To rewind the tape, hold down the black REWIND/CUE button. With the OPERATING LEVER in the "forward" position and depressing the REWIND/CUE button, the tape will go into the fast forward or "Cue" position. To stop, all that needs be done is to release the OPERATING LEVER as previously described.
4. To place a tape cassette in the recorder, (on the other side not visible in Diagram 3) open the cassette gate and place the cassette into the recorder. If at any time you must force the cassette, you know that you are not

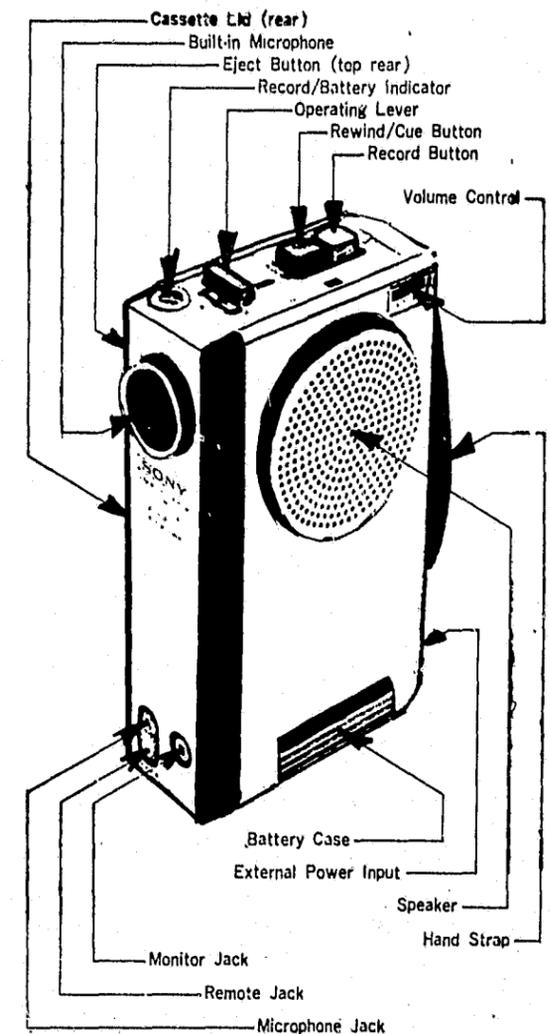


DIAGRAM 3

putting it in correctly. The end with the two cutouts is placed next to the hinge.

5. To replace battery: at the bottom of the cassette is located the BATTERY CASE. There is a striated button that must be pushed forward. When this is done, the battery will slide out easily. Nickel Cadium batteries can be recharged or replaced. The replacement can be a similar type or there is also available a battery frame that fits. Into this frame must be inserted four "penlight" batteries. In either case, the replacement then slides back into the battery receiver.
6. The SPEAKER is located on the side of the cassette just below the volume control. This is for playback purposes only.
7. The TC-40 can also be worn on the person. In order to do this, a remote control is usually inserted at the base of the cassette, just below the built-in microphone. The cassette is placed into a shoulder holster and the remote switch brought to a comfortable, usable position somewhere on the body (usually at the belt area). An external microphone is then inserted into the MICROPHONE JACK receiver located just above the MONITOR JACK. The microphone can then be located somewhere on the body, usually somewhere in the chest cavity area.
8. Ejecting cassettes: each side of the cassette has approximately a 45 minute capability. When one side has been used, depress the blue EJECT button. (For further information about tape cassettes, see heading in this section).

NOTE: The Sony TC-40 has a four-way powering system. It can be operated on the conventional batteries; on the rechargeable batteries; on household 115 volt current; or on the 12 volt automobile or boat battery--with an AC adapter.

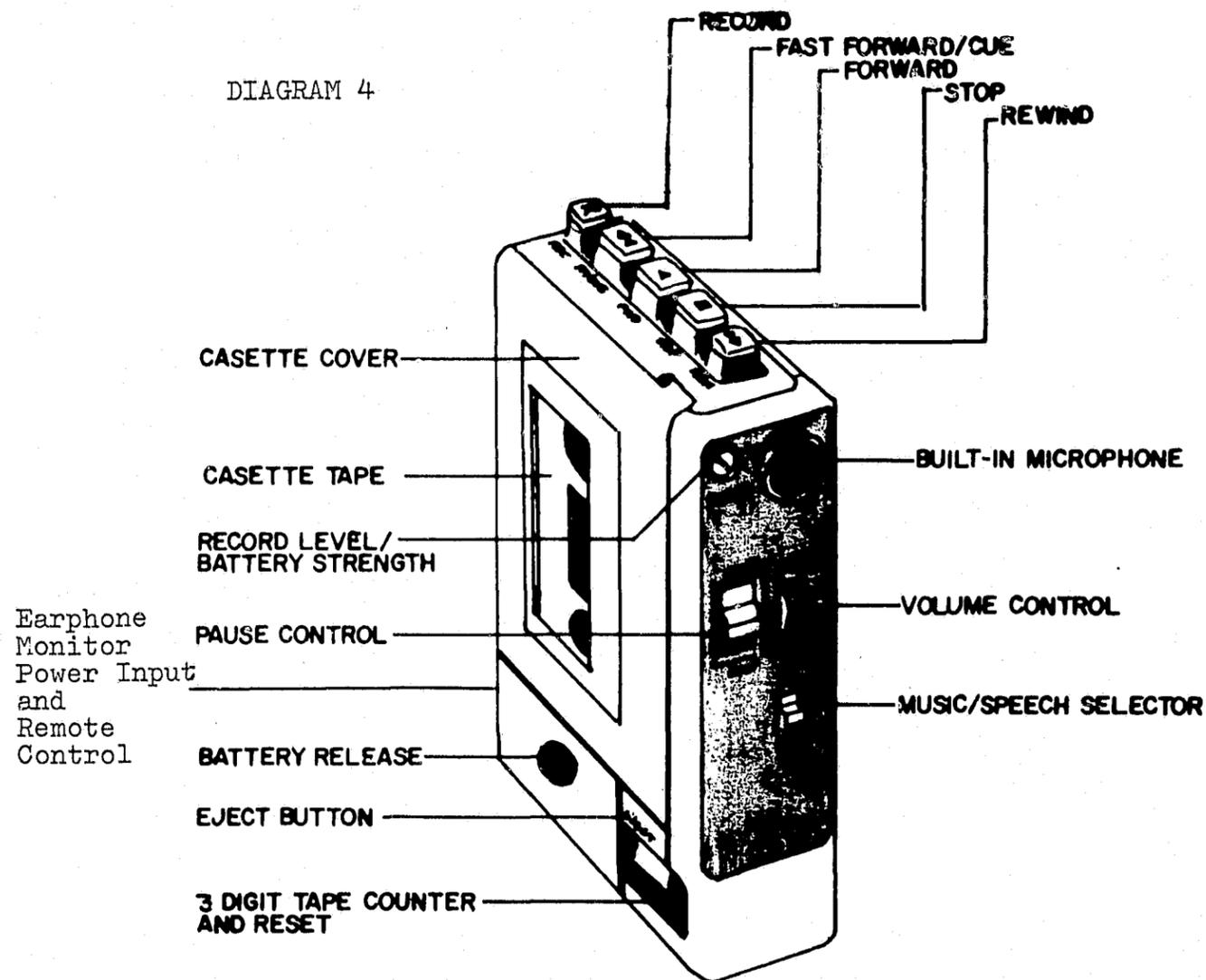
III. Sony TC-55 Cassette Tape Recorder

The Sony TC-55 Cassette Tape Recorder has the same primary usages as the TC-40 and the operation is basically similar to the TC-40 as well. Where there are differences, we have recorded them below.

Operating the Recorder

1. The first noticeable feature of the TC-55 is that it is smaller and that it contains a few additional features.
2. There is a built-in microphone with an automatic voice leveler. The VOLUME CONTROL is located on the face of the recorder and is used only for playback purposes.
3. Just below the VOLUME CONTROL is located the MUSIC/SPEECH SELECTOR. For our purposes it makes no difference at which setting this lever is placed. Its original purpose is for the recording of music and placed into MUSIC mode, it increases the fidelity.

4. To the left of the VOLUME CONTROL is located the PAUSE CONTROL which has a start/stop mode selector. This can be used in place of the remote control. However, it is important to remember that when the recorder is placed into the record mode and the PAUSE CONTROL is turned "Off", in order to record, the control must be turned to the "On" position.



SONY CASSETTE TAPE RECORDER TC55

5. The battery has the same capabilities as in the TC-40. In order to remove the battery from the case, there is a dark grey button located in the center of the battery case. This is depressed and the battery is slid to the rear. The replacement is then placed onto the tracks and slide it forward until it clicks into position.
 6. The cassette tape is placed in the same way. There is one modification. There is a black housing located at the back of the tape receiver. The cassette must be placed under this housing. Again, IF THE CASSETTE IS FORCED, YOU ARE NOT PUTTING IT IN PROPERLY.
 7. The recorder can also be worn on the person and can also be used with the remote control switch.
 8. To record: here there are additional modifications. There are separate buttons for the mode desired. In order to record, the red RECORD BUTTON must be depressed and held. The FORWARD button is then depressed and both will lock into position. In order to stop, depress the STOP button.
- NOTE: On the TC-55, when going from one mode to another, it is necessary to go to the "Stop" mode first.
9. Playback is the same as in the TC-40, the FORWARD button is depressed after the tape has been rewound. Remember the PAUSE CONTROL on the face of the cassette!
 10. Under the lid for the cassette there is the EJECT lever and the tape counter.

CASSETTES

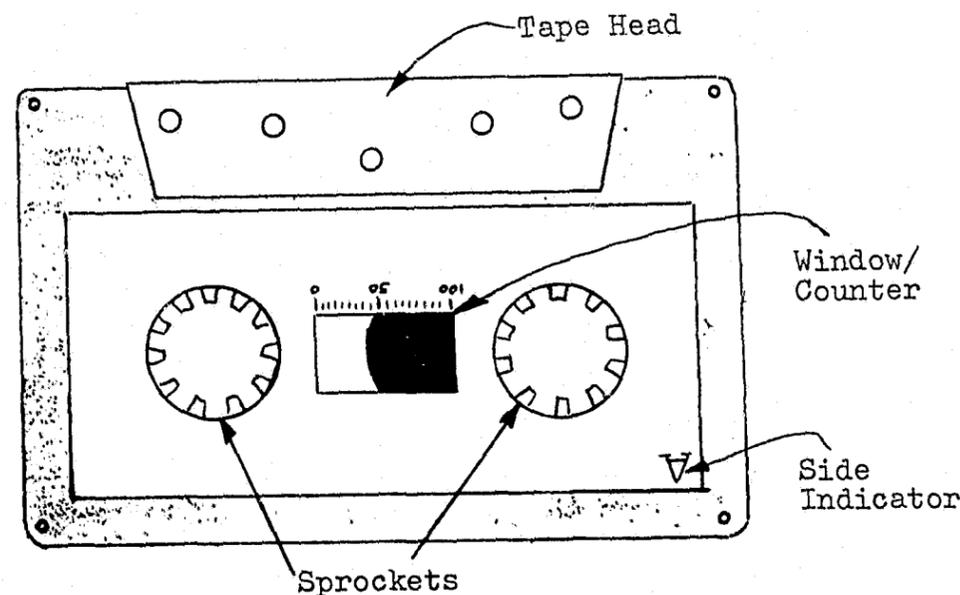


DIAGRAM 5

Tape cassettes come in two sizes most often, the 60 minute

and the 45 minute cassette (each side). The 60 minute has not proven as operable because the cassettes are standard and they are placing more milar tape on the same spools. Therefore, the tape has to be made thinner. It has a tendency to stretch and snap. The 45 minute tapes have worked out well.

In order to maintain the integrity of the tapes, there are several steps that must be taken:

1. Always use virgin tape (especially in a "payoff" situation).
2. At the conclusion of the recording, in order to preserve the conversation, remove the cutout tab located at the back of the cassette (see Diagram #5a). If one side has been used, remove the tab that is opposite the side indicator. If both sides have been used, remove both tabs. With the tab(s) removed, the cassette cannot be rerecorded on.
3. The tape should then be brought to the nearest station house and vouchered as evidence (especially in a sensitive investigation). The tape is then brought to Tech Services at I.A.D. for duplication.
4. When a duplicate tape has been made of the recording, the tape should have a jewelers wire placed through both sprockets and made fast with the department seal. It is then placed into the Property Clerk's office until it is required in court. The duplicate tape is then used for your purposes.
5. An added precaution would be to scratch your initials on both sides of the plastic case, and record any serial numbers that may be stenciled on the cassette.

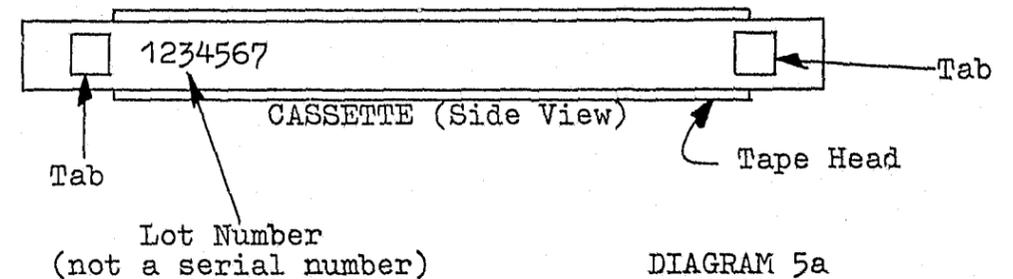


DIAGRAM 5a

IV. Minifon

The Minifon Cassette (wire) recorder is a miniaturized wire recorder that is used primarily in a "payoff" situation, generally as a backup unit for the Kel Intelligence Kit (which will be discussed in this section). It can easily be carried on the person but, it will shortly be phased out because the manufacturer is no longer making this recording device. It was first used because of its capability (three hours of recording). However, the wire has a thickness less than that of a human hair and has a tendency to break. It can be repaired by tying the two ends together, but that section of the wire

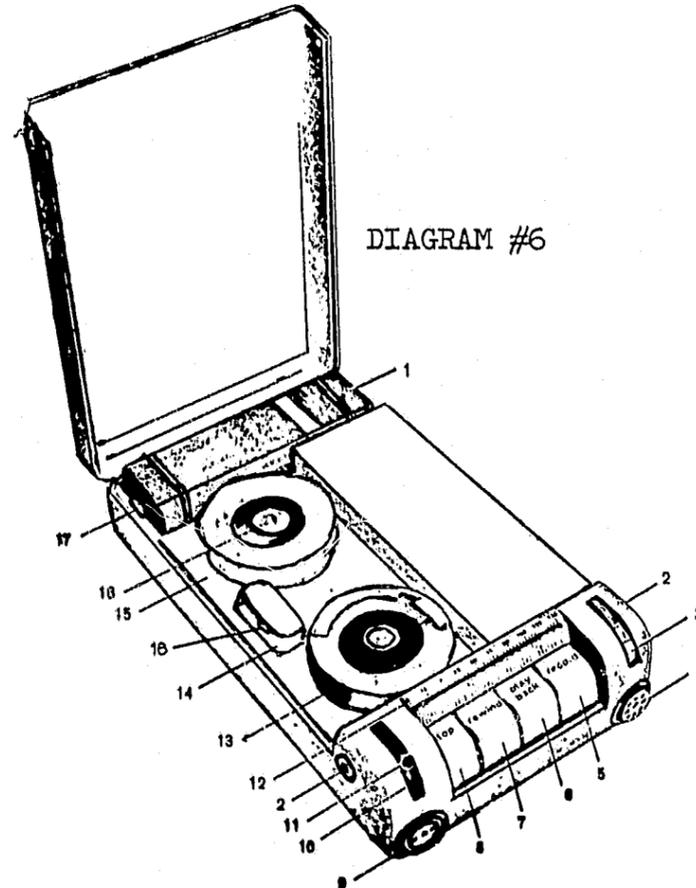
recording is lost where it was joined.

Operation of the Recorder

1. The operation of the Minifon follows the same principles as that of the other cassette recorders. Similar check lists should be followed, even though the technicians have the obligation when issuing the equipment.
2. Any differences that there may be is in the location of the operational devices (see Diagram #6).

KEY TO DIAGRAM 6

1. Battery
2. Push buttons for opening the lid
3. Volume control
4. 9-pole connection socket
5. Recording button
6. Playback button
7. Fast rewind button
8. Stop button
9. 2-pole connection socket
10. Battery meter
11. Pilot light
12. Tape counter
13. Supply reel
14. Recording/Playback head
15. Empty reel
16. Turntable
17. Positive (+) terminal
18. Metal Guides



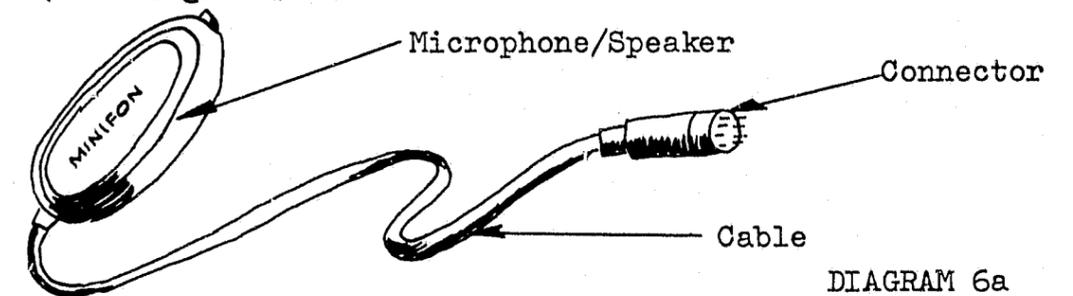
NOTE: to load wire spools: the red dot on the recording head (14) must be visible (Depress PLAYBACK/REWIND button) Insert wire behind the metal guides (18).

3. With the Minifon, there is no need to depress more than the RECORD button. To take the recorder out of the record mode, depress the STOP button.

NOTE: whatever mode is to be used, be sure to depress the button fully! The device will not operate if this is not done.

4. When placing a new or replacement battery, be sure that you match up the polarity, positive (+) with positive (+) and negative (-) with negative (-).

5. The microphone in the Minifon ONLY is also the speaker. When wearing the Minifon on the person, be sure to place the microphone somewhere in the chest cavity area. (See Diagram #6a)



EARPHONES

The headset of earphones pictured in Diagram #7 (right) are those to be used with the Tandberg Tape Recorder. There is a receptical (EXT or BOTH) located at the rear of the recorder for insertion of the headset.

The earphones are used when the operator is monitoring the recording or playing back for transcription. Be sure to adjust the volume when placing the headset on.

Speaker indicator must be in the External mode (label #1 with illustration D).



DIAGRAM 7

V. Kel Intelligence Kit SK-8 (Transmitter and Receiver)

The Kel Intelligence Kit (transmitter and receiver) is used primarily in "payoff" situations. Its advantages are that the transmitter is highly portable; the recording device can be located in an area removed from the scene and out of sight; the recording device (located in an attache case) can also be used as a recording device in and of itself. There are some disadvantages which should be called to the investigator's attention in order that he may take the proper precautions.

1. It is affected by high electrical generating devices (dynamo, diathermy, etc.), and heavy traffic noises.
2. In some areas of the city, there is great interference. It is therefore incumbent upon the investigator, if

the time permits, to take the equipment to the scene where it will be used and run a test on the equipment. In any event, before removing the equipment for use, always run a test to ensure that the equipment is operable.

Transmitter Operation

1. There are two sizes of transmitters used, one is larger (1/3) than the other.
2. The larger transmitter has an ON/OFF switch and an F1 switch. Be sure that when placing the transmitter on a person that this switch is in the F1 mode which is the confidential band.
3. Turn the transmitter ON and tape it into position. Turn the switch to F1 and tape that into position. Tell the person that will wear the device as little as is needed. (This will reduce tampering.)

KEL TRANSMITTER

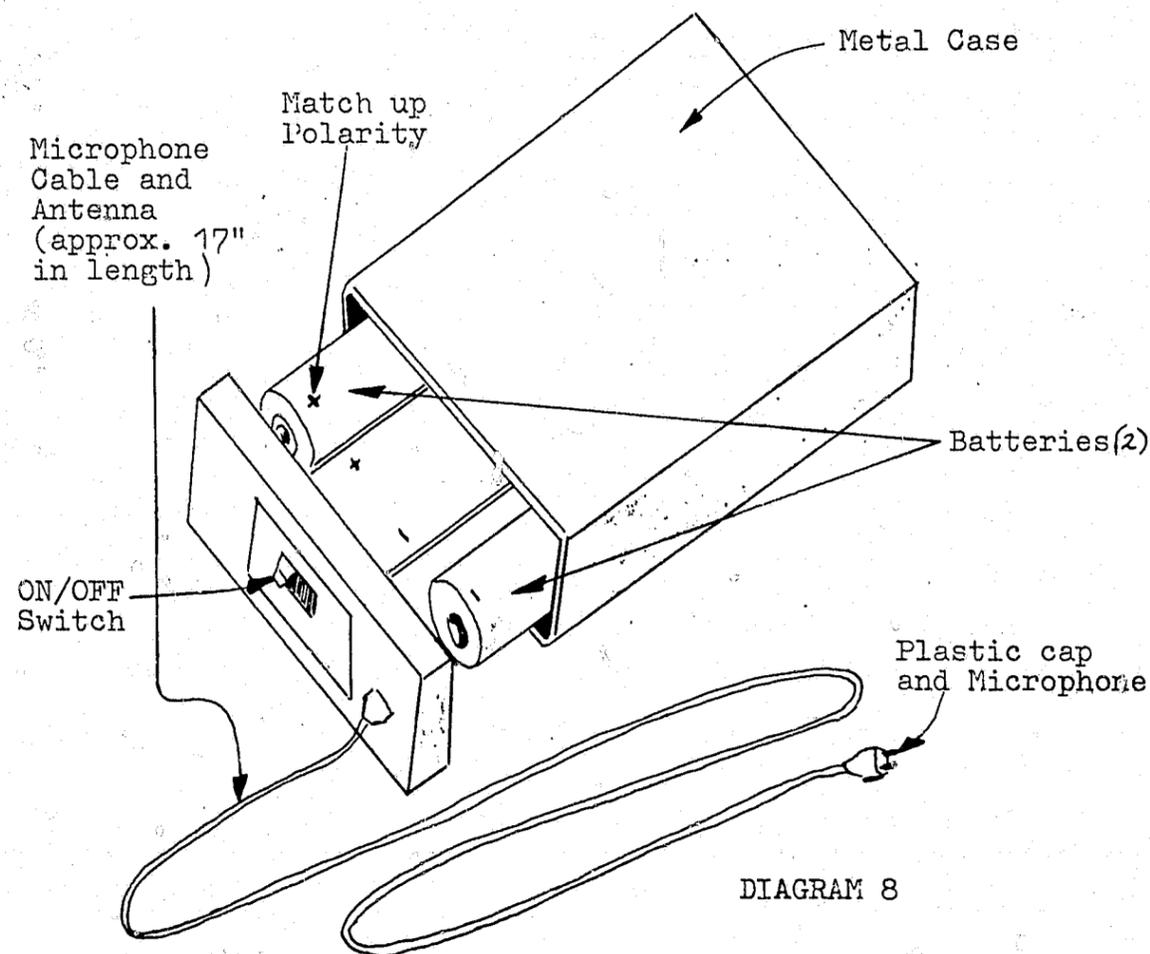


DIAGRAM 8

4. Before placing the transmitter on the person (see Diagram #9 for possible locations) be sure to record the permission of the subject to do so. The permission must be recorded and the response verbally given. This is required to cover the statute re: eavesdropping. The proper tape heading and permission request is given in Appendix H.
5. When the device has been placed on the person, the cable/antenna should be extended its full length for best reception. Keep in mind that the person has to move freely and therefore, enough slack should be allowed for in order to permit this. The cable attachment is merely a waxed fitting and will pull apart easily.
6. When placing the microphone somewhere in the chest cavity area, be sure that it is affixed firmly. If this is not done, there is a possibility that the clothing will rub against the microphone and cause static.
7. When replacing batteries, the case opens and there are receivers for two batteries. Be sure when placing the batteries in their receivers that the polarity is matched up as indicated on the case (positive to positive; negative to negative.)



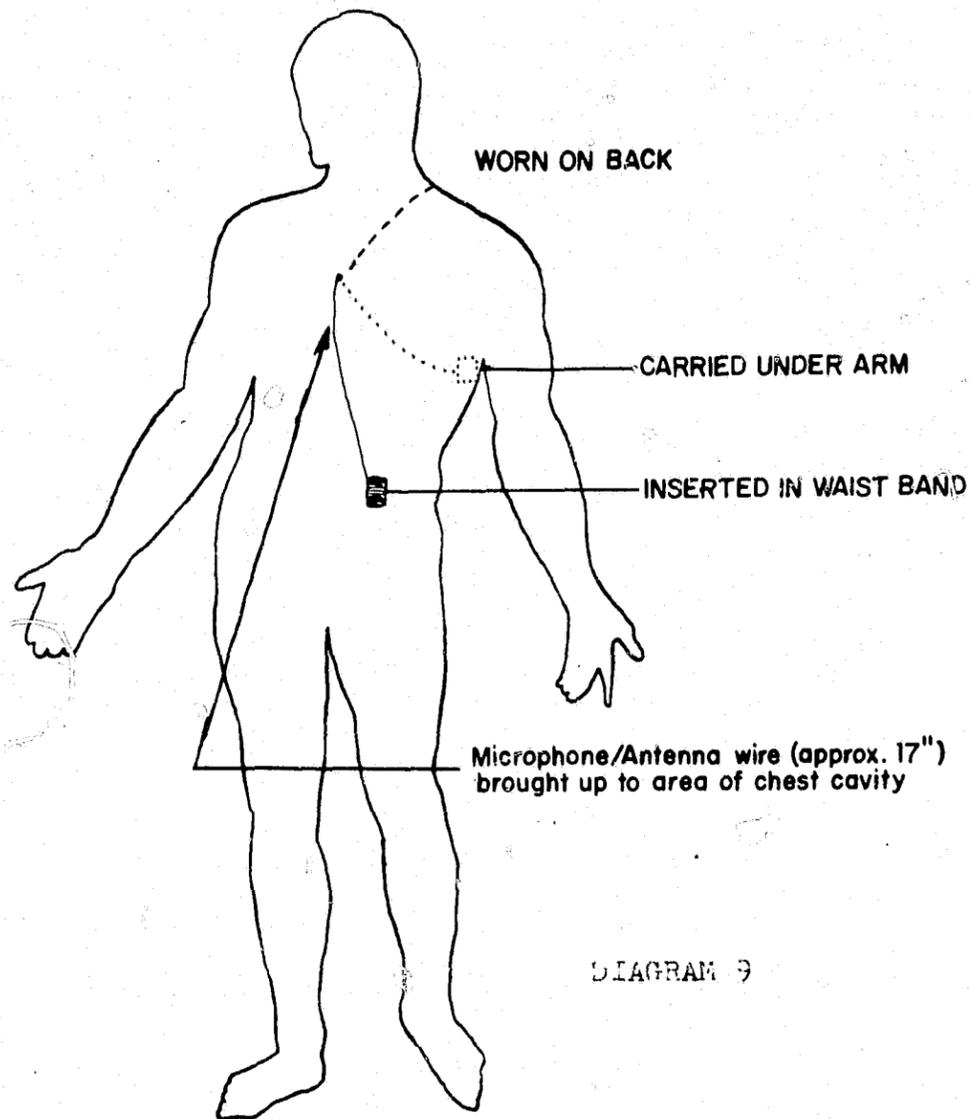


DIAGRAM 9

PLACEMENT OF KEL TRANSMITTER ON BODY

Kel Receiver

1. The receiver for the Kel Intelligence Kit comes in either of two carrying cases (both attache type). It has been pre-tuned to receive on the Confidential wavelength.
2. The receiver can be used in conjunction with the walkie or handie talkies that are also on the Confidential (F1) wavelength.
3. There are some additional disadvantages that it is well to keep in mind when using this equipment:
 - a. Anyone also having the confidential equipment can monitor what is being said in your situation.

4. The transmitter has a three hour capability and when the receiver is placed at the 1-7/8ths recording speed, it too has the same capability. This speed also facilitates reproducing duplicate tapes. When placed at this speed, both the transmitter and the receiver have similar capability.

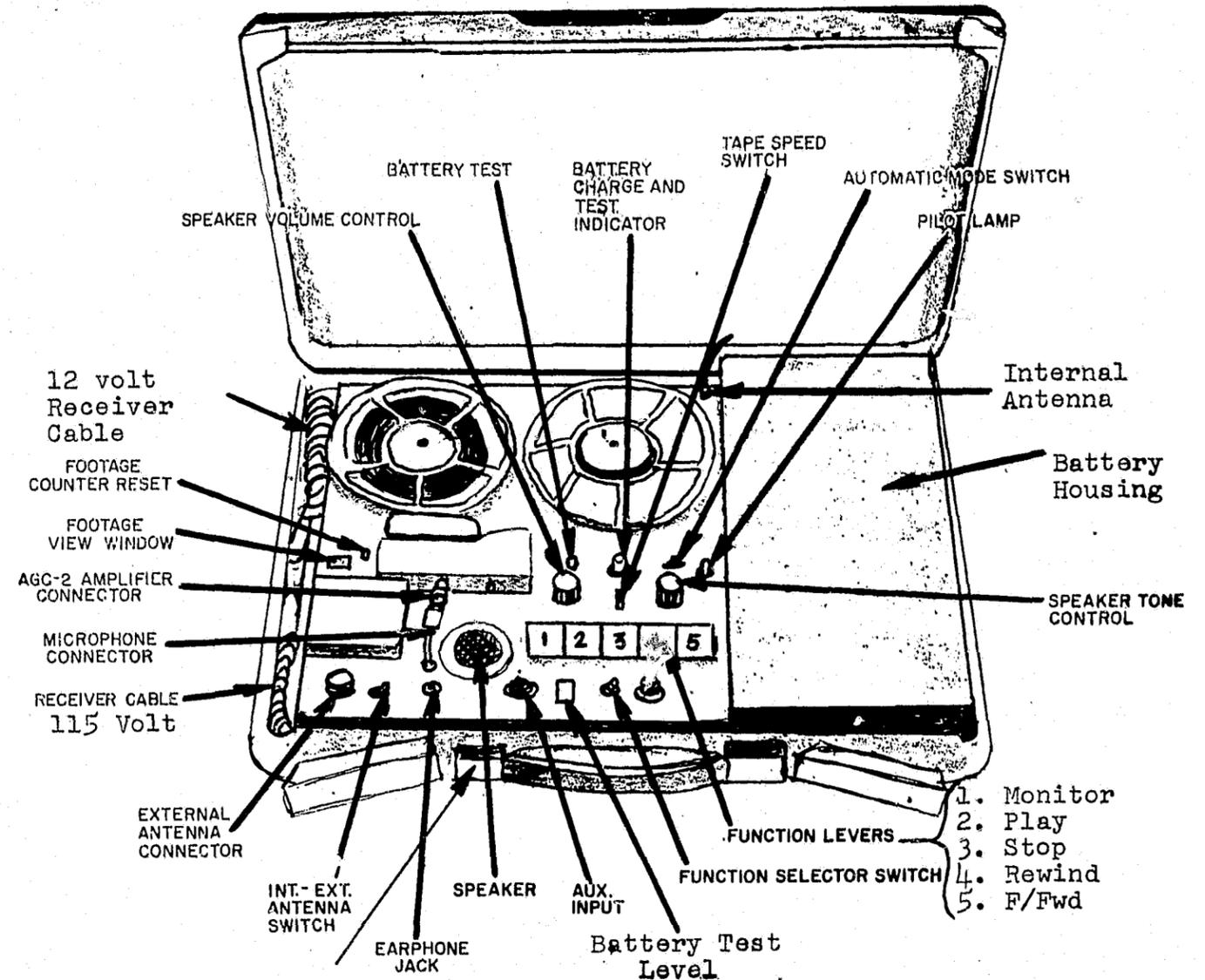


DIAGRAM 10

Operating the Kel Receiver

1. Power source: there are three ways in which the receiver may be operated:

- a. Battery-within the battery housing section there are seven Nicad rechargeable batteries. When taking the equipment, run a check of the battery (see general operation instructions).
- b. 12 volt-on the left side of the case, there are two extension cords. The one that is uppermost is the 12 volt extension and it can be inserted into the cigarette lighter in an automobile and operated off the car battery. (Insert fully)
- c. 115 volt-also on the left and lowermost is the 115 volt extension for insertion in wall socket on house current.

NOTE: When using any of the external power sources, the batteries are automatically by-passed. There is, therefore, no necessity to disconnect the Nicad batteries.

General Operating Instructions

1. Before removing the Kel Kit, the personnel in Technical Services will usually run through its operation with the investigator. If this is not done, there are operating instructions on the cover of the case. These instructions are only given as a check list.
2. Most Kels have a flashing red light to indicate that the power source is functioning. Sometimes, however, these lights are burned out.
3. Above the FUNCTION LEVERS (Monitor and Play) there is a BATTERY TEST button which is white in color. Depress this button and a white light should come up. This is called the BATTERY CHARGE AND TEST INDICATOR (see Diagram #10). There are times when this too may be burned out.
4. At the base of the case, there is a BATTERY TEST LEVEL. When the BATTERY TEST button (the same as in #3 above,) is depressed, the battery test level indicator should show a reading mid-way in the green band.
5. All three indicators can be used to test whether the external power sources are functioning. (12 and 115 volt).
6. Antenna-if the case is to be used alone, there is a built-in antenna. In this case, at the base of the case on the left side, there is an INTERNAL/EXTERNAL ANTENNA switch. This switch should be turned to internal.
If there is to be an antenna introduced (other than the one that is built-in) the switch (Inst. #6 above) should be turned to "external".
There are two types of external switches that are available:
 - a. Whip antenna-a rigid rod approximately 20" in length.
 - b. Clip on antenna-a smaller rod with a clip on attachment for the rain gutter of the automobile.
 In either case, both have a similar antenna connector

(see Diagram 10a below). The cleat must be seated firmly into the housing and the turn-screw made HAND TIGHT ONLY. The cleat makes the connection and the turn-screw only keeps it in place.

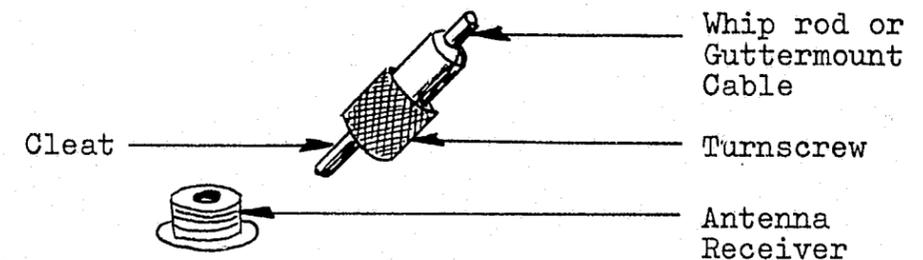


DIAGRAM 10a

7. If there is a transmitter used, at the base of the case there is a FUNCTION SELECTOR switch which should be turned to the "receiver" setting marked RCVR.
8. There are two tuning dials located just above the FUNCTION LEVERS. The one on the left is for SPEAKER VOLUME CONTROL and should be adjusted to "Playback" or "Monitoring". The dial on the right is the SPEAKER TONE CONTROL and is used to adjust the tone of the speaker.
9. Located centrally between the dials is the TAPE SPEED CONTROL switch. This should be set at 1-7/8ths (the same as in the other recorders). At this setting, the two-track tape has a capacity of three hours which has similar capability as the transmitter.
10. Just above the SPEAKER TONE CONTROL is located the AUTOMATIC MODE switch. There are two settings, "Continuous" and "Voice Control". This should always be on "Continuous" and never on "Voice Control". The reason being that on voice control there is a three to a five second delay in activating and the courts (because no one knows what was said during this delay) have not allowed these tapes into evidence.
11. The tape reels are placed onto the recorder the same as in the other recording devices.
12. In order to turn the recording device on, on the outside of the case, located to the left (on the SK-8) there is a plastic rectangular tab. This tab must be pushed to the left. In this position, the receiver is operable. At this time, the operator should make his tests of the power source.
13. On the right side of the case, there are the FUNCTION LEVERS (five in number). The first two levers on the left are the ones that must be depressed in order to record. The RECORD switch is depressed if monitoring is only desired. When recording, however, both the MONITOR and the PLAY lever must be depressed.

NOTE: again, when changing from one mode to another, the STOP lever should be depressed first. If the operator is monitoring the conversation between the subject and the suspect, and he wishes to record, there is again the problem of the three to five second delay, which depends on the reaction time of the particular operator. Since both the transmitter and the receiver are at three hours, when the subject leaves your presence his transmitter is operating, the receiver should also be in the recording mode to eliminate any delay in recording.

Portable Operation of Kel

1. When the attache case is to be used to make a recording.
2. The Kel is turned "On"
3. The battery test is the same as given above
4. The antenna switch should now read INTERNAL since the case will be locked and closed.
5. The FUNCTION SELECTOR switch should now be turned to read: AGC (Automatic Gain Control). This alters the case so that it is not picking up the transmissions from outside but the two microphones that have been built into the case itself. These microphones are located on either side of the handle and inside the case.
6. The TAPE SPEED, AUTOMATIC MODE should remain the same as described above (1-7/8ths and "continuous").
7. The recording operation remains the same - depress both the MONITOR and the PLAY "Function Levers". These should be put into the record mode and the receiver turned on. This will put drag on the tape and eliminate snarling of the tape.
8. The SPEAKER VOLUME CONTROL should be turned down fully. If this is not done, there will be "feedback" hum that is clearly discernable.
9. The attache case can now be closed. Since the tape has a three hour capability, this should be ample time for any recording that is sought.

NOTE: keeping the receiver in the recording mode and waiting to make contact before turning the recorder on, can lead to problems that will not be visible to the operator, such as the snarling of the tape.

VI. Binoculars and Telescopes

Both instruments are used primarily in clandestine field observations. In addition to the regular 7x35 wide angle binoculars there are also available 7x50 Navy-style Night Glasses. Telescopes, if they are to be used for long-distance observations and if they are to be used for extended periods of time, should be put onto the tripod mounts.

1. Telescopes: magnification usually between 10 and 40 power. The view is narrowed and they should not be used for any observation of moving objects. When the telescope is not in use, the lens should be covered to protect it from dirt and scratches.
2. Binoculars: magnification usually between 6 and 20 power. Binoculars can be used for stationary surveillance or observation, as well as for fast moving objects.
 - a. Prisms are added which reflect the path of light (7x35 used in daylight hours and 7x50 used during the hours of darkness because of their light gathering capabilities.)

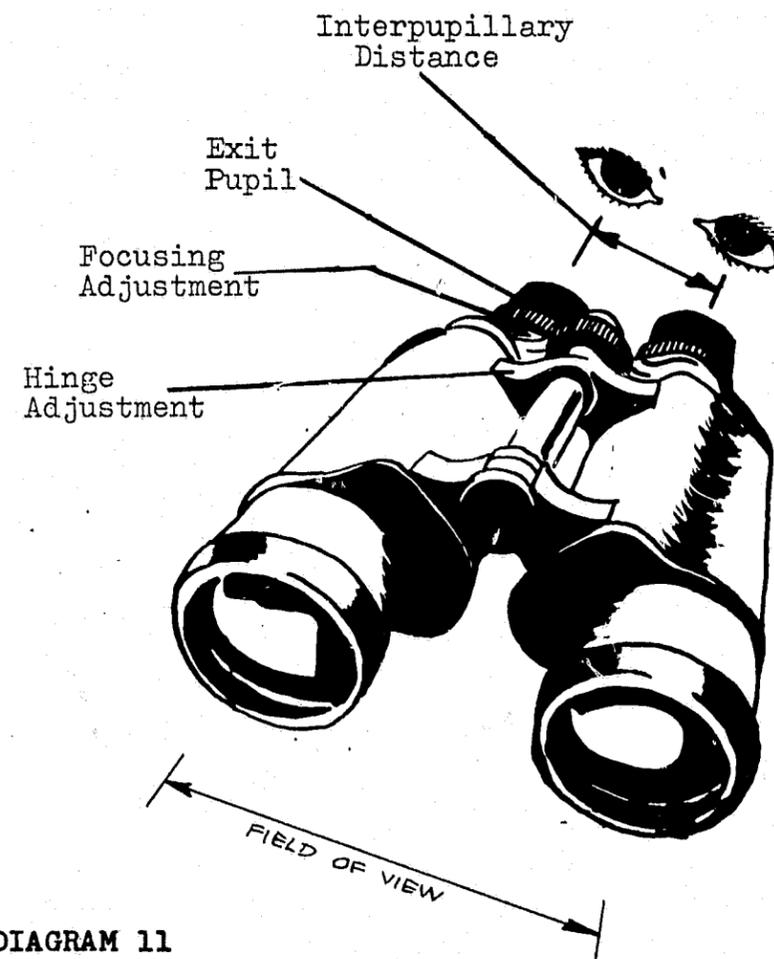


DIAGRAM 11

b. Technical Terms:

- 1) Power-the number of times an object is magnified (eg., 8x = object magnified 8 times)

- 2) Exit Pupil-brightly illuminated circle, measured in millimeters, seen in the eyepiece when held away from the eye. Daylight-the eye accommodates 3-4mm, rising to 7mm at night.
- 3) Field of View-the extent of the field seen through the glasses. The greater the magnification the field of view is reduced.
- 4) Focusing-interpupillary distance of the eye varies from 55 to 70mm. Adjustment made by bending the bodies on their hinges (see Diagram #11).

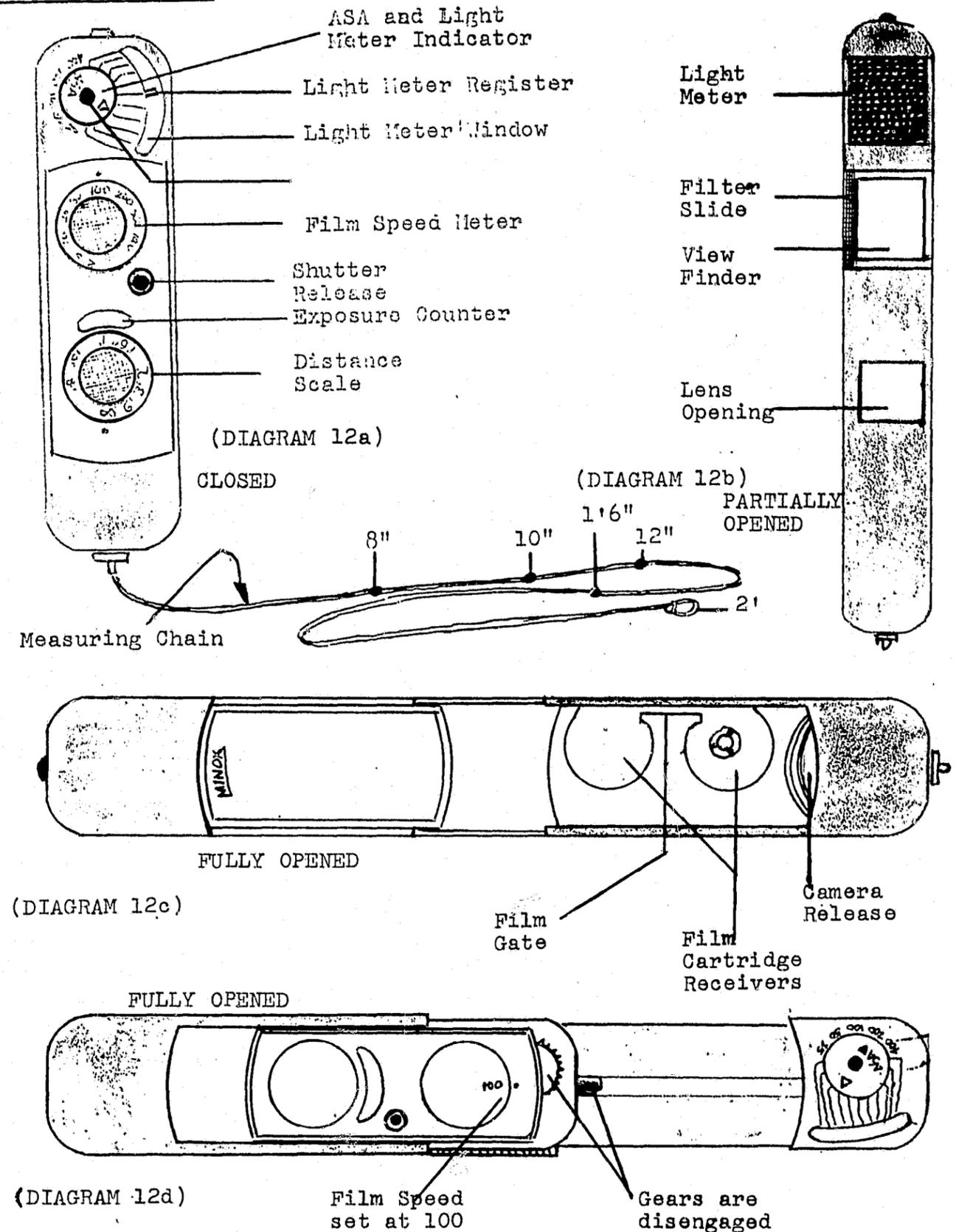
VII. Cameras

Depending on the pictures sought by the investigator, his camera needs can vary from the Minox "B" to the 35mm still camera, to the 16mm movie camera, to the Polaroid camera. Whatever his needs, we are listing general instructions on each. These brief instructions will not make experienced cameramen of you. That depends on the individual himself. The best way to gain knowledge and experience of any equipment is to take it whenever possible and Practice - Practice - Practice.

Minox "B" Camera

1. A miniaturized camera using 9mm film for taking pictures indoors and outdoors. Can be used with or without the flash attachment, and it comes with a binocular attachment as well.
2. To load-the Minox (36 and 50 film cartridges) is loaded by turning the camera to the partially opened position (see Diagram 12a). In this position the case release is then exposed (Diagram 12c). Depress the release and the camera should open to its fully opened position (see Diagram 12c). There are two film cartridge receivers and the cartridge is inserted in these. The film has to pass from one receiver to the next through the film gate. Should this be too narrow to permit the free passage of the film, close the camera slightly and notice that the film gate will open. The camera is closed when the film is seated in its receivers.
3. The Minox has just one f/stop, so no adjustment need be made for this. The f/stop is 3.5.
4. With the camera closed (Diagram 12a) set the ASA at the prescribed setting. There is a set of film instructions in each package of film with the recommended ASA setting.
Set the camera at this setting.
By placing the index finger in the center of the SHUTTER SPEED DIAL turn the meter and at the same time, look at the ASA METER. You will notice that by turning the SHUTTER SPEED DIAL, the ASA is changing. The ASA is indicated by the small triangle. Set the ASA.
5. Now open the camera fully (see Diagram 12c). Again, with your index finger on the FILM SPEED METER, turn this until it reads 100, indicated by the red dot. This must be matched up with the white dot located on the casing.

MINOX "B" CAMERA

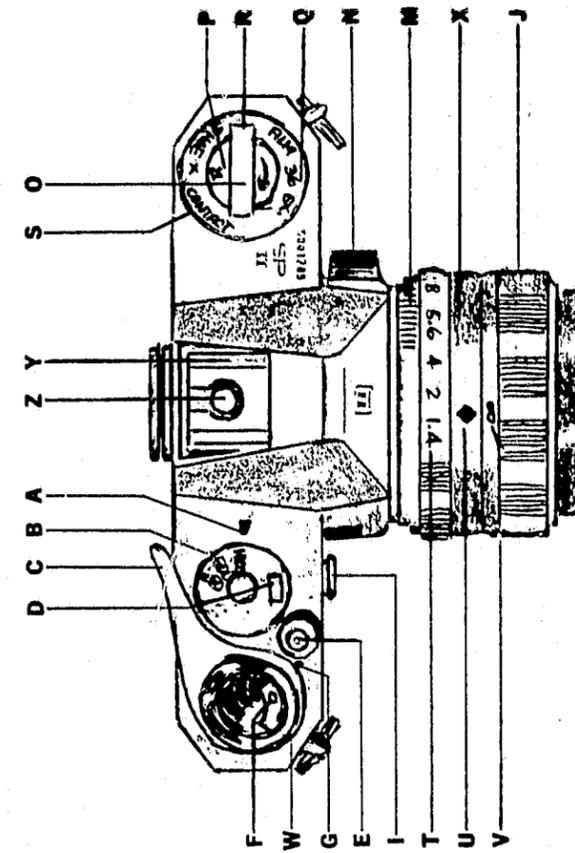


NOTE: The film speed is set with the camera opened fully because in this position, the gears are disengaged and there is no effect on the ASA setting.

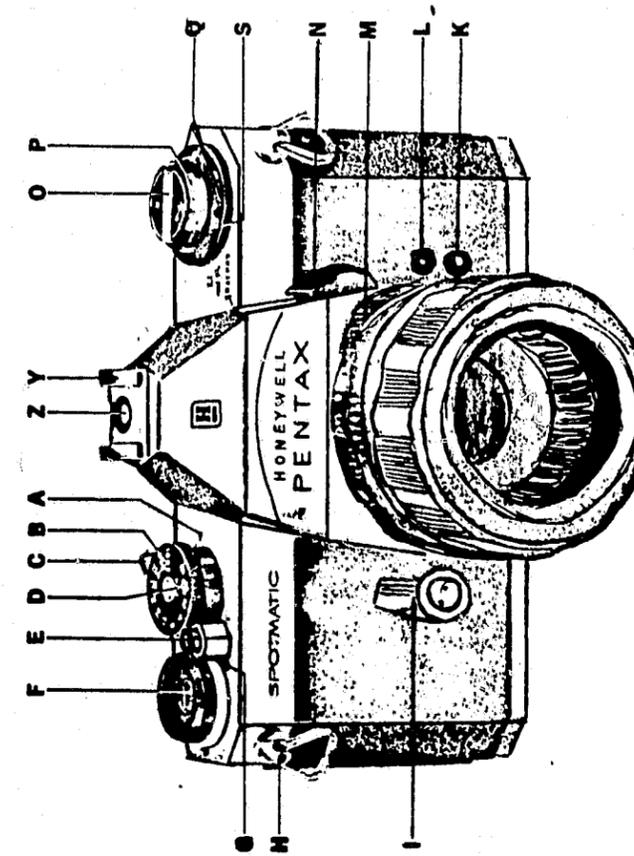
6. Close the camera and then re-open to the partially open position (Diagram 12b). Now depress the button located in the center of the ASA/LIGHT METER INDICATOR (Diagram 12a). When the camera is in the partially opened mode, the view finder and the light meter are opened and the lens has its shield lowered. LOOKING at the LIGHT METER WINDOW you will notice that the LIGHT METER REGISTER (a small needle) will react when depressed to the amount of light available. This indicator should come near to one of the white lines inscribed on the case, indicating what setting to make, and will lock in place.
7. Again placing your finger in the SHUTTER SPEED DIAL, turn it and once more look at the ASA indicator. Directly opposite the ASA triangle, there is a second triangle. This second triangle should be brought to the line indicated by the Light Meter Indicator (needle). When this is done, the camera is synchronized-the film speed, the ASA setting and the Light Meter reading.
8. The only other task remaining to be done is to set the distance at which you will be taking pictures. There is a DISTANCE SCALE which has settings from 8" to infinity. Any picture taken beyond 6 feet, set the distance at the infinity setting. This is done by placing the index finger in the center of the dial and turning it.
9. The camera comes with a chain attachment. Located on the chain there are small knobs. These are at the same distances as indicated on the camera. (i.e., 8" - 10" - 12" - 1'6" - 2') - the end of the chain is two feet from the camera. When taking photographs of documents and the like, this scale is useful.
10. In order to advance the film, close the camera and then open it to the partially opened position. This motion advances the film. Small window gives film number.
11. Looking through the view finder, the picture seen in the center of the white square, is the picture that will be taken. With the hands on the top of the camera (be careful not to cover the lens with your fingers) depress the black button (the SHUTTER RELEASE). When you have taken the photograph, with a push-pull action, advance the film to the next exposure.

Pentax, Nikon, and Canon 35mm Cameras (See Appendix "I")

1. Although there are a variety of cameras in use, their basic operation is similar. The difference will be in the features that each has.
2. Most 35mm cameras come equipped with 50mm (f/1.4) and 55mm (f/1.8) lenses. The distance scale ranges from 45cm (18") to infinity ().



- M - Preview lever
- N - Exposure meter switch
- O - Film rewind crank
- P - Film rewind knob
- Q - Film type reminder dial
- R - Film type reminder dial setting lever
- S - FP/X switch rim
- T - Diaphragm ring
- U - Diaphragm and distance index
- V - Distance scale
- W - Exposure counter index
- X - Depth-of-field guide
- Y - Hot shoe
- Z - Hot shoe flash contact



- A - Shutter speed index
- B - Shutter speed dial
- C - Rapid wind lever
- D - ASA film speed setting
- E - Shutter release
- F - Automatic reset exposure counter
- G - Cocked' indicator
- H - D-ring lug
- I - Self-timer cocking lever
- J - Focusing ring
- K - X flash terminal
- L - FP flash terminal

3. Film loading-avoid direct sunlight when loading the camera.
 - a. Open the back by pulling out the rewind knob until the back cover snaps open ("P" in Diagram 13).
 - b. Place the film cassette into the cassette chamber, and push back the rewind knob. Draw out the film leader and insert it into slot of the take-up spool.
 - c. Advance the film by alternately turning the rapid wind lever ("C" in Diagram 13) and releasing the shutter ("E" in Diagram 13) until both sprockets have properly engaged the film perforations. Close the back by pressing it firmly.
 - d. If the film is properly loaded, the rewind knob will turning the rapid rewind lever.
4. Film Speed-the ASA film speed rating of all 35mm films is given in the data sheet packed with each roll of film. The higher the ASA number of the loaded film to the small red index which appears alongside the figure 1 etched in dial. Then cock the rapid rewind lever.
5. Set Shutter Speed-turn the shutter speed dial and set the speed you wish to use to the index. When outdoors, set the speed at 1/125 second or faster, depending on the lighting. When indoors, set it at 1/30 or in its neighborhood. Change the shutter speed later, when necessary. The shutter speed index is etched into the camera ("A" in Diagram 13).
6. Compose and Focus-while viewing through the view finder, turn the distance scale ("V" in Diagram 13) ring with your thumb and index finger until you get the sharpest image of your subject at the microprism center of the finder.

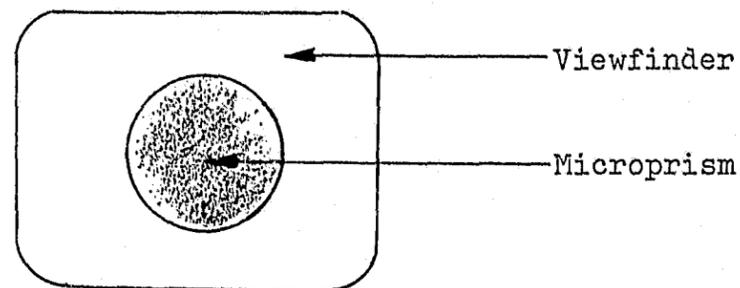


DIAGRAM 13a

7. If the camera that you are using is equipped with a light meter ("N" in Diagram 13) turn on the light meter switch. Push up the switch button with your thumb. Through the viewfinder, you will observe the movement of the meter's needle on the right side of the ground glass. Be sure to turn off the meter's switch when not actually taking any readings.

CONTINUED

1 OF 2

8. Rotate Diaphragm Ring-the needle moves up and down with the turn of the diaphragm ring ("T" in Diagram 13). When the needle rests at the center, you will get the correct exposure. If the needle does not come to the center no matter how far you turn the diaphragm ring, change the shutter speed. When the needle is off-center and close to the (+) mark, you will get over-exposure: change the shutter speed to a faster setting. If the needle is closer to the (-) mark, you will get under-exposure: change the shutter speed to a slower setting.
9. Release Shutter-hold the camera firmly in your left hand and trip the shutter ("E" in Diagram 13). When the shutter is released, the meter switch will automatically turn off, and the needle will remain fixed off and underneath the center. The diaphragm will re-open to its full aperture and the overall image will look brighter. Cock the rapid wind lever for the next picture. (When taking a series of pictures under the same lighting conditions, it is not necessary to repeat instructions 8 and 9).

10. Depth of Field Guide

If you want to know how great the depth of field is at a certain aperture, look at the depth of field guide ("X" in Diagram 13). DEPTH OF FIELD IS THE RANGE BETWEEN THE NEAREST AND FARTHEST DISTANCES WHICH ARE IN FOCUS AT DIFFERENT LENS APERTURES. The calibrations on each side of the distance index ("U" in Diagram 13) correspond to the diaphragm setting and indicate the range of in-focus for different lens apertures. For example, if the lens opening of f/8 is to be used, the range on the distance scale ring ("V" in Diagram 13) covered within the figure 8 on the depth-of-field guide indicates the area in focus at the lens opening.

NOTE:

as the lens aperture changes, the effective depth of field also changes.

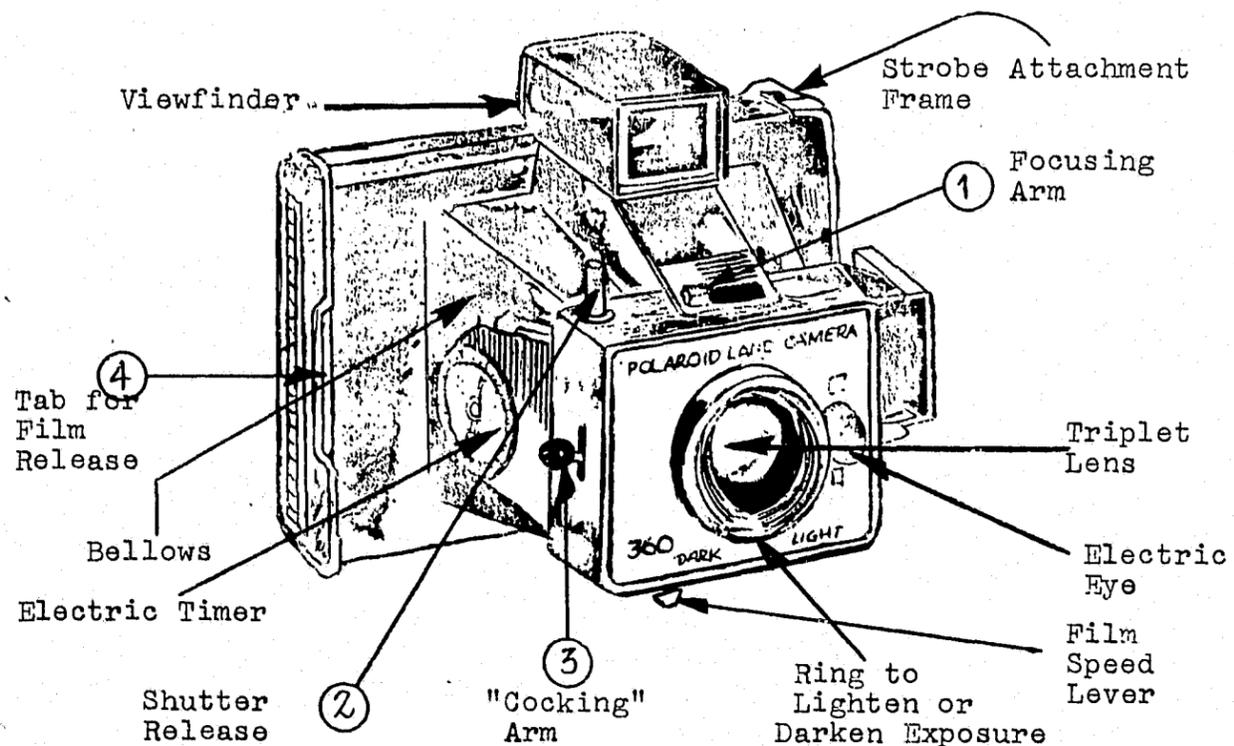
11. "Cocked" Indicator-a red disk appears in a small window alongside the shutter release button ("G" in Diagram 13), when the shutter is cocked, and blacks out when it is released.
12. There is a built-in automatic reset exposure counter ("F" in Diagram 13).
13. Film Rewind-Release must be depressed to allow film to be rewound. There is a rapid rewind crank for speedy film take-up. Film rewind release button on bottom of camera body rotates while the film is being rewound. The rapid rewind crank ("O" in Diagram 13) lifts out of the Film rewind knob.
14. A Reminder-there is just one way to gain proficiency with any of the equipment mentioned in this section, the individual must take the equipment on his own (when not in use) and Practice - Practice - Practice!

15. The Nikon also requires the rim around the shutter release button to be turned from "a" to "r".

Polaroid 360 Camera With Strobe Light

1. Capable of reproducing a colored photograph (if desired) in one minute. Allows the subject to be rephotographed if the desired results are not achieved in the first try. It is especially good when making reproductions of "B" photographs or other; when the investigation is of a sensitive nature and there is a desire to remain clandestine. In this instance, the camera must be used in conjunction with the copier stand.
2. Comes equipped with a clip-on electronic strobe light for flash photography. There is also a Zeiss-Ikon viewfinder which frames the picture making adjustments quickly discernable, by moving split image rangefinder to single image.
3. Each film pack comes with easy to read and follow instructions.
4. Before the investigator takes the camera for use, the camera, viewfinder, flash attachment and the film requirements should be checked out in advance.
5. Each film pack comes with a preservative and this should be applied to the photographs to protect them from fading. This coating also forms a hard covering over photo which protects it from scratches.

DIAGRAM 14



6. General Instructions

- a. There may be a variance in the cameras, but the general instructions will remain constant.
- b. To operate the camera, it becomes a matter to follow the numbers:
 - (1) After the film pack has been inserted into the camera, look through the viewfinder (see Diagram #14) and by moving the "Focusing Arm" adjust until the picture becomes sharp in contrast.
 - (2) Although this would normally be the second step in the process, for some reason Polaroid actually has this as the third step. After the camera has been focused and the camera cocked (see Inst. #3) to take the photograph, depress the shutter release.
 - (3) By depressing the "Cocking Arm" the camera is ready for photographing.
 - (4) When the camera has been cocked and the snapshot taken, pull out white tab located near the right hand. The exposed film strip tab will come out and must be pulled straight out, with no hesitation, and this must be held for one minute to allow the emulsion to develop and coat the picture with the protective preservative.
- c. If the photo is too dark or it is too light, an adjustment can be made by turning the ring around the lens. The indicator marks are below the lens.
- d. There is also an electronic timer that can be used.
- e. The "Strobe" attachment frame is located on the left side of the camera as you hold it for use.
- f. The "Electric Eye" adjusts automatically.
- g. At the base of the lens board there is a film speed lever. Adjust this to the specifications listed in the film pack.

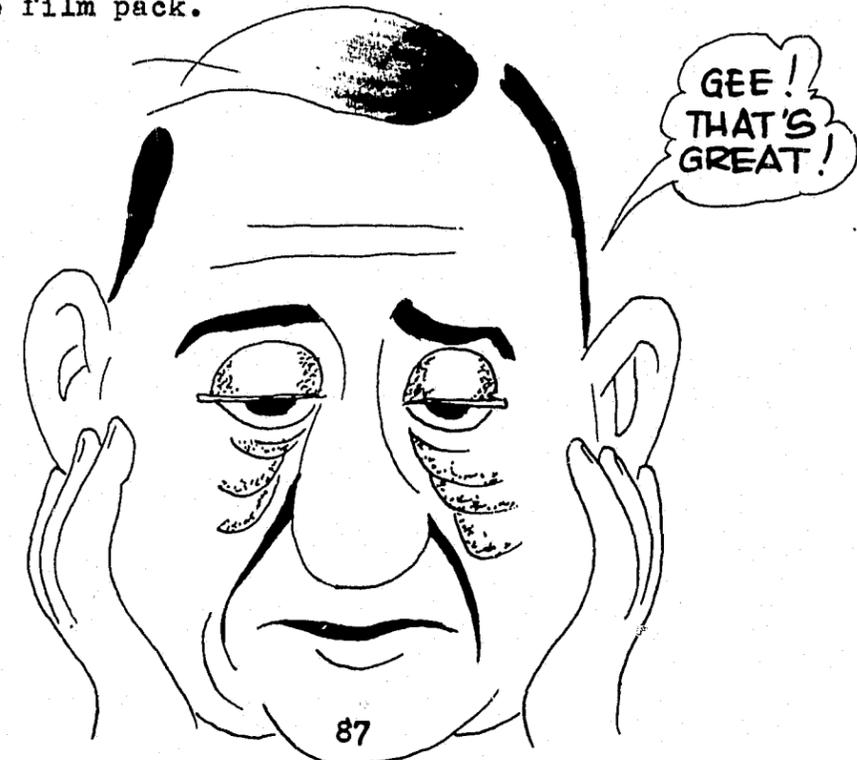
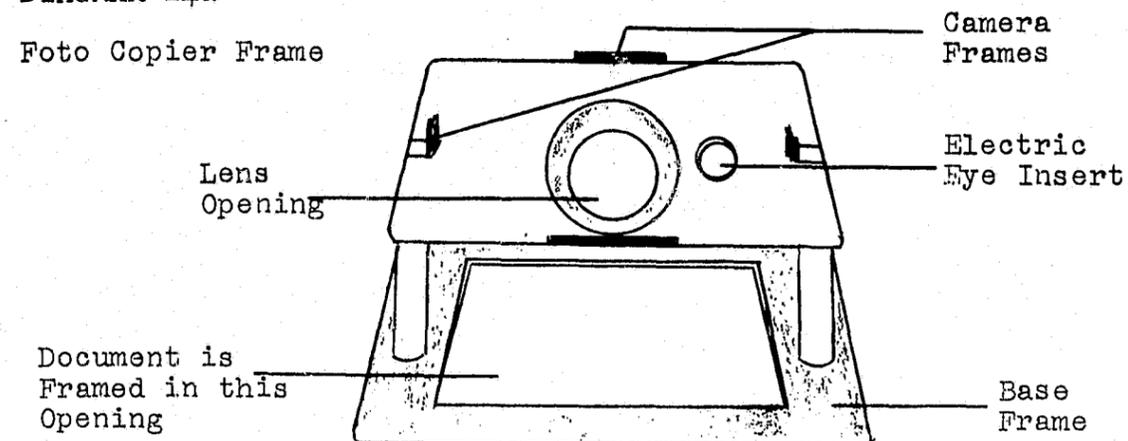


DIAGRAM 14a



5. Lens focal length will be either 1" (f/1.9 - lens aperture) or 3' (f/2.5) for telephoto photography. Predetermine the distance (if it is possible) the distance at which you will be photographing.
6. The camera is held firmly in both hands for ordinary film making but recommend that it be set on a tripod for extended filming.
7. Lenses are mounted on a turret head - check these lenses before filming to be sure that the protective covers have been removed.
8. Viewfinder focusing should be taken for each lens that is to be used.

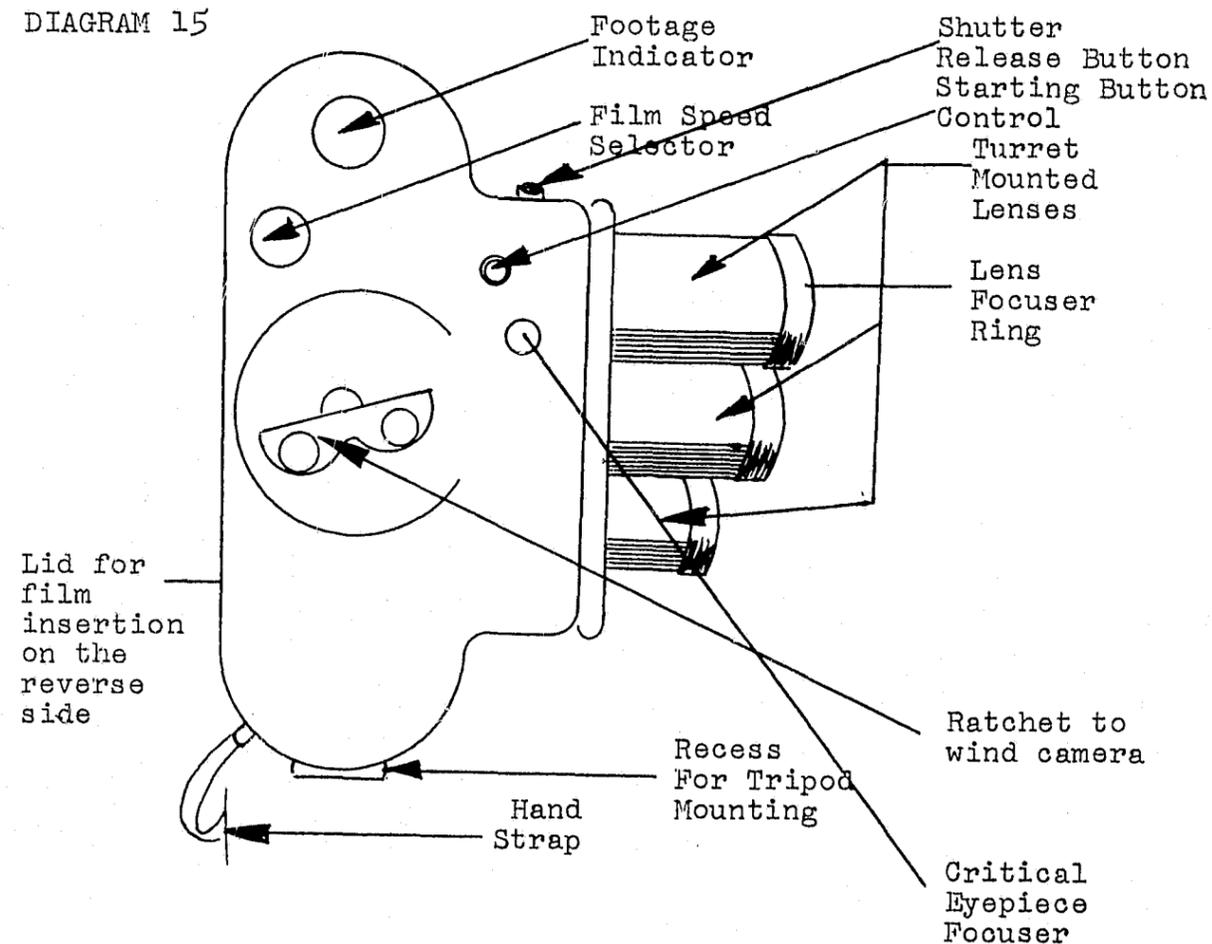
Photograph Copier Frame (Kalimar Copier Stand)

1. When photos are desired and there is no wish to make an Official request (UF 90) the Foto Copier (See Diagram 14a) can be used in conjunction with the Polaroid Camera.
2. The object to be reproduced is centered within the base frame cutout.
3. The Polaroid camera is then set into the upper frame; the lens into the receiver and the electric eye into its receiver.
4. Some copiers come equipped with their own lighting system, but if there is none, you may need the Strobe flash, but they are seldom necessary; ordinary desk lamp is sufficient with 107 B/W. film at ASA 3000.

16mm Movie Camera

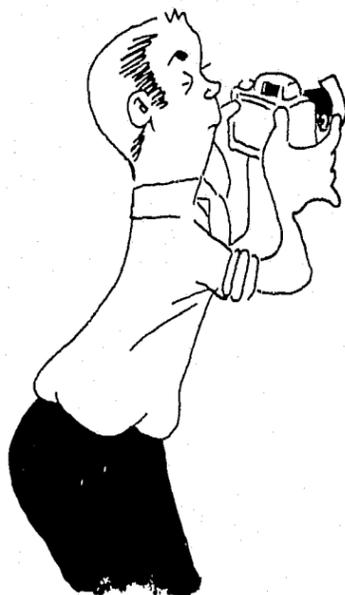
1. The camera body must be opened in order to insert the film (cartridge or spools)
2. If the spool type of film is used, the spool with the film is placed into its receiver; there is a lead portion on the film, this is fed through the film gate and onto the takeup spool; usually one complete turn locks the film in place; with the camera still open, run the film and see that the sprockets are in place and the film is being taken up by the spool.
3. Once the film is set in place, most cameras require that they be wound up in order to operate. There are some that work electrically (check before using camera). The ratchet key (see Diagram # 15) must be turned counter-clockwise. DO NOT FORCE!
4. Speed adjustment dial has seven settings, or the number of exposures per second. Predetermine the desired setting to be used. 24 frames per second is normal setting.

DIAGRAM 15



9. Starting button (See Diagram #15) is located behind the turret, should be depressed to begin filming. There is a hum that will be heard if the motor is operating.
10. Frequently check the "Footage Indicator" to see whether the film needs replacing.
11. When "panning" the camera (moving the camera manually) be sure to do so slowly so that there is no distortion in the film.
12. Be sure to cover lenses when camera is not in use, in order to protect it from dust and scratches.

REMINDER!
Practice!
Practice!
Practice!



SONY VIDEO TAPE RECORDER

Of recent vintage in the field of investigations is the use of video tape equipment. Many investigations are now being conducted with this equipment instead of the 16mm movie camera and/or the 35mm still camera. It has also proven itself useful when there is a need for a photograph of the suspect and there is no other photo available to the investigator.

In order to secure a photograph: the operator of the video camera "zooms" (close up) in on the subject when making the tape. On playback, the Videocorder can be made to "freeze" on that close up on the monitor. By taking the Polaroid camera and the portable copying stand, these are placed against the monitor screen and the photograph is taken.

I. The Sony Video Camera

A. Camera Cable - insert the male connector of the camera cable into the Camera Connector on the Videocorder (See Diagram #17). Mate the guide pin of the cable connector to the slot of the receptacle and turn the locking collar of the connector counterclockwise until the cable is firmly locked into place, (see Diagram # 16). The camera cable can be extended up to 33 feet with

the use of a camera extension cable.

B. Video Camera - the viewfinder permits direct monitoring of the camera output. It will assure accurate framing, precise focusing and parallax-free shooting (the viewfinder and the lens pointing in the same direction).

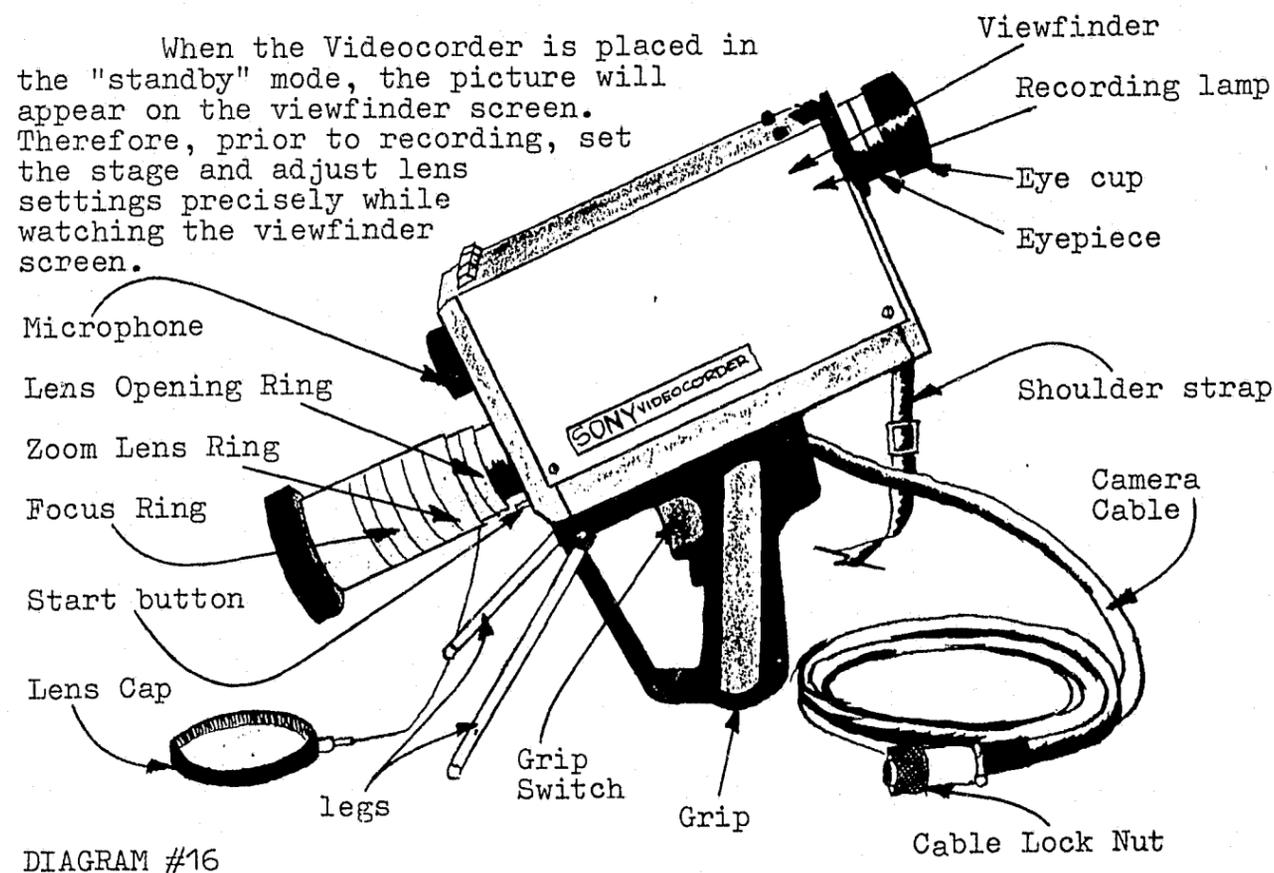
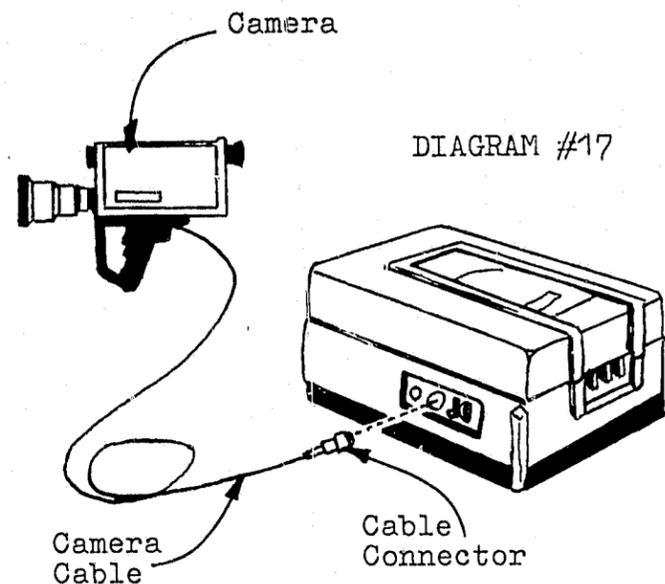


DIAGRAM #16



DON'T START THE TAPE UNTIL THE PICTURE IS SATISFACTORY!

DIAGRAM #17

1. Lens Opening Ring (see Diagram #17a) - the Automatic Sensitivity Control of the camera permits operation over a wide range of lighting conditions. In most cases the lens should be wide open (f/1.8). However, by setting the optimum lens opening to suit the light conditions, best picture quality will be assured.

- a) For INDOOR shots (normal artificial lighting) set the lens opening ring to f/1.8
- b) For OUTDOOR shots (cloudy or shade); set to f/4 - f/5.6 (bright scene); set to f/8 - f/11

Further precise adjustments should be performed by watching the viewfinder screen. The use of a smaller lens opening (higher f number) is also helpful in prolonging the life of the video tubes.

2. Focus Ring (See Diagram #17a) - estimate the distance from the lens to the subject, turn the Focus Ring and set the distance (feet) to the black line on the lens tube. Precise focus adjustments should be performed while watching the viewfinder screen.

3. Zoom Ring (See Diagram #17a) - the zoom lens puts the image closer or further away on the screen, as desired. Set the stage for a wide-angle shot, then close up on the point of interest. The lens travels its full range from 12.5mm wide-angle to 50mm telephoto.

C. Recording - set the Camera/TV Switch of the Videocorder to CAMERA (See Diagram #). Set the Record Lever of the Videocorder to REC and then Function Lever to FWD. The Record Lever will lock into place and the camera and Videocorder will remain in the "Standby" mode.

Remove the lens cap and point the camera at the subject. Adjust the Lens Opening Ring and Focus Ring while you are watching the viewfinder. Pictures will appear on the viewfinder approximately 20 seconds after the camera is powered.

Obtain a clear, sharp picture on the viewfinder, then start recording by pressing the "Grip Switch" (see Diagram #16) or pushing the Start Button (see Diagram #17a) at the right side of the lens. The Recording Lamp in the viewfinder will light showing that the tape is running. Sound from the microphone may be monitored by plugging the earphone into the Earphone Jack on the Videocorder.

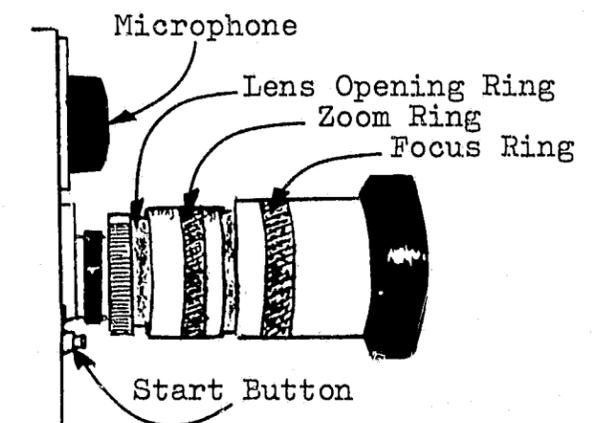


DIAGRAM #17a

To stop recording, press the Grip Switch or the Start Button again.

D. Direct Display of the Playback Picture - when the videocorder is placed in the playback mode, the playback picture can be immediately seen (when rewound) on the camera viewfinder screen (See Diagram #18). In this instance, it is convenient to raise the eyepiece for easy viewing. If the camera is not on the tripod, pull out the two feet (located on the sides of the camera) to provide a stable base.

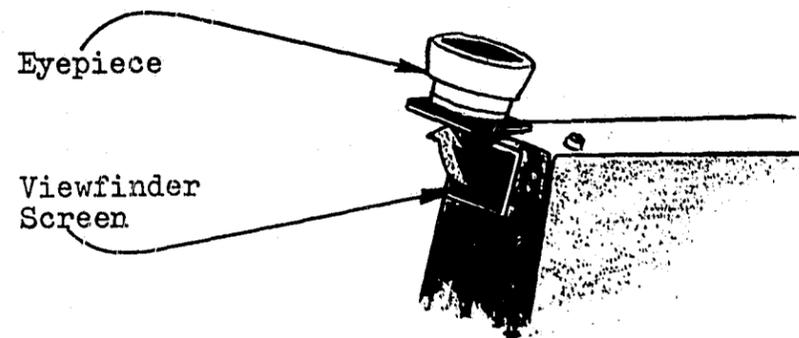


DIAGRAM #18

E. The Microphone (See Diagram # 16) - located on the face of the camera is the built-in Electret Condenser microphone which is non-directional and has the capability voice pick-up in an 180 degree arc. With this microphone it is possible to make a voice recording as well as a photographic recording. However, it should be kept in mind that the range is somewhat limited and that long-range recording is not possible.

SONY VIDEOCORDER

The Videocorder is an 18 pound, 12 ounce portable record/playback instrument designed to operate with the Sony Video Camera. The system will also record "live" action and the recorded picture can be immediately played back and viewed on the camera viewfinder screen, a video monitor (with connecting cable) or conventional television which has been adapted.

The self-contained rechargeable battery pack provides 45 minutes of continuous operation with the camera. It can be used with household power when used with its adaptor, or from a car battery when used with the Car Battery Cord.

A. Power Source - 1. Battery installation: open the battery compartment cover by turning the screw with a screwdriver or a coin. Plug the cord from the battery pack into the jack inside the battery compartment. Install the battery pack and close the compartment cover.

2. Battery Life: the pointer of the Battery Meter (See Diagram#19) shows battery condition when the Videocorder is turned on; the white-zone reading shows that the battery is in good condition; a red-zone reading shows that the battery is discharged. The Videocorder and camera will not perform properly with a weak battery.

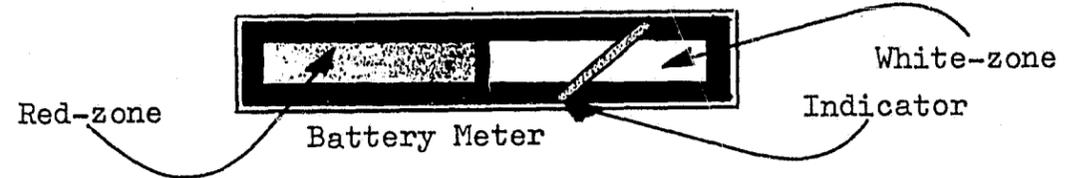
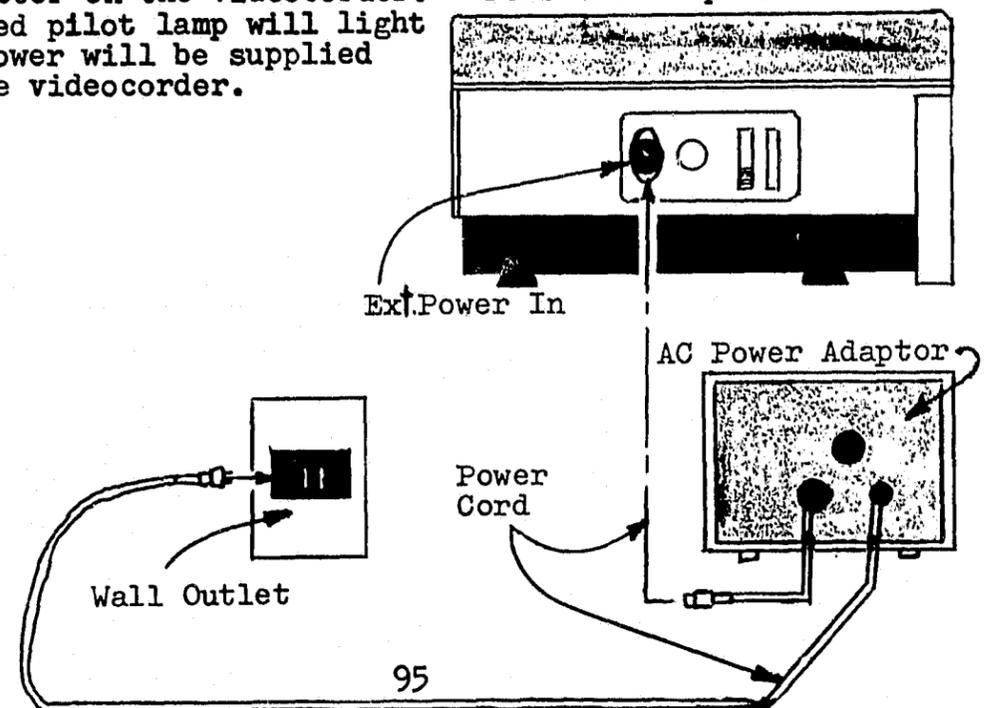


DIAGRAM #19

3. Car Battery Operation: insert the cigarette-lighter plug of the car battery cord into the cigarette-lighter socket in the car and the male plug of the other end into the EXT POWER IN connector on the Videocorder.

4. AC Power Operation (See Diagram #20): plug the power cord on the AC Power Adaptor into an AC outlet. Insert the round plug of the adaptor into the EXT POWER IN connector on the Videocorder. Press the adaptor Power switch on. The red pilot lamp will light and power will be supplied to the videocorder.



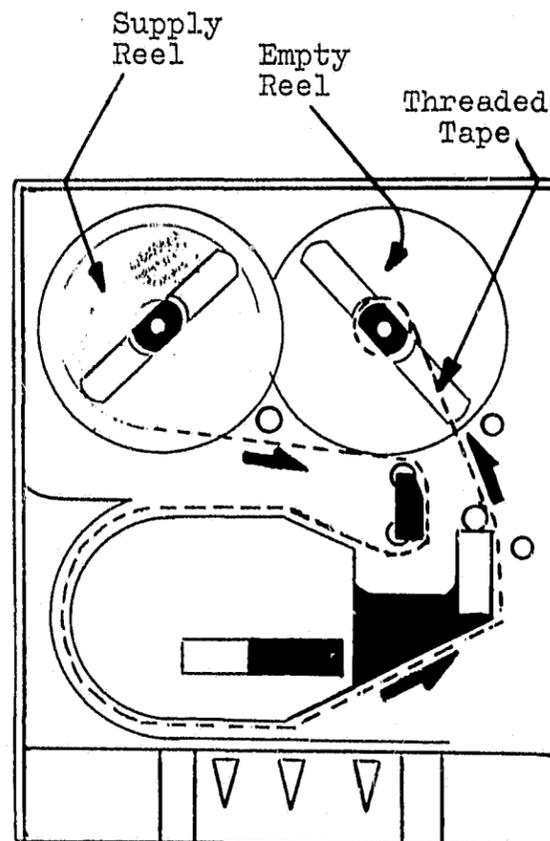


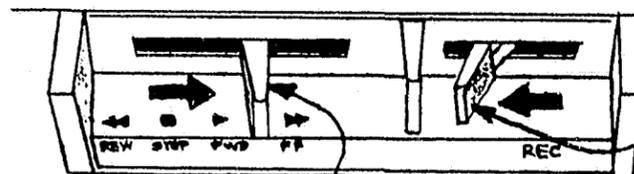
DIAGRAM #21

B. Tape Threading - Place an empty reel on the Take-up Reel Spindle (See Diagram #21) and a full reel on the Supply Reel Spindle; unwind about two (2) feet of tape and thread it onto the Take-up Reel according to the direction of the arrow; turn the Take-up Reel by hand to take up any excess slack in the tape path.

C. Recording With Video Camera

1. Insert the camera cable (See Diagram #17) of the camera into the Camera Connector of the Videocorder. Plug the 10-pin connector into the Camera Connector on the Videocorder by matching the slot in the plug with the guide pin on the receptacle. Turn the locking collar of the cable (Diagram #16) clockwise until the cable locks firmly into place. **MAKE LOCK ONLY HAND TIGHT!**
2. Set the Camera/TV switch to CAMERA (See Diagram #21).
3. Press the Time Counter Reset Button to set the time counter to (000). This counter indicates recording times as well as the amount of tape used. When the counter is read as a time indicator, read it as follows:
 13.5.....13.5 minutes, or 13 min. 30 sec.
 0.9..... 0.9 minutes, or 54 sec.

DIAGRAM #22



Set the Record Lever to the REC position (the direction of the arrow)

Set the Function Lever to the FWD position (the direction of the arrow)

4. First, set the Record Lever to the REC position (See Diagram #22) and then the Function Lever to the FWD position (before releasing the Record Lever). The Record Lever will lock into place and the Videocorder and camera will remain in the Standby mode.

5. Follow the instructions for recording under paragraph C re: Sony Video Camera.

6. At the end of the recording, set the Function Lever to STOP. -

D. Tape Playback - connect the Camera to the Camera Connector of the Videocorder and set the Function Lever to FWD. Connect the monitor to the Camera Connector using the connecting cable and set the Function Lever to FWD.

E. Still Playback - a stop-motion picture is obtained by pulling the Still knob (See Diagram #23) down in the direction of the arrow. Release the Still mode - return the knob to its normal position.

When the picture is placed into the stop-motion mode, the Polaroid Camera can be used to make a photographic reproduction.



DIAGRAM #23

F. Tape Erasing - erasure of prerecorded tapes is accomplished automatically as the tape first passes the erase head then moves on to the rotary video (recording) heads. Should you desire to erase the tape without recording anew, run the tape in the record mode with no signal source connected.

Video Camera can be used in the hand-held position, with the battery pack attached.



SONY VIDEO MONITOR

The Sony Video Monitor is a lightweight and easily transportable monitor/receiver that is designed especially for use with the Sony Videocorder systems. As a monitor, it displays the reproduced picture and sound of the Videocorder. During camera/record operations, the Sony monitor displays the picture being recorded for accurate camera and recorder adjustments.

To operate the set as a monitor, the cable (8-pin) must be put into the EXT. In receiver in the TV and into the Videocorder as well.

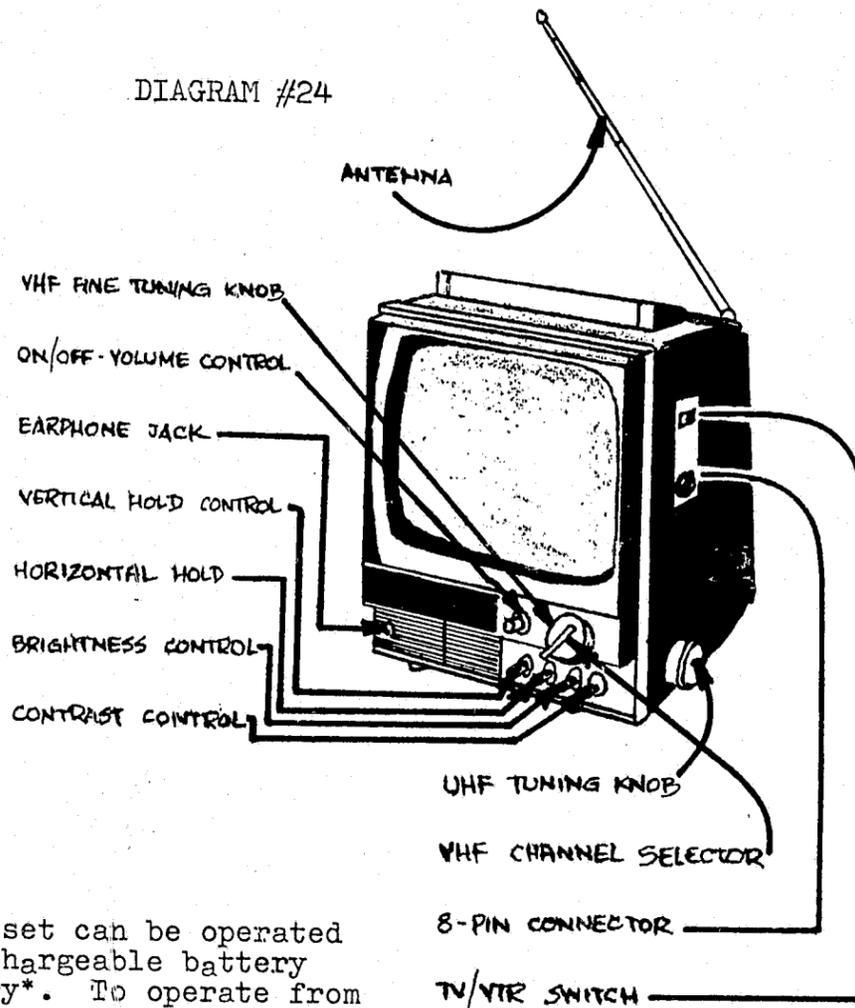
A. Power Source - the set can be operated on AC power, on the rechargeable battery pack, or on auto battery*. To operate from an AC outlet, connect the AC power cord to an AC wall outlet or the Videocorder AC outlet. Make sure that the battery charge switch on the rear of the set is pushed upward and not in the CHARGE position. In the Charge position, neither picture nor sound will be reproduced.

B. *Battery Operation - when operating on the battery, connect the battery pack or car battery cord to the 2-prong socket on the rear of the set.

C. Reception - set the TV/VTR (see Diagram #24) switch to the TV position. Pull out the on-off/Volume Control knob to turn the set on. Turn the knob clockwise to increase the sound volume.

Picture adjustments: adjust the controls arranged on the front panel to produce a steady, clear picture.

D. Playing Back the Recorded Tape - connect the Videocorder to the 8-pin connector or EXT. IN connectors. Set the TV/VTR switch to the VTR position. Put the Videocorder into the playback mode. Adjust the picture quality and sound level with the controls on the face of the monitor.



NAGRA-SN RECORDER

Parts List

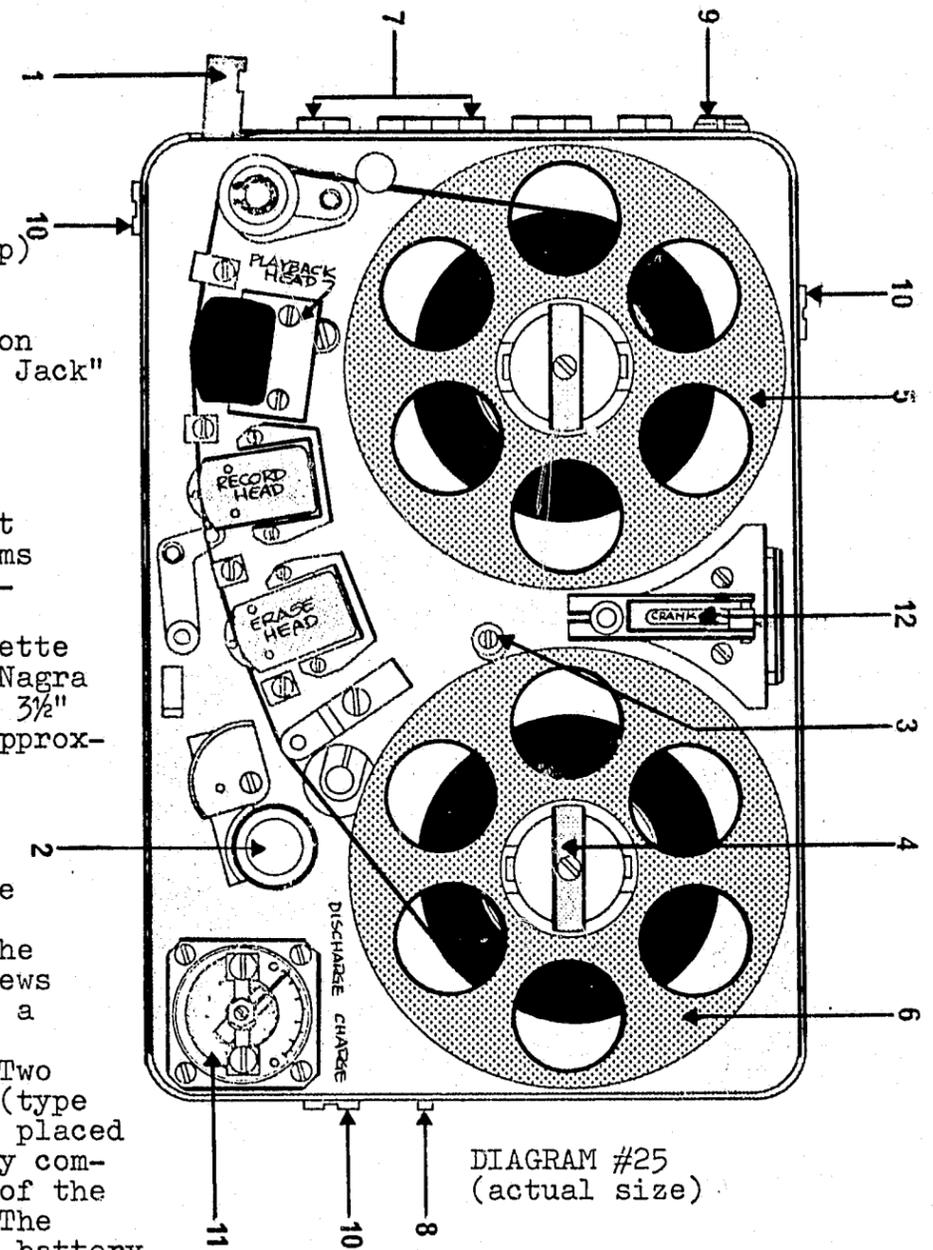
1. Operating Lever
2. Pinch Wheel
3. Brake
4. Fixing Bars
5. Tape Reel (full)
6. Tape Reel (takeup)
7. "Mike" or "Line" input
8. "Test Batt." button
9. Miniature "Phone Jack"
10. Locking Screws
11. Meter Needle
12. Rewind Crank

Another of the recent additions to the items available for the investigator, is the miniature Nagra Cassette tape recorder. The Nagra is 5 1/4" in length and 3 1/2" in width, weighing approximately 2 pounds.

A. Batteries - to obtain access to the battery holder, place the SN (recorder) on its cover, unscrew the three (3) locking screws (item 10 above) half a turn with a coin and remove the bottom. Two manganese batteries (type AA 1.5 volts) can be placed in the compartment by compressing the spring of the insulated contact. The negative pole of the battery (flat end) should be placed towards the serrated contact, and the positive pole towards the insulated contact. The bottom can be replaced and the three screws tightened.

NOTE: discharged batteries should never be left in the recorder.

B. Tape Speeds - the SN can run at either of 2 speeds: 3-3/4" per second and 1-7/8" per second. Between the take-up spool spindle (item 6 above) and the rewind handle (item 12), there is a small metallic spindle with a screwdriver slot and red and black marks. It may be necessary to turn the take-up reel slowly to reveal the switch spindle. If the screwdriver slot is aligned with the red mark, the tape speed of the SN will be 3-3/4" and if it is aligned with the black mark, the speed will be 1-7/8".



C. Magnetic Tape - to place a magnetic tape into position, withdraw the operating lever (item 1) and lock it into position by pushing upward. This disengages the pinch wheel (item 2) and the brake (item 3). Ensure that the fixing bars (item 4) of the spool holders are aligned with the driving dogs (see Fig. 1).

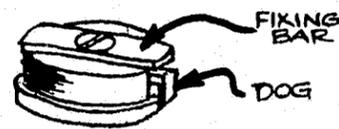


Fig. 1



A full reel of tape (item 5) can now be placed onto the left reel holder and an empty reel placed on the right. Lock them in position by turning the fixing bars through a 90° turn. (See Fig. 2).

The tape can now be threaded up according to Fig. 3 and passed through to the take-up reel. The end of the tape can be pinched against the reel core with the aid of the finger passed through one of the two holes near the center. It is important that the tape does not pass the finger by more than a few fractions of an inch as in Fig. 4).

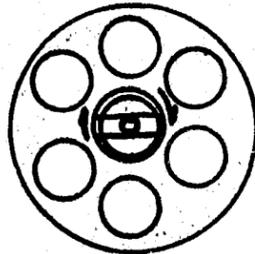


Fig. 2

Turn the empty reel anti-clockwise ensuring that the finger keeps the tape in position, or "turn the SN clockwise around the reel". After several such turns, the finger can be removed and the tape slack can be taken-up while still turning the reel. The tape should no longer slip on the reel. The operating lever (item 1) can now be placed in the neutral position. This method avoids the end of the tape coming out at the side of the reel, thereby making a noise by rubbing on the cover, and, at the same time, is the quickest way of threading the Nagra.

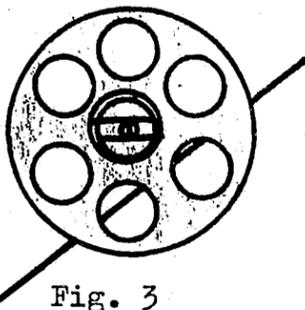


Fig. 3

NOTE: always ensure that the magnetic tape is not placed back to front on the reels. Modern tapes have a glossy ferrous oxide layer which is distinguishable from the matte (dull) side of the tape.

- if - the tape is running correctly
- an input signal is fed into the recorder
- the compression meter needle moves
- the headphones are connected

if nothing can be heard in the headphones, check that the tape is the correct way around the reel or that it has not been rewound in the wrong direction.

C. Connections - three(3) connections can be found on the left of the SN allowing accessories to be plugged in for:

- recording
- playback
- synchronization or remote control

D. "Mike or Line" - (6-miniature contacts) - an input signal from any of the following sources can be fed into the SN through this connector:

- a "Nagrastatic" miniature condenser microphone type SAR
- the SMR microphone fitted with a manual gain control

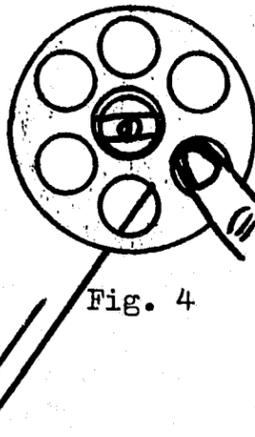


Fig. 4

- any 200 ohm impedance dynamic microphone in conjunction with a special cable, type SCR
- any amplifier whose output impedance is less than 500 ohms and whose output level is 160 mV (millivolts) maximum.

E. "Pilot and Remote" (5 miniature contacts) - this allows the following accessories to be connected:

- Quartz crystal pilot generator for synchronization
- external power supply unit
- Remote control, type SCA

F. "Phones 1.1 K Ohms or Less" - (miniature jack) - this output jack can be used for feeding:

- an amplifier
 - headphones
- for the playback of a recorded signal

G. Operation of the SN - the operating lever (item 1) has two functions: (1) by pressing it in, the SN is switched on, the tape is transported and the playback signal is available at the output jack. Recording will only take place if a plug has been connected to the "Mike or Line" input (item 7), and (2) by pulling it out, the tape is transported and the brakes (item 3) are disengaged for loading or rewinding.

H. Battery Check - the SN should be switched on and the "TEST BATT" button (item 8) pressed. The meter needle (item 11) will then indicate the battery reserve (upper scale graduated 0-1/1)

I. Recording - the recorder is automatically switched to "Record" by a plug connected to the "Mike or Line" input (item 7). The input signal can be derived from a condenser microphone (model SAR) or an SMR microphone.

The tape is thereby erased and recorded upon. The playback, however, is always in operation and the recorded signal can be heard in the headphones after a very short delay due to the time required for the tape to pass from the recording head to the playback head. This possibility of playback simultaneously with the recording is very useful as it allows an instantaneous acoustical check to be made.

The microphone input of the SN is connected to an automatic level control which corrects the microphone signal in such a way that the recording is at a convenient level. The meter (item 11) has a principal function of informing the user of the correct working of the automatic level control, as well as allowing the battery test.

J. Rewinding - to rewind, pull the operating lever (item 1), unfold the crank (item 12) and pull it upwards, at the same time pressing in the catch. In its fully disengaged position, the bottom of the crank should be clear of the reels.

If the crank is not or cannot be fully withdrawn, slightly rotate the left reel. The rewinding is done in turning the crank in a clockwise direction. At the end of this operation, the crank can be refolded and pressed in, at the same time as pressing in the catch. It should be noted that the crank is centered between the two bobbins when not in use.

K. Playback - the playback system is always operating when the motor is turning. The playback signal is available at the miniature jack (item 9) which can be used for connecting an amplified or headphones.

NOTE: to play back a tape which has been previously recorded, it is imperative that no input plug be connected, as this will cause the tape to be erased.

There are three(3) successive heads (erase, record and playback) and unless the microphone input is disconnected, the tape will be erased during the playback operation.

MARKING KIT AND THE MARKING OF CURRENCY

There are two misconceptions that exist in this area: the first is that money must actually be involved in the transaction, and the second is that there must be an actual exchange in order to have a crime consummated. Both are incorrect! The item to be given can be anything of value (money, fur coat, airline tickets, etc.) and it need not be for the second party, it can be for a third party. Secondly, there does not have to be an exchange take place. The mere conferral or agreeing to confer is all that is technically required. In order to make the preponderance of evidence clearly indicate that the person we are accusing is in fact the person at fault, in most cases the investigator attempts to have "asportation" (the illegal taking and carrying away) as this element shows intent.

For the purpose of this section, we are going to assume that it is in fact money that will be exchanged between the subject and the suspect. The investigator should be able to tell the court, when the matter comes to trial, that the item exchanged has gone "full circle." The item has come into his possession, he has identified it, initials and date have been placed onto the bills, the currency has been dusted and given over to the subject who has then taken it out and given it to the suspect, and at the time of arrest, it has come back into the possession of the investigator. That is not to say that each and every step should be followed without exception, however, when this is possible, the evidence should stand the test of court scrutiny.

STEP #1 - whenever possible, the item to be given over should be obtained from the person of the complainant (subject). In this case money is to be given over so the amount of the payoff should come from the complainant. If he does not have sufficient funds to "cover" the payoff, outside sources will have to be determined (District Attorney's offices, Department of Investigation, the investigator's office, etc.). Only when no other source is available, the investigator may have to go into his own pocket. Keep in mind that if an arrest is effected, the money will be tied up in court for a lengthy period of time, at no interest, a release will have to be obtained from the District Attorney, the money will have to be picked up and taken to the bank where the teller (who is informed that the currency is marked) will exchange it for other currency.

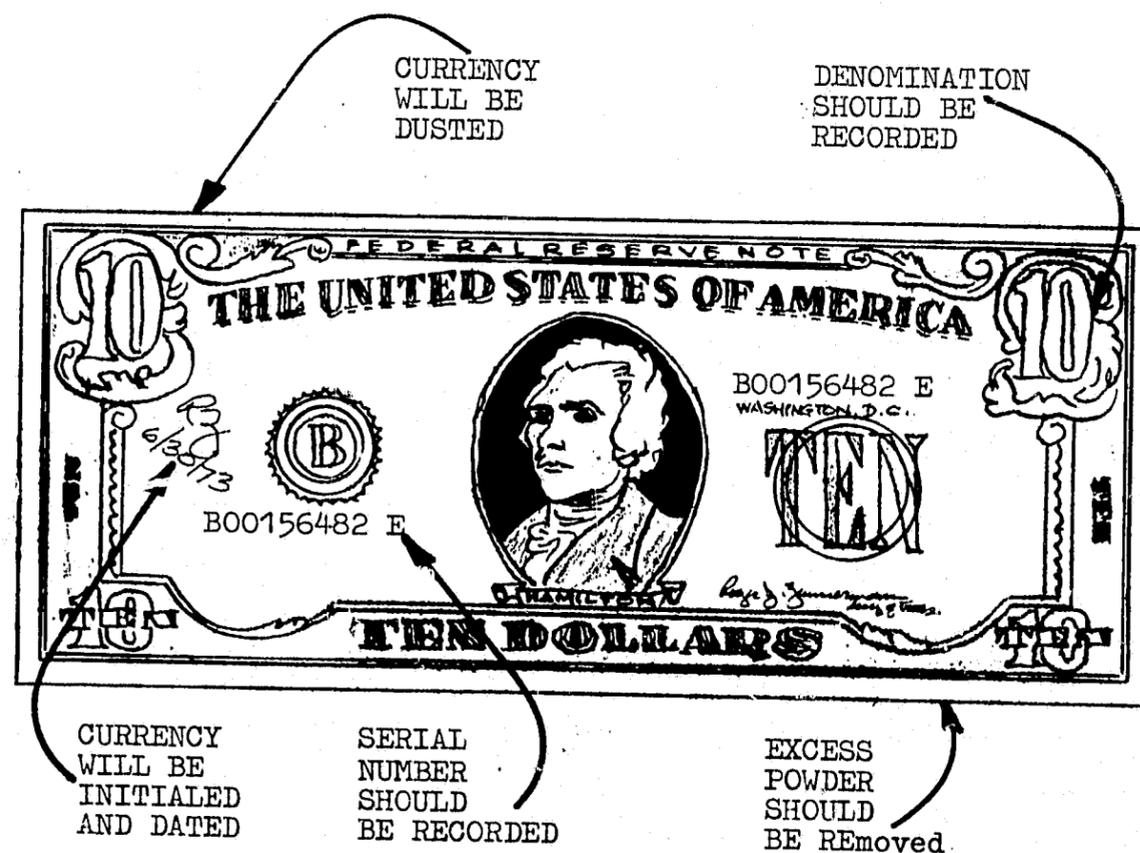
STEP #2 - an identity for each bill will have to be established. Each bill has a circulation life of approximately one year and to distinguish it from other similar bills, each has its own denomination and serial number. By recording these numbers and the denomination, then that bill becomes distinct, and an identity is created. Some investigators record this information on paper, some make electronic recordings and others record the information by both methods. No matter what the particular system, whoever creates the identity, it must be attested to either by another investigator or by the subject. In many cases, because of the necessity to use a limited number of personnel, we have those involved perform

- STEP #2 - (continued) multiple tasks. The subject can be the one used to verify the identities. This procedure should be followed regardless whether the amount involved is \$100 in \$10 bills, or \$5000 in \$1 bills.
- STEP #3 - once an identity for each bill has been established, the currency is then marked with the initials and date of the investigator or another designated. This is accomplished either with a fluorescent ink and a straight pen, or by using the fluorescent crayon. Some investigators prefer to use the ink as it does not leave waxy tracings as the crayon does. Experience shows that the suspect seldom makes a careful examination of the money, but rather puts the money directly into his pocket or other location. However, the investigator should give careful consideration to this matter, as a little matter overlooked can often "blow" the entire case.
- STEP #4 - once the bills have been identified and marked, they are given over to another investigator for dusting with the fluorescent powder. There is good reason for this. The arresting officer should be able to tell the court that the first and only time that he became contaminated by the powder was at the time of arrest and not before! If he has in fact tracings on his person there is a possibility that the case can be lost in court, because he may have put the tracings on the suspect rather than through his handling of the evidence. The money is placed into individually into either a plastic or brown paper bag, and an amount of the fluorescent powder is placed into the bag (there are about five different powders and the team members should be aware how an individual powder reacts under the ultraviolet light so that they can properly identify the trace evidence). The bag is then vigorously shaken in order to distribute the powder evenly over the currency. If new money is used, the powder has a tendency to roll off the bills. Crumble the bills before placing them into the bag as this breaks down the fibers in the bill and the powder will cling. When removing the bills from the bag, a small amount of residue may be noted. This can be removed and still leave enough for transfer by placing the bill between the index and middle fingers and brushing the bills with these fingers. Once this is done, some investigators place the bills into an envelope which may or may not have been dusted as well. This is an individual preference and it is best determined by the situation itself.
- STEP #5 - the subject should be searched and all other money taken from him except that amount which he may have to use in the normal conduct of his business (eg., it may be that the "meet" is in a bar and grill; we do not want the subject paying his bar tab with the marked money). If money is given to the subject, other than the marked currency, be sure that the amount does not equal the amount to be paid to the suspect!
The investigator who has dusted the currency, then places it on the person of the subject, at the same time records the amount given over and the location on the subject where it is placed.

- STEP #6 - the subject is then given specific instructions with regard to his behavior during the payoff. Remember that he is acting as a police agent and that he is usually nervous, excited and extremely anxious:
- The subject can only afford the suspect the opportunity to commit a wrongdoing. Any suggestion of an active inducement and it enters into the area of "Entrapment." The courts have regarded "Here take this" as being sufficient active inducement.
 - The subject should avoid entering into motor vehicles, standing near air-conditioners, or any high electrical generating devices (these interfere with reception and transmission of the Kel.)
 - The subject should not leave the scene of the meet in the company of the suspect...he cannot be afforded protection and we cannot make observations.
 - The subject should be given signals (both verbal and physical) to indicate when the "meet" has taken place and when the payoff has been made. When the site of the payoff is confined to a room, the investigator has to rely almost exclusively on the vocal signals.
 - The subject should be told what to say in order to get the suspect to make admissions without actively inducing him to do so.
(eg., "What am I getting for my money?"
"Who does this take care of?")
- STEP #7 - the subject should, whenever possible, be kept under your observation. The observations become part of the court presentation but more importantly, we have to afford the subject maximum protection. Additionally, when observation is possible, oftentimes the investigator can foresee any problem areas.
- STEP #8 - if the payoff takes place and an arrest is effected, the investigator and all others involved in the situation have the responsibility, first and foremost, to secure the person of the suspect. Once this is accomplished, any other steps to be taken should be considered. An investigator can be present on the scene, if feasible, with the portable marking kit. His task, once an arrest has been made, the prisoner secured and searched, is to scan his person (the prisoner) with the ultraviolet lamp to locate trace evidence. The fluorescent powder should react under the lamp and wherever their presence is found, such location should be recorded. Tracings found on the clothing of the prisoner can and should be taken as evidence.
- STEP #9 - the currency which has been used in this situation is then taken back into possession and to show that it has now completed its "full circle" the denomination and serial numbers will be read off, the fact that each bill contains the fluorescent tracings and are marked with investigator's initials and dated, should also be recorded.

Summary

What has taken place is the amassing of a preponderance of information which will be vital to the court presentation. There has been conferral or the agreeing to confer; the amount of money or the item agreed upon has been identified; if money is involved in the situation, the denomination and serial numbers have been recorded and attested to; the item has been marked with the investigator's initials and date; the item has been dusted with the fluorescent powder and given over to the complainant; the subject has then taken the item out to the site of the "meet" and the exchange has taken place; the investigators have made their observations (where possible); an arrest has taken place; the prisoner has been secured and searched and the item taken back into custody by the arresting officer; and the item has been reidentified and shown as having gone full circle by coming back into possession of the investigator.



THE PAYOFF SITUATION

The payoff is one of the most critical situations with which the investigator will be confronted. In many instances, he will be required to formulate a plan of action within a limited amount of time as directed by the individual situation. Within that same period of time, he will organize and put into operation this plan which includes assembling the required number of personnel, securing the electronic and other equipment that will be needed, the marking kit, and the tactics that have been established beforehand. The investigator must also be prepared to accurately evaluate any contingency that may arise and take the required and proper action as dictated.

The pay off situation arises when: (1) a complainant informs the police that someone, presumably a police officer, is trying to extort money or some other item of value from him, or (2) a police officer informs the investigator that someone is attempting to bribe him. In these instances, a future meeting has been or should be arranged. In addition to the allegations that we have received in this regard, the investigator tries to establish the elements of the wrongdoing in order to clearly show that the person accused is in fact the person at fault.

In order to obtain legally admissible evidence of a substantive nature, and to protect the rights of all concerned, the complainant is given the item to be exchanged which has been marked and previously identified, he is outfitted with both an electronic transmitting device, a voice pickup and recording device, and he is kept (where possible) under surveillance in order that the investigator can testify as to what in fact took place. The recording devices are used to record the conversation between the complainant and the suspect. Should both recording devices fail to function, or to make a "readable" recording, the complainant will be called upon to testify as to what had taken place. Even if the recordings were of excellent quality, there is every possibility that the complainant will have to testify in any case. This should be kept in mind by the investigator and as soon as the situation is terminated, have the complainant and/or witnesses sit down and write out what transpired. This should also hold true for all of the investigators involved in the situation.

Equipment Used

The most frequently used equipment used in the payoff situation are listed below:

1. A Kel SK8 Intelligence Kit, which is a 12"x18"x3" attache case. For operating instructions on the transmitter and the receiver, see the section of this manual "Technical Services and Equipment".
2. Minifon is a miniaturized recorder that can be worn on the person of the complainant. Because of its bulk, when it is placed on the person, tell him/her to wear loose clothing for better concealment. It has a three hour capability.
3. Sony TC40/55 is a miniaturized recorder (cassette) that can also be worn on the person. It is not as bulky as the minifon. The cassettes used have 45 minute capability on each side. This recorder can also be used to make a re-

3. (continued) cording from the telephone when used in conjunction with the telephone pickup coil. Another of the usages of the recorder is that it can be worn on the person of the arresting officer to record the circumstances of the arrest to ensure that all rights have been protected.

4. Nagra-SN recorder is also a miniaturized recorder (reel to reel) that is light-weight and self-contained. It can be worn on the person, either the complainant or the arresting officer or both. One of its drawbacks is that all input connections must be disengaged during playback or the tape will be erased.

5. Handie/Walkie Talkie Radios are handsets that are tuned to the same wavelength (F1) as the Kel transmitter and should be used for monitoring only when used in a payoff situation. The Kel transmitter has an output of 200 milliwatts while the Handie/Walkie Talkies have an output of 2 watts. Therefore, anything that is said over the Handie/Walkie Talkies will completely override what is being said on the Kel transmitter. The conversation recorded on the Kel is what will be presented as evidence, not transmissions made by monitoring sources. It is incumbent upon the investigator to specifically instruct his fellow-investigators in this regard.

6. Farout "Bug" is one type of bugging device, but there are many others (eg., the Kel transmitter taped to the underside of a desk or table can be used to "bug" a conversation). The Farout must be used with a recording instrument (usually a Tandberg). It comes with a condenser, a length of wire and a headset of earphones. This device is exceptionally sensitive and it is usually utilized indoors when the conditions and situations are such that only one room will be used.

7. Marking Kit is a portable case that contains not only the ultraviolet powders, crayons and paste, but an ultraviolet lamp with its own battery pack. The kit is used not only to mark the currency or other items of a payoff, but with the lamp, the person of the prisoner can be scanned to disclose fluorescent trace evidence on his person.

Steps to be Taken Pending a Payoff

Upon the initial receipt of the complaint, the subject should be interviewed as soon as possible to determine as near as possible the complete facts of the situation, a complete description of the suspect(s), an identification (if possible) and to solicit the cooperation of the complainant where necessary.

STEP #1 - if there has in fact been arrangements made for a payoff, the proposed scene should be surveyed where time permits. This will benefit the investigator in anticipating his problems beforehand, the equipment that is to be used can be tested on the scene to determine whether there will be transmission problems, an intelligent estimate can be made of the personnel requirements, the equipment to be used, and the tactics applicable. The time available does not always permit this, but where possible, such survey should be made.

STEP #2 - if there has been an identification made, photographs of the suspect should be distributed to each member of the investigative team participating in the situation. This is especially useful where there has been an altered appearance of the suspect (beard growth, moustache, etc.).

STEP #3 - the section of this manual devoted to the "Marking Kit and Marking Currency" fully describes the steps to be taken by the investigator in this regard. Use that section as reference. There is also a section on "Technical Services and Equipment" and this too should be referred to.

STEP #4 - in those situations where the complainant will be conversing with the suspect on the telephone, perhaps the investigator should consider taping such conversation, in an attempt to establish the elements of the crime prior to the actual payoff. (Remember that we also try to have asportation in addition to the mere elements.) If so, a tape heading should be placed onto the recorder (see Appendix J for a sample tape heading.) Keep in mind that whenever a telephone conversation is to be monitored and/or recorded, the law regarding "Eavesdropping" compels the investigator to secure the permission from at least one of the parties to make such recordings. During this conversation, the investigator will have to instruct the subject on what he should say (1) to establish the elements of the wrongdoing; (2) to avoid the area of "entrapment" and (3) to corroborate the statements made by the subject with regard to his allegations. This is done in order to adequately protect the rights of all concerned.

STEP #5 - the complainant will have to be outfitted with recording devices (usually a Kel and a backup device which is a voice-pickup rather than a voice-transmitting). It is well to keep in mind that this can only be done where there has been prior approval sought and obtained from the complainant. The subject will then be given the item(s) to be exchanged after it has been given an identity, marked, and possibly dusted, and the location where it is placed on the person of the subject will be noted and recorded (see Appendix H for the tape heading that should be used in this instance.)

STEP #6 - the subject should be instructed on what he should say during his conversation with the suspect at the time of the payoff. We are again concerned that he avoid the area of entrapment and the facts of the wrongdoing must be clearly established before an arrest can be effected. Some of the "devices" that have been used are:

- give less than the agreed to amount
- over-pay the suspect suggesting new areas of business
- pay the agreed to amount but ask what is being bought for the money, or
- who does the payoff take care of?

As part of the instructions to the complainant, the investigator should also tell him to avoid high-electrical generating devices, to stay out of vehicles and any other pertinent information the individual situation may prescribe, which has been predetermined from the area survey.

STEP #7 - the subject should be given both vocal and physical sets of signals to indicate when: (1) the "meet" has been made; (2) when the payoff has been consummated. Remember that we are trying to establish asportation as this is a clear indicator of intent on the part of the suspect. Physical signals are given to the subject, in addition to the vocal

STEP #7 - (continued) signal as a backup should the vocal signals be interfered with in some fashion. The physical one should be natural and not out of place, but not so natural that the subject may inadvertently give it. When such signal(s) have been given, the team leader will activate the other members of the team and they should know well in advance what each of their individual responsibilities are (eg., covering exits, the man to remove the subject from the scene, the man assigned to make the scan with the ultraviolet lamp, etc.)

NOTE: throughout the entire situation, the investigators are well advised to keep and maintain their investigative notes and to have their fellow-investigators do the same. The complainant, once the situation has been terminated, should be told to write out everything that he can recall pertaining to the completed situation, to the best of his recollection. Keep in mind that this matter may be delayed in its presentation for a year or more and that these notes will be highly beneficial in recalling what took place.

Effecting the Arrest

The arresting officer (where preferred) should equip himself with a recording device (TC40/55, minifon, Craig or Nagra) and he wishes to make a recording of what transpires at the time of the arrest (see Appendix J for suggested tape heading). Other members of the service at the scene should be instructed to keep their conversation to a minimum. The suspect should be immediately informed that he is under arrest and specify the particular crime for which the arrest is being made. When there is a police officer involved, remember that in all probability he will be armed. The first responsibility of all members concerned is to secure the person of the prisoner and that includes the removal of of any firearm(s) that he may be carrying. DON'T ASSUME THAT HE IS ONLY CARRYING ONE GUN....MAKE SURE! It is also the responsibility of the member conducting the search to recover the item that has been exchanged. The Miranda Warnings should be read after the arrest has been effected. There are six (6) required questions that are a part of the warning and if the prisoner declines to answer any or all of the questions, the arresting officer (or whoever reads the Miranda Warnings) should record the fact that the prisoner remains mute. If after a reading of the Warnings the prisoner desires to make a statement, allow him to do so provided you are sure that he has a clear understanding of his rights.

In the search of the prisoner, the marked item should be recovered and if that item has been U.S. currency, it has to be shown that it has completed its "full circle" and therefore, the serial numbers have to again be read onto the recording, along with the denomination and the fact that the currency still contains the fluorescent tracings and initials and date. The item recovered will be safeguarded, vouchered and kept as evidence.

All evidence must be vouchered at the precinct of arrest. This includes not only the item recovered from the suspect, but the tape recordings and any item of clothing or wearing apparell where there may be trace evidence (fluorescent powder, etc.) Once the tape re-

cordings have been assigned a Voucher Number, the tapes then can be taken and duplicate recordings made. However, once the duplicate is made, the original must be turned into the Property Clerk's Office for safekeeping until required for court presentation.

Follow-up Procedures

Subsequent to the arrest, the investigator is advised to confer with the District Attorney in the County concerned. He should cooperate fully with his office in the preparation of the case for presentment before a Grand Jury or other authority. It is also the responsibility of the investigator to determine the identity of any witness(es) that there may be to the matter under investigation.

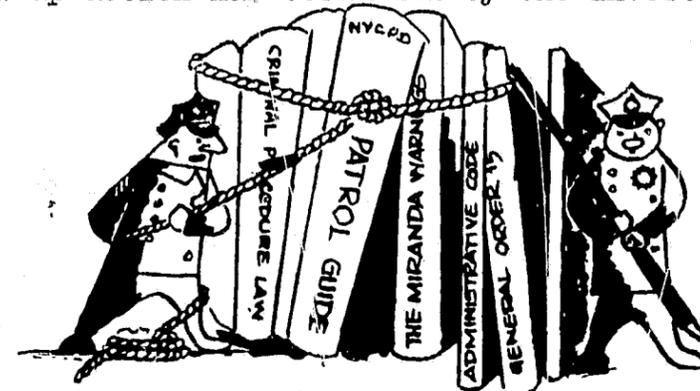
The arresting officer, through his unit commander should follow the procedure, if applicable, for the suspension of a member of the service and he should also, at his earliest convenience, prepare the appropriate charges and specifications. (See the section of this manual for a resume' of the Suspension Procedures.) If there is any difficulty encountered by the investigator in the preparation of the charges, he should confer with the personnel of the Department Advocate's Office who will render him every assistance.

When there has not been an arrest effected, the investigator should confer with his unit commander to determine whether or not there will be any follow-up action taken (command discipline, etc.)

Upon the completion of the investigation, and after the appropriate action has been taken, a final report shall be prepared by the investigator and submitted to his unit commander for approval and endorsement. (See the section of this manual for information re: "Report Writing".

Summary

The payoff, whether it is a bribe offer of an act of extortion by a member of the service, is a most critical situation. It is the responsibility of the investigator to be fully cognizant of all the requirements in order to bring the situation to a successful conclusion and to protect the rights of all concerned. The item(s) which will eventually become evidentiary material should be marked and individually identified. It must be clearly shown that the evidence has gone full circle and asportation is an important aspect in this regard. At the time of the arrest, (if one is effected) the rights of the prisoner have been fully safeguarded, and at the completion of the situation, the proper follow-up action has been taken by the investigator.



LINE-UP PROCEDURES

On June 12, 1967, the United States Supreme Court handed down landmark decisions in three separate cases, each involving police line-ups. Several weeks later, on June 26, 1967, the N.Y. C. Police Department issued Temporary Operating Procedure #318, which spelled out certain procedural safeguards to be employed in connection with line-ups. Since the issuance of this T.O.P. there have been a number of court decisions involving line-ups, both in New York and in other jurisdictions. In addition, there have been several prominent law review articles dealing with the same subject. The sum total of these decisions and law review articles has been to clarify to a great extent much of the doubt that surrounded the original decisions handed down by the Supreme Court. Based on this newly acquired information, it is now possible to establish fairly comprehensive guidelines for the conduct of line-ups in general. The information which appears below concerning line-ups has been tailored to meet the particular needs of the Internal Affairs Division.

HISTORICAL BACKGROUND

As indicated above, on June 12, 1967, the United States Supreme Court handed down three separate decisions in cases involving line-ups. In two of these cases, Gilbert v. California, 388 U.S. 263 and United States v. Wade, 388 U.S. 218, the court held that because of the dangers inherent in eye witness identifications, a defendant or suspect, who is subjected to a line-up, has a constitutional right guaranteed under the Sixth Amendment to have an attorney present at these line-ups. In the event that a suspect about to stand a line-up is not advised of his right to obtain counsel and afforded an opportunity to obtain one, any evidence of the identification made at the line-up, as well as an in-court identification, will be excluded, unless the prosecution can establish by clear and convincing evidence that the in-court identification has an independent source not related to the line-up.

The third decision handed down by the United States Supreme Court is the case of Stoval v. Denno, 388 U.S. 293, stood for the proposition that evidence of line-up identifications will be excluded where it can be shown that the line-up was unfairly conducted, so as to suggest to the victim or witness who the intended suspect was.

It should be noted that there are several exceptions to the Wade requirement that the suspect have an attorney before he can be viewed. In the following instances the courts have held, for obvious reasons that a suspect can be viewed by a victim or witness without counsel being present:

- a. Prompt on the scene show-ups of suspected perpetrators shortly after the commission of a crime.
- b. Accidental show-ups where a witness or victim happens

to encounter a suspect under circumstances which were not prearranged (e.g., prior to a hearing, witness or complainant observed defendant standing in the hall, outside of the courtroom and recognizes him as the perpetrator).

- c. Arranged show-ups of suspects who are not in custody.
- d. In a recent Supreme Court decision, KIRBY v. ILLINOIS, decided on June 7, 1972, the court held that the defendant in this case had no right to counsel at a show-up conducted prior to his being indicted for the crime of robbery. The courts recounted the limitation that forbids line-ups which are necessarily suggestive and are conducive to irreparable mistaken identifications.

Before proceeding any further, it is worth noting the distinction between line-ups and show-ups, as made by the courts. A line-up typically involves a presentation of a number of similar looking individuals in a non-suggestive fashion to a victim or witness for the purpose of having them identify the individual complained of. A show-up, on the other hand, involves the presentation of a single suspect alone to the victim or witness for the purpose of identification. For the obvious reason of suggestibility, show-ups are usually less desirable and resorted to only in those instances where a line-up is not feasible or practicable.

Procedures Prior to Line-up (See Appendix K)

At some point, preferably as soon after the original incident as possible, the witnesses and complainant should be interviewed separately for the purpose of obtaining a detailed description of the member of the service involved, as well as any other information which may be provided concerning the identity of the subject. It is absolutely essential that notes be made of all descriptive statements made by the witnesses or complainant. Whenever possible, it is suggested that these statements be electrically recorded so that any question regarding what transpired may be quickly resolved at a later date should they arise. During this pre-line-up interview the investigator would be wise to consider the possibility of the line-up evidence being held inadmissible at the trial. This being the case, the witness may still be able to identify the defendant based on his independent recollection, provided he can establish that he in fact has an independent recollection, of the defendant as the individual who committed the crime. The investigator may help his cause by questioning the witness or complainant regarding the following matters during the interview.

- a. The length of time during which he had an opportunity to observe the defendant during the commission of the crime.
- b. Any distinctive features of the defendant, such as scars, marks, tattoos, clothing, etc.
- c. Any prior knowledge or acquaintance ship he had with the defendant which would enable him to quickly recognize him.

- d. The accuracy of the description given by the witness or complainant.

If based on the information obtained from the complainant and other witnesses, the investigator is able to narrow down the member involved, it is suggested that he arrange to conduct a line-up without first showing photographs of the suspect to the witnesses and complainant. This may not be possible in many instances because of the large number of possible suspects. When photo identification is found necessary, there is one paramount rule that must be followed; the procedures used must be fair to the suspect, if in fact there is one at this point in the investigation. The procedures must in no way be suggestive, either directly or indirectly, who the suspect might be. The basic objective is to have the witness or complainant select the photo of the individual involved based on his own recollection without any assistance from the investigator.

Justice Nathan R. Sobel, Surrogate Kings County, recently wrote an extensive article dealing with line-up procedures in which he made the following suggestions regarding photo identification:

- a. A series of at least ten (10) photographs, only one of which should be of the suspect, should be presented to the witness.
- b. As far as practicable, the photos should all be unmarked and of the same general size and nature.
- c. All the photos should be of persons of same approximate height, age and coloration of hair and skin.
- d. If there are two or more witnesses, each should be required to view the photographs separately and to make identification separately out of the presence and hearing of the others.
- e. If there are two or more suspects, no two of them should be presented together in a single grouping.
- f. A police notation should be made of each photograph of the group viewed and the photographs themselves should be kept available for reconstruction and examination at the trial.
- g. The police officer in charge of the investigation should make a contemporaneous notation of all remarks made by the witness upon the identification of any photo. Should the witness fail to identify anyone or make an incorrect identification, this fact should also be noted.
- h. If there are several witnesses and complainants, only one of them should make a photographic identification and the others should view the line-up. The reason for this being that a prior viewing of a photograph may influence a line-up identification. This being the case, that claim can only be made against one witness and not all of them.

The overwhelming weight of authority holds that counsel is not required at photographic identification procedures, even when the defendant is in custody and the legal procedures have reached

the post indictment stage, where an attorney has been retained to represent the defendant.

Line-up Procedures (See Appendix L)

Once it has been determined that a line-up is to be held in connection with a particular investigation, one of the first decisions that must be made will relate to the location at which the line-up is to be conducted. There is no legal requirement that line-ups be held in a police department building. On the contrary, they can be held anywhere which is convenient. In order for a particular location to be acceptable, there are certain conditions that should be met. The physical layout must be such that ample waiting room is available to appear at a line-up. In those instances where a large number of officers are present and several line-ups are to be held, waiting room can become a problem which is aggravated in many cases by the fact that contact between complainants and members of the service is to be avoided. The location selected for the line-up must also have adequate waiting room for each witness. If possible, witnesses and complainants should be kept apart before and after the line-up in order to avoid any discussion regarding the description and identity of the member complained of. The room in which the actual line-up is to be conducted should be large enough to accommodate the number of individuals involved. In addition, it should be adequately lighted and free from distracting background materials. Defense attorneys have on several occasions suggested that height markers painted on walls are suggestive, insofar as a witness who describes the perpetrator as being male, approximately 5'9" would be inclined to narrow his selection to those members of the line-up who were approximately 5'9" in height. For this reason it is suggested that the line-up not take place in front of a wall with such height markings.

In those instances where it is deemed advisable to keep the witness or complainant out of view of the members standing the line-up, a viewing opening should be utilized. This opening should be large enough to afford not only the witness but also the attorney and assigned investigator, adequate view of the entire line-up. In those instances where a small peephole is used, the attorney may complain either that the witness' view was restricted or that he could not view the line-up simultaneously with the witness and therefore, could not determine whether or not there were any suggestive tactics being used by the police.

Once it has been determined that a line-up is to be held and an adequate location has been selected, the next step that must be taken is to notify those members of the service, who are deemed by virtue of the circumstances of the investigation to be suspects, to appear at a specified time and place to stand a line-up. The telephone message directing them to appear should advise them that they are the subjects of an investigation and that they have a right to an attorney at the line-up. The message should also instruct the member or members concerned as to

the type of clothes that should be worn. Obviously, if the complainant alleges an act by a uniformed member of the service, all personnel standing the line-up will be instructed to wear their uniforms. If it is alleged that the act was committed by a member in civilian clothes, a determination will be made as to what type of clothes were worn, and each member will be advised to dress accordingly (e.g., if the member complained of was wearing a business suit, all members standing the line-up will be advised to wear a business suit).

In order to avoid the last-minute frantic effort to locate sufficient look-alikes for the line-up, it is suggested that department personnel files be consulted beforehand and an adequate number of officers who match the description be contacted and instructed to appear at the line-up. These members should be advised of the purpose for which they are going to be used.

There have been instances in the past where mass line-ups of entire units have been conducted. There is no need for this practice and it should be discontinued in the future. If a proper investigation has been conducted prior to the line-up, a fairly accurate description should have been obtained and only those members who reasonably fit that description and who had an opportunity to engage in the alleged conduct should be required to stand the line-up as subjects. This of course would not prevent the use of other members of the same unit from being used as look-alikes. There is a possibility, however, that when this is done, that a member of the same unit might be mistakenly selected by the complainant or witnesses. This would necessitate a further investigation in order to clearly establish that the member selected was not in fact the guilty party. Therefore, it is advisable to use as look-alikes, only those individuals who clearly could not have been involved in the incident.

A question frequently arises as to whether or not a subject can be compelled to stand a line-up. Clearly, a private citizen has no obligation to submit himself to police custody for line-up purposes. Any forceable detention for such purposes absent court authorization would be an unlawful arrest and a violation of a person's civil rights.

Where the police officer is the target of an investigation which involves or has the potential for criminal charges, he has no obligation to submit to a line-up unless he has been arrested. However, a court may order a police officer who has not been arrested to stand a line-up. If the constitutional safeguards afforded private citizens have no less an application to police officers where criminal charges are concerned (see Gardner v. Broderick, 392 U.S. 273).

Accordingly, a police officer suspect who is compelled to stand a line-up by his superiors in the course of a criminal investigation in effect has been deprived of his constitutional

rights in the same way as a private citizen who is unlawfully detained for such purposes.

The rule is otherwise where the line-up is held for administrative discipline purposes exclusively, (see Biehunik v. Felicetta, 441 D. 2d 228 (1971), and in such circumstances the officer may be compelled to stand a line-up.

It should be noted that the criminal case may be fatally harmed by improper line-up procedures.

- a. If the investigation results in his arrest and trial on criminal charges, he may be cross-examined with regard to his refusal to stand a line-up.
- b. If ordered to stand a line-up by a court of competent jurisdiction and he refuses, he may be cited for contempt and his bail revoked.

It is suggested that the case holdings are to the effect that a show-up is by its nature suggestive and therefore prohibited as a means of identification except in exigent situations. It is true that the United States Supreme Court has indicated that where, under the totality of circumstances, no substantial likelihood of misidentification exists, the identification does not have to be excluded. Neil v. Biggers, (1973). However, the Biggers case arose before the Supreme Court decisions concerning lawyers and identification procedures and also the case itself set down specific guidelines for determining the likelihood of misidentification in a show-up. The difficulty of having a fair show-up should preclude its use except in exigent circumstances.

Finally, it should be noted that the United States Supreme Court in Kirby v. Illinois, (1972) left some doubt as to the attorney requirement for a line-up at the arrest stage. The best procedure, at this time, is to afford the opportunity to obtain counsel, but if counsel cannot be obtained to proceed with the line-up in a fair manner (see Legal Bulletin Vol. 2, No. 15 and 17 - 1972).

A member of the service who has been ordered to stand a line-up as a result of an investigation, must be given the following warnings:

- a. He shall be advised that he has been ordered to stand a line-up and if selected by the victim or witness, such identification may be used against him at a criminal trial.
- b. He should be advised that he has a right to have an attorney present at the line-up.
- c. He should also be advised that if he is unable to afford an attorney, counsel will be provided for him without charge.

It is quite obvious that these warnings have little real effect with regard to most line-ups involving police officers

The matter in which the actual line-up should be conducted has been outlined in detail in T.O.P.#318 (s.67). Some of the more important procedures which are contained in T.O.P.#318 are listed below.

- a. The fedendant or suspect should be viewed with at least eight other persons of the same sex, race and approximately the same age, height, weight and manner of dress. The subject shall be permitted to select his position in the group and the may change his position if he so desires at anytime during the course of the line-up.
- b. There must be no visible indication as to which of the group is in custody for the particular offense.
- c. No member of the group may be asked to say or do anything to facilitate identification unless all are asked to do the same thing.
- d. No interrogation of any member of the group may occur in the presence of the viewing witness or victim.
- e. Special care must be taken that no member of the group be seen by the witness or victim prior to his appearance in the group.
- f. Two or more witnesses or victims should not view the same suspect or defendant in each others presence nor should they be permitted to communicate with each other during the viewing procedure. The fact that one or more of them may have made a positive or negative identification may not be revealed to the others. The viewing witness or victim may remain unseen or masked when viewing the line-up.
- g. If practicable, a photograph should be taken of the entire group including the suspect or defendant viewed by the identifying witness or victim showing their physical appearance at the time and the clothing worn for purposes of the identifications.
- h. The police officer or other official conducting the viewing shall fully record the details of the procedure utilized, including specific utterances and actions required of the group to facilitate identification. All of the responses of the viewing witness or victim and the time intervals involved, the names and addresses of all participants in the viewing must also be recorded. This includes, in addition to the suspect or defendant and the victim or other witnesses, the others in the group with the suspect or defendant, the police officers or other officials present, any lawyer, friend or relative of any suspect or defendant, any other persons particilating in or witnessing the conduct of the viewing procedure.

Post Line-up Procedures

- g. Conduct several line-ups with the same suspect in each.
- h. After the line-up has been conducted, informing the witness that "you picked the right man."
- i. After having selected the wrong person, asking the witness "to try again."
- j. A show-up where the alternative of a line-up is available has been considered unnecessarily and impermissably suggestive.

In order for an investigator to adequately deal with a defense attorney who represents a member of the serive standing a line-up, he must first understand the role that such an attorney plays in the overall process. Attorneys usually act in an adversary capacity. The attorney's function at a line-up is somewhat different since he is not acting in his usual capacity, but rather has been desigrated by the court to witness the line-up and insure that suggestive practices do not take place. The courts have given defense attorneys the right to make reasonable suggestions as to the manner in which the line-up should be conducted. It is worth noting that courts have held that failure on the part of an attorney to object to a specific practice at the line-up is deemed a waiver, which means that he cannot later at a Wade Hearing raise the objection of fairness for the first time. It is for this reason that you may frequentlu find attorneys making numerous suggestions, some of which may even seem to you to be bordering on the point of rediculoussness. It is suggested, however, that each suggestion should be implemented providing it is reasonable and does in some way add to the fairness of the line-up.

Among the many suggestions that you may received from defense attorneys will be a request that a blank line-up be conducted.

That is, one containing a number of look-alikes, but not the suspect. This suggestion has been held by several courts to be permissible and should be implemented, particularly where there has been a prior photo identification. The reason is fairly obvious, it will tend to rest the accuracy of the witness' recollection.

As a general rule and practice, when dealing with defense attorneys, it is advisable to conduct a pre-line-up conference which should be tape recorded in order to preserve a record for future reference. At this conference the attorney can be provided with the information listed above. In addition, the procedures to be employed can be explained to him, while at the same time giving him an opportunity to make suggestions regarding the fairness of the line-up.

You will find that a great many complainants and witnesses have never participated in a lineup before. Therefore, it is advisable to explain to each of them the procedures that will be followed. Each witness should be cautioned to take as much time as he feels necessary to view each of the individuals standing the line-up, and to make a decision only when he feels that he can positively identify the officer complained of.

In the usual case, the witness or complainant will be brought into view the line-up. However, in a particular case, circumstances may clearly dictate that this is not the best and most appropriate course of action. In order to avoid producing the witness for an actual face-to-face confrontation, one might consider the possibility of conducting a line-up without the witness and complainant. A photo can be taken of this line-up and the photo used for identification purposes out of the presence of the suspect and his attorney. It should be pointed out that this procedure is fraught with legal dangers and should only be used in extreme cases where security must be maintained or the witness' physical well-being must be protected. An investigator who uses this particular method of identification, must be prepared in the event of a Wade Hearing to justify his actions. Furthermore, he must be in a position to substantiate with tape recordings the fact that the identification by the witness of complainant was done fairly.

The fairness or due process test set forth in the Stoval decision requires that the line-up procedures not be such as to be unnecessarily suggestive or conducive to irreparable mistaken identification. Whether or not these procedures are fair, will depend on the totality of the circumstances surrounding them. If the confrontation is found to be unfair, evidence of the line-up will not be admitted at the trial and the in-court identification by the complainant or witness will also be excluded, unless it can be shown that the witness has an independent recollection of the defendant.

The following practices have been held by various courts to have been suggestive and therefore, not in accord with constitutional due process:

- a. Persons used in the line-up do not fit the general description of the suspect.
- b. A prior identification was made by means of photographs.
- c. The suspect is the only one in handcuffs.
- d. Informing the witness that "we have the man".
- e. Having the suspect the only one in the line-up dressed similar to the perpetrator, or have him the only one to speak words spoken by the perpetrator.
- f. Having two or more witnesses view the line-up at the same time.

since they usually are accompanied by attorneys who represent the line organization.

The Supreme Court ruled in the Wade case that a pre-trial line-up or show-up was a critical stage of a criminal proceeding at which the suspect was entitled to have the aid of counsel the same as he would at the trial itself. The subject, who is asked to stand a line-up, may waive his right to an attorney, but this waiver must be intelligently and understandingly made. A failure on the part of a suspect to affirmatively request an attorney, does not constitute a waiver of his right. It should be pointed out that when the prosecution claims a waiver on the part of the subject, it has the burden of proving that he made an intelligent waiver of his rights and this waiver is not lightly presumed, but rather the prosecution has a heavy burden of proving that there was in fact a valid waiver of this constitutional right.

The one area that causes more problems than any other in connection with line-ups involving members of the service, concerns itself with what information should be provided to an attorney representing a suspected member at a line-up. In order to clarify this matter, it is suggested that the following information be given to the defense attorney:

- a. The names of witnesses who will appear at the line-up, provided of course, giving such information would not hinder the future progress of the investigation.
- b. The time, place and nature of the allegations.
- c. The descriptions of the suspect provided by each of the witnesses.
- d. Whether or not there had been a prior photo identification.
- e. The results of any prior photo identifications.
- f. The procedures used in connection with the photo identification.
- g. Any other evidence which would materially reflect on the accuracy of the identification made by the witness.

In the there have been a number of cases in which the manner of notification to the complainant or witness concerning the line-up raised serious question of suggestion. When the witness is notified to appear, he should simply be told that a line-up is to be conducted in connection with a particular investigation and that it will be held at a particular time and place. Statements by the investigator indicating that they have identified the accused officer and that he will stand the line-up may be considered suggestive and might result in having the identification set aside by the courts.

You will find that a great many complainants and witnesses have never participated in a line-up before. Therefore, it is advisable to explain to each of them the procedures that will be followed. Each witness should be cautioned to take as much time as he feels necessary to view each of the individuals standing the line-up, and to make a decision only when he feels that he can positively identify the officer complained of.

In the usual case, the witness or complainant will be brought into view the line-up. However, in a particular case, circumstances may clearly dictate that this is not the best and most appropriate course of action. In order to avoid producing the witness for an actual face-to-face confrontation, one might consider the possibility of conducting a line-up without the witness and complainant. A photo can be taken of this line-up and the photo used for identification purposes out of the presence of the suspect and his attorney. It should be pointed out that this procedure is fraught with legal dangers and should only be used in extreme cases where security must be maintained or the witness' physical well-being must be protected. An investigator who uses this particular method of identification, must be prepared in the event of a Wade Hearing to justify his actions. Furthermore, he must be in a position to substantiate with tape recordings the fact that the identification by the witness of complainant was done fairly.

The fairness or due process test set forth in the Stoval decision requires that the line-up procedures not be such as to be unnecessarily suggestive or conducive to irreparable mistaken identification. Whether or not these procedures are fair, will depend on the totality of the circumstances surrounding them. If the confrontation is found to be unfair, evidence of the line-up will not be admitted at the trial and the in-court identification by the complainant or witness will also be excluded, unless it can be shown that the witness has an independent recollection of the defendant.

The following practices have been held by various courts to have been suggestive and therefore, not in accord with constitutional due process:

- a. Persons used in the line-up do not fit the general description of the suspect.
- b. A prior identification was made by means of photographs.

- c. The suspect is the only one in handcuffs.
- d. Informing the witness that "we have the man."
- e. Having the suspect the only one in the line-up dressed similar to the perpetrator, or have him the only one to speak words spoken by the perpetrator.
- f. Having two or more witnesses view the line-up at the same time.
- g. Conduct several line-ups with the same suspect in each.
- h. After the line-up has been conducted, informing the witness that "you picked the right man."
- i. After having selected the wrong person, asking the witness "to try again."
- j. A show-up where the alternative of a line-up is available has been considered unnecessarily and impermissably suggestive.

In order for an investigator to adequately deal with a defense attorney who represents a member of the service standing a line-up, he must first understand the role that such an attorney plays in the overall process. Attorneys usually act in an adversary capacity. The attorney's function at a line-up is somewhat different since he is not acting in his usual capacity, but rather has been designated by the court to witness the line-up and insure that suggestive practices do not take place. The courts have given defense attorneys the right to make reasonable suggestions as to the manner in which the line-up should be conducted. It is worth noting that courts have held that failure on the part of an attorney to object to a specific practice at the line-up is deemed a waiver, which means that he cannot later at a Wade Hearing raise the objection of fairness for the first time. It is for this reason that you may frequently find attorneys making numerous suggestions, some of which may even seem to you to be bordering on the point of ridiculousness. It is suggested, however, that each suggestion should be implemented providing it is reasonable and does in some way add to the fairness of the line-up.

Among the many suggestions that you may receive from defense attorneys will be a request that a blank line-up be conducted. That is, one containing a number of look-alikes, but not the suspect. This suggestion has been held by several courts to be permissible and should be implemented, particularly where there has been a prior photo identification. The reason is fairly obvious, it will tend to test the accuracy of the witness' recollection.

As a general rule and practice, when dealing with defense attorneys, it is advisable to conduct a pre-line-up conference which should be tape recorded in order to preserve a record for future reference. At this conference the attorney can be provided with the information listed above. In addition, the

procedures to be employed can be explained to him, while at the same time giving him an opportunity to make suggestions regarding the fairness of the line-up.

The matter in which the actual line-up should be conducted has been outlined in detail in T.O.P.#318 (s.67). Some of the more important procedures which are contained in T.O.P.#318 are listed below:

- a. The defendant or suspect should be viewed with at least eight other persons of the same sex, race and approximately the same age, height, weight and manner of dress. The subject shall be permitted to select his position in the group and he may change his position if he so desires at any time during the course of the line-up.
- b. There must be no visible indication as to which of the group is in custody for the particular offense.
- c. No member of the group may be asked to say or do anything to facilitate identification unless all are asked to do the same thing.
- d. No interrogation of any member of the group may occur in the presence of the viewing witness or victim.
- e. Special care must be taken that no member of the group be seen by the witness or victim prior to his appearance in the group.
- f. Two or more witnesses or victims should not view the same suspect or defendant in each others presence nor should they be permitted to communicate with each other during the viewing procedure. The fact that one or more of them may have made a positive or negative identification may not be revealed to the others. The viewing witness or victim may remain unseen or masked when viewing the line-up.
- g. If practicable, a photograph should be taken of the entire group including the suspect or defendant viewed by the identifying witness or victim showing their physical appearance at the time and the clothing worn for purposes of the identification.
- h. The police officer or other official conducting the viewing shall fully record the details of the procedure utilized, including specific utterances and actions required of the group to facilitate identification. All of the responses of the viewing witness or victim and the time intervals involved, the names and addresses of all participants in the viewing must also be recorded. This includes, in addition to the suspect or defendant and the victim or other witnesses, the others in the group with the suspect or defendant, the police officers or other officials present, any lawyer, friend or relative of any suspect or defendant, any other persons participating in or witnessing the conduct of the viewing procedure.

Post Line-Up Procedures

Immediately following the line-up, the individual viewing it will be asked in the presence of the attorney, whether or not he or she can identify any member standing the line-up as the individual complained of. A careful record should be made of the witness' answer including any statements indicating doubt or uncertainty. If a positive identification is made by the witness the investigator should make further inquiries of the witness to determine whether or not he or she is absolutely certain about their identification. At this point you may of course have an attempt on the part of the attorney to question the witness, primarily for the purpose of weakening the witness' identification. It should be pointed out that under no circumstances will the attorney be permitted to question the witness, either before the line-up takes place or after the identification is made. However, you should feel free to accept reasonable suggestions from the attorney as to questions that you might ask the witness in order to clarify certain matters regarding the identification.

Suppression Hearing (Wade Hearing)

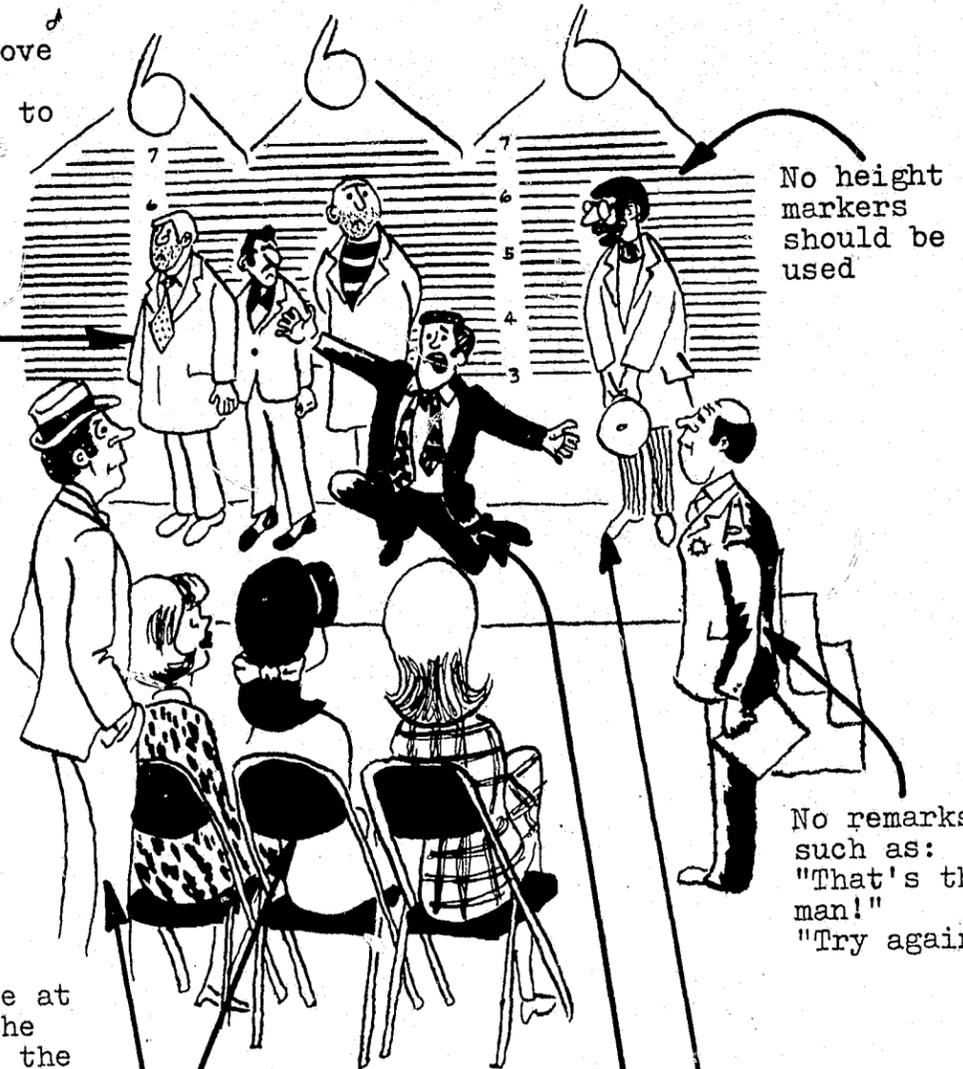
In those instances where criminal charges result from a line-up identification, some question may be raised as to the admissibility of the line-up evidence. New York requires by statute (Criminal Procedure Law, Section 710.10 through 710.70) that a pre-trial suppression hearing, commonly referred to as a "Wade Hearing", be held in order to determine the admissibility of this evidence. At this hearing two primary issues will be considered. The first will relate to whether or not counsel was present or waived at the line-up. The second will deal with whether or not due process was violated. A consideration of the due process question will raise the problem of whether or not the line-up was suggestive in composition or conduct, or whether any pre-line-up or post-line-up suggestion took place.

If the hearing judge finds that any of the pre-trial identification procedures violated the defendant's right to counsel or to due process, he will then suppress the testimony concerning the line-up identification as well as the in-court identification, unless the prosecution can establish by clear and convincing evidence that the in-court identification was based on an independent source.

Conclusion

The immediate result of the use of improper line-up procedures will be the exclusion of the line-up evidence and in-court identification at the trial. The long-range effect will be far more disastrous. Such practices will not only damage the police department's reputation, but may also result in the imposition of further legal restrictions, which we can little afford. The utilization of the procedures outlined above will, hopefully, go a long way in minimizing future problems in this area.

You made me love
you
I didn't want to
do it



No height
markers
should be
used

No remarks
such as:
"That's the
man!"
"Try again."

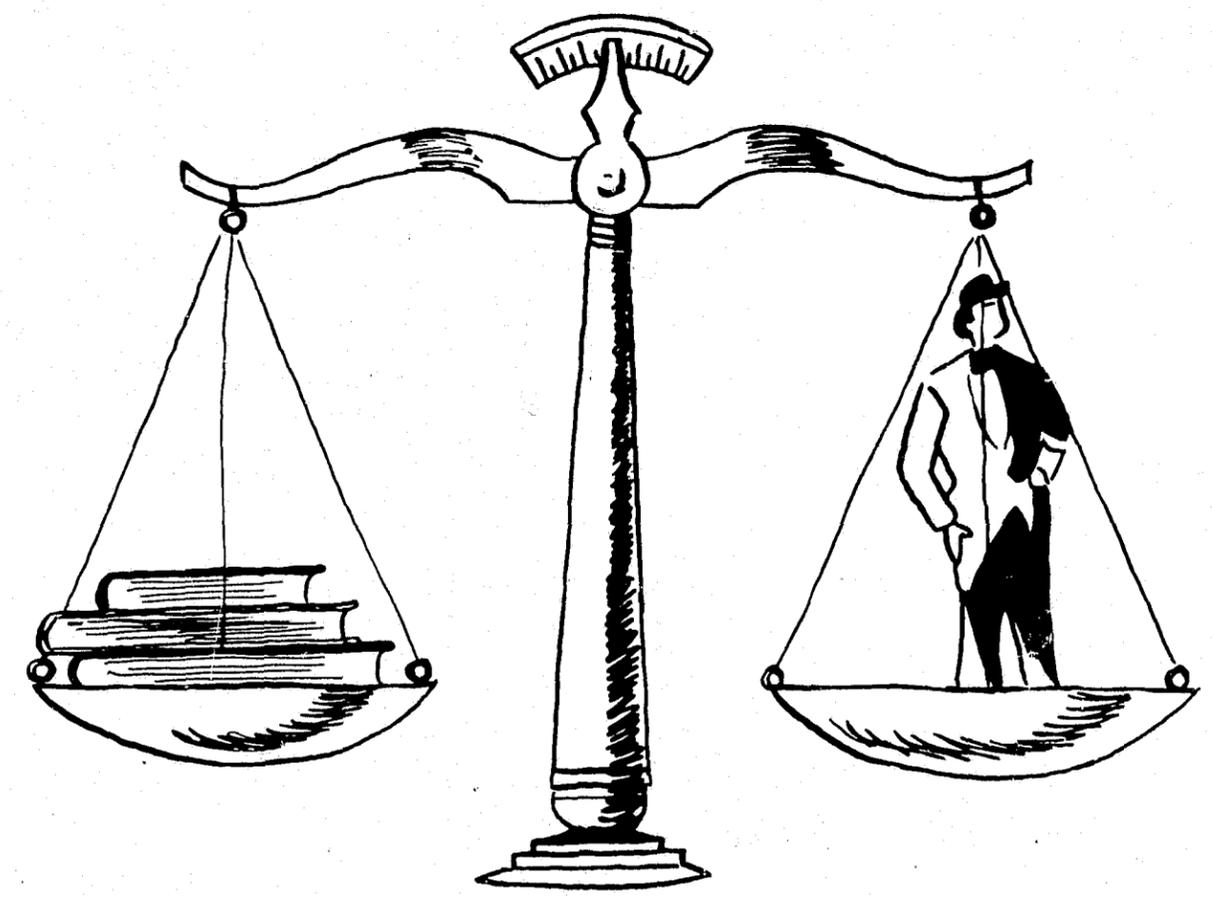
There must be at
least 6 in the
line-up, but the
department wants
8 and preferably 10

The witnesses and the
complainant should not
view the line-up in
each others company

All participants
should fit the
same general
description re:
height, weight,
age, coloration

The attorney is there
only to counsel his
client and to make
reasonable requests

If the suspect
deliberately
disrupts the
line-up, secure
a court order
compelling his
proper behavior



Legal Considerations

DISCIPLINARY ACTION

Introduction

When a complaint has been received and the investigator has diligently developed and amassed all the information concerning his investigation, there are two (2) remaining steps to be taken: preparing the final report and taking the necessary action (either criminal or disciplinary) mandated by the preponderance of information.

There are times when the action to be taken is clear-cut and one that the investigator, by virtue of his calling, has the authority to do - effect a summary arrest of the subject. The circumstances surrounding this action will be discussed in a separate section of this manual.

Command Discipline

The basis for Command Discipline comes from T.O.P. #368, 368-1, 368-2 and 368-3 s. 1971. In the conduct of his investigation, the investigator may have a situation where his recommendation, through channels, would be command discipline. This would be in compliance with department policy to have discipline originate with the local commander.

The situation would have to be outside the realm of the case under investigation, but serious enough to warrant disciplinary action. Outside command superior officers are being discouraged from giving complaints in these matters, thus placing the responsibility for performance of members of the service with their immediate commanders.

The commanding officer, after investigation of the facts and interviewing member(s) and witnesses, informs officer that (a) the allegations are unsubstantiated; (b) Charges and Specifications are more appropriate; (c) Command Discipline is appropriate. In the latter case, the member concerned has three (3) options open to him: (1) accept the findings and penalty; (2) accept the findings but appeal the proposed penalty to a Review Panel; or (3) decline Command Discipline and have the matter resolved through formal Charges and Specifications. (See Patrol Guide, Procedure 118, subdivisions 1 through 4.)

Charges and Specifications

The word "charges" refers to form U.F.160 (Charges and Specifications) wherein it states, "I hereby charge..." a particular person with specific act(s) of misconduct which are violations of the Rules and Procedures or the Patrol Guide or other orders. The specific act(s) are thereafter referred to and enumerated as the specifications. Each specification stands alone and must be proven in and of itself. The charge may consist of one specification or an unlimited number included in the complaint. Therefore, the charge is sustained if any one of the specifications is proven.

Purpose of Charges - the principal purpose of charges is that they are one of the mechanics used in the maintenance of discipline

with the department. As with all disciplinary procedures, its basic purpose is not to punish an individual, but to deter the individual and others from committing similar acts (or failing to perform required duties.)

Guide lines in the drafting of specifications

In the preparation of charges one should be aware that certain subject matter not covered in the Patrol Guide but provided for in the Rules and Procedures or other Dept. orders remain in full force and effect. (T.O.P. 340-1 s.72)

Legal procedures and requirements are limited to the Administrative Code. There is a 3 year statute of limitations as per section #75 of the Civil Service Law on Administrative Misconduct, but there is no limit on criminal violations. When criminal charges are preferred, Chapter 21/33.0 of the R & P should be complied with.

Specifications are not indictments, they are only allegations setting forth acts of misconduct (violations) under the Rules and Procedures.

Specifications should set forth only that which can be proven in a departmental hearing. Personal beliefs or suspicions are not grounds for the issuance of specifications.

Accuracy, brevity and clarity should be the investigator's "A-B-C'S" in drafting specifications. Conclusions arrived at after a review of the evidence should be the basis of the specifications.

In order that the format and wording of the specifications in complaints may be uniform, and in order to eliminate unnecessary matters therefrom, standard forms of specifications are included in department publication entitled: "Most Common Charges and Specifications" for the information and guidance of commands preparing specifications. These standard forms have been prepared for the more frequent derelictions and are to be used in indicated cases. Attendant details of the dereliction, which at times in the past have been included in the specifications, are to be included in the report on PD158-151 (U.F. 49) to the Trial Commissioner as set forth in Chapter 21, paragraph 32.0 of the Rules and Procedures. The standard forms are intended to serve as a guide in the preparation of specifications in cases of the dereliction mentioned. In each case, the facts pertaining to the individual situation should be substituted for those in the standard forms.

The specifications in the standard forms are not to be construed as being, nor are they intended to be, the only possible derelictions on which specifications may be predicated. For those specifications not specifically covered in these standard forms,

the proper working of the specifications may be obtained by consultation with the Department Advocates Office, as provided in Chapter 21, paragraph 22.0 of the Rules and Procedures.

The A-B-C's of preparation:

- A. Accuracy-the time, date, (off duty in civilian clothes or in uniform) place, names of witnesses, documentary evidence, etc., should be investigated and verified before being inserted in a specification.
- B. Brevity-redundant, immaterial, irrelevant and unnecessary verbiage should be avoided.
- C. Clarity-the specifications should be drafted so that the reader may clearly understand the allegations.

Specifications may be defective without being insufficient as a matter of law. Such specifications may be corrected and/or amended by motion of the Department Advocate before or during the departmental hearing. This "saving motion" however, should not be the basis of the drafting of careless or irresponsible specifications. A defective specification differs from an improper specification. Improper specifications are those that should not have been drawn and are correctable only by a motion to dismiss by the Department Advocate, which indicates poor judgement by the preparing superior. An example of an improper specification is one wherein the specification alleges a false statement based on mere denial of a substantive charge. For example, if a member of the service is charged with being "off post" but states that he was on post, the specification should be only for "off post" and not for both "off post" and "false statement".

Form PD 156-151 (U.F. 49)

In accordance with Chapter 21, paragraph 32.0 of the Rules and Procedures, the form PD156-151 (U.F. 49) attached to charges shall be full and complete in explaining all the essential elements to support each specification. Too often, information in a PD 156-151 (U.F. 49) is found to be insufficient to properly assist the Trial Commissioner in evaluating an explanation offered in connection with a guilty plea. Further, the information should be sufficient for the Department Advocate to determine not only the gravity of the charge(s) but the evidence needed to properly present such case(s) in the Trial Room. Names and addresses of civilian witnesses should only be included in the U.F. 49 and not on the U.F.160.

In addition to the form PD156-151, all statements of respondents and witnesses, documentary evidence, etc., shall be forwarded to the Office of the Department Advocate as per Chapter 21, paragraph 34.0 of the Rules and Procedures.

Conclusion

The results of improper and/or poorly drafted charges resulting in the dismissal of said charges, may be of great consequence. The preferring of charges is and should be a serious matter and therefore, it follows that the utmost thought, preparation and consideration should be given to the proper use of this disciplinary instrument.



Suspension of a Member

When, as provided by departmental rules, and dictated by the circumstances of a completed investigation, a member of the service is to be suspended, the following procedures will be followed:

1. The superior in charge will inform the member that he is being suspended and the reasons for such action.
2. The superior will direct the member to surrender all of his department property and all revolvers or pistols owned or possessed.
3. The superior will inform the member that while suspended he is not permitted to wear the uniform and that he will report in person, if not on sick report, each Monday, Wednesday and Friday to his resident precinct. However, a suspended member may apply for a waiver of the thrice weekly visits by submitting an application to their resident precinct or Field Service Area commanding officer. Commanding Officer will conduct an investigation into the request and submit his report as per Interim Order No. 70 s.73. (Captains and above will report to his resident Borough Command.)
4. The superior officer in charge will make an entry in the command log concerning the suspension.
5. Notify the member's resident precinct if below the rank of captain; resident Borough Command if above the rank of captain.
6. Check member's force record and the Aided and Accident Section to determine if member has other pistols or revolvers.
7. Notify the precinct where any of the member's pistols or revolvers are located to pick up such weapons and to deliver them to the member's command.
8. Prepare Property Clerk's invoice and mark clearly "Property of Suspended Member."
9. Forward pistols and revolvers with Property Clerk's invoice, by messenger, to the Borough Office of the Property Clerk Division.
10. Forward member's shield and identification card to the Personnel Employment and Records Division. File receipt for shield and identification card in command. All other property will be retained at command.
11. Notify Command and Control Center and the Communications Division (for transmission of teletype message relative to the member's suspension), First Deputy Commissioner and members Commanding Officer.

The commanding officer of the investigating unit handling the case will direct the preparation of Charges and Specifications.

A member of the service who is suspended may request, on official letterhead, the Director of Police Personnel to restore him to duty if official charges and specifications have not been served. After charges have been served, a request on official letterhead may be made for restoration to duty to the Deputy Commissioner of Trials.

The conditions under which a member may be suspended are: T.O.P. #68 s.1971 directs that a member shall be suspended by the superior in charge or command on the authority of the First Deputy Commissioner without prior approval or conferral under the following circumstances:

1. Indicted by a Grand Jury
2. Arrested for a felony or misdemeanor
3. Arrested for loitering for deviate sex or patronizing a prostitute under the New York State Penal Law.
4. Served with charges and specifications alleging the wrongful solicitation and receipt of monies or other gratuities.
5. Refuses assigned duties either at roll call or during his tour of duty.
6. Refuses an order of a superior officer to answer questions specifically directed and narrowly related to the performance of his official duties after being informed of his rights as per G.O. 15 s. 1969
7. Absent without leave for five consecutive tours
8. Unfit for duty by reason of overindulgence of intoxicants or the after-effects thereof or found to be under the influence of drugs or their after-effects.

These provisions are found in Procedure #118-11 of the Patrol Guide. Any subsequent changes or revisions to these provisions will be found in that section of the Guide.

CRIMES RELATING TO CORRUPTION

I. Bribery

200.00 Penal Law - a person is guilty of bribery when he confers, or offers, or agrees to confer, any benefit upon a public servant upon an agreement or understanding that such public servant's vote, opinion, judgement, action, decision or exercise of discretion as a public servant will thereby be influenced.

The investigator is reminded of two facts that are commonly misconstrued when Bribery is discussed. The first of these is that many people believe that money is the only object that can be offered in Bribery situations. The second misconception is that it must actually change hands before a Bribery is consummated. The truth of the matter is that ANY BENEFIT can be the subject of the offering and this could include many things other than money. In addition the benefit does not have to change hands as the law is specific in stating that all that is necessary is to confer, offer, or agree to confer the benefit upon a public servant. An example could well be where a civilian tells a police officer that he will give him two free tickets to a play at the end of the month if the officer looks the other way when the civilian parks his car in violation. In this case nothing has passed from one person to the other, but the civilian has offered a benefit to a public servant on an agreement or understanding that his official action will be influenced and therefore is chargeable with Bribery.

II. Gratuities

200.35 Penal Law - a public servant is guilty of receiving unlawful gratuities when he solicits, accepts or agrees to accept any benefit for having engaged in official conduct which he was required to perform, and for which he was not entitled to any special or additional compensation.

There are many human situations which confront the police officers on a daily basis and where members of the service render exceptional service. As a result, some people feel almost required to treat policemen as they would others who engage in a service to the public. They feel that a tip or gratuity is mandatory and expected. That, unfortunately, reflects a total misunderstanding of police work and the police function.

The police service is a profession and those so engaged are professionals. As professionals police carry attendant duties and obligations of a very serious nature.

The degree of respect, recognition and cooperation that the police officer received from the public will be commensurate

with their professional attitudes and the manner in which they perform their tasks. Receiving monies for services rendered, or in his non-performance of police duties, is repugnant to all concepts of police professionalism.

LEGAL DIVISION BULLETIN
Vol. 1, No. 25, Dec. 1971
(See Appendix S)

III. Federal Organized Crime Control Act (1970)

This legalization, although directed against the forces of organized crime, criticizes corrupt police and other public officials who condone and promote their unlawful activities.

Under this law, certain unlawful gambling activities now violate federal as well as state laws, and any conspiracy to obstruct the gambling laws of any state may be prosecuted in the federal or state courts.

Title III of this law makes it unlawful for a public official, including a police officer, to permit or allow illegal gambling. It is also a federal crime to engage in a conspiracy to obstruct the enforcement of the criminal laws of a state with the intent to facilitate an illegal business of gambling.

LEGAL DIVISION BULLETIN
Vol. 2, No. 4, Feb. 1972
(See Appendix T)

The above are a listing of some of the laws re: corruption and there are others which will be described in brief. Before proceeding, however, we point out that the Police Commissioner in his "Open Door" letter, (See Appendix U) encourages members of the service to make bribery arrests and he has created the Bribery Arrest Evaluation Board which will review the circumstances of these arrests and bestow special regards where the facts warrant.

IV. State Laws

40.05 Criminal Procedure Law - Entrapment

In any prosecution for an offense, it is an affirmative defense that the defendant engaged in the prescribed conduct because he was induced or encouraged to do so by a public servant, or by a person acting in cooperation with a public servant, seeking to obtain evidence against him for the purpose of criminal prosecution, and when the methods used to obtain such evidence were such as to create a substantial risk that the offense would be committed by a person not otherwise disposed to commit it. Inducement or encouragement to commit an offense means active inducement or encouragement. Conduct merely affording an

opportunity to commit an offense does not constitute entrapment.

210.40 Criminal Procedure Law - Perjury

Making an apparent sworn statement in the 1st degree. A person is guilty of making an apparent false statement in the 1st degree when he commits the crime of making an apparent false statement in the 2nd degree, and when (a) the written instrument involved is one for which an oath is required by law, and (b) the false statement contained therein is made with the intent to mislead a public servant in the performance of his official functions, and (c) such false statement is material to the action, proceeding or matter involved.

155.05(e) Criminal Procedure Law - Extortion

A person obtains property by extortion when he compels or induces another person to deliver such property to himself or to a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will:

1. Cause physical injury to some person in the future; or
2. Cause damage to property; or
3. Engage in other conduct constituting a crime; or
4. Accuse some person of a crime or cause him to have criminal charges to be instituted against him; or
5. Testify or provide information or withhold information or testimony with respect to another's legal claim or defense; or
6. Use or abuse his position as a public servant by performing some act within or related to his official duties or by failing or refusing to perform an official duty in some manner as to affect some person adversely; or
7. Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his health, safety, business, calling, financial condition, reputation or personal relationships.

195.00 Criminal Procedure Law - Official Misconduct

A public servant is guilty of official misconduct when, with intent to obtain a benefit or deprive another person of a benefit:

1. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or
2. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office (a Class A Misdemeanor).

200.30 Penal Law - Giving Unlawful Gratuities

A person is guilty of giving unlawful gratuities when he knowingly confers, or offers or agrees to confer, any benefit upon a public servant for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation.

165.15 (subd. 7) Penal Law - Theft of Services

Obtaining or having control over labor in the employ of another person, or of business, commercial or industrial equipment or facilities or another person, knowing that he is not entitled to the use thereof, and with intent to derive a commercial or other substantial benefit for himself or a third person, he uses or diverts to the use of himself or a third person, such labor, equipment or facilities.

V. Federal Laws

- 18 USC 201 - defines a public official and describes bribery of public officials and witnesses.
- 42 USC 242 - deprivation of rights under color or law is in violation of that person's civil rights.
- 42 USC 1983 - civil action for deprivation of rights liable to any person who violates another's civil rights.

SEARCH AND SEIZURE

Introduction

This is the first of five areas (historical background, search of the person, premises, motor vehicles and search warrants) in which we will discuss the right of the police to search citizens and to seize their property. Citizens harbor a fervent wish to be secure in the undisturbed enjoyment of their property, free from unwarranted intrusions by officers of the state and the right to resist unauthorized entry which has as its design the securing of information which may be used to effect further deprivation of life or liberty or property. It is because this right is so highly regarded that many laws have developed which very strictly limit the police to search both people and places. Most of the rules, however, have been developed not through statutes, which are quite precise, but through case law.



I HISTORICAL BACKGROUND

The British King in an effort to raise revenue to support his armies that were fighting in Europe, began levying taxes on American imports. When these taxes were paid, a tax stamp was placed on the article as proof of payment. The colonists became irate at this and turned to smuggling in an effort to avoid payment. The English tried to overcome this by conducting indiscriminate searches of the colonial homes. When they uncovered goods that did not have the required tax stamp, the goods were confiscated and the owners jailed.

The British acted under the authority of a warrant (commonly called a General Warrant or Writs of Assistance) but they could and did search anywhere, on mere suspicion alone. This behavior further angered the colonists because of the invasion of their privacy. They were, for the most part, relocated Englishmen and accustomed to the British traditional respect for the rights of the individual to his privacy. "A man's home was his castle" and these wholesale intrusions were the main cause of the Revolution.

The Fourth Amendment

After the Revolution, the colonists began formulating a new government. They believed that the main cause for the abuses heaped upon them was that the seat of government was located two thousand miles away and therefore, out of touch with the wishes of its subjects. The result was that government was left in the hands of tyrannical men. To avoid a repetition of this situation, they incorporated into their constitution, a Bill of Rights (the first ten amendments) which enumerated the rights of free men.

These amendments were only applicable to the central or federal government. The local or state governments, it was felt, would be more responsive to the will of the people. The federal government, on the other hand, would be somewhat remote and the people did not want to give them any power without making sure that it would be used with restraint. This is essentially the purpose of the Bill of Rights.

The Fourth Amendment to the Constitution deals specifically with the area of searches and seizures:

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

It should be noted that not all searches are prohibited, only those unreasonable searches. However, it does seem to

indicate that all searches will be conducted with or under the authority of a warrant, and that a warrant can be issued if:

1. The search is not unreasonable;
2. The officer wishing to make the search is prepared to swear to the facts;
3. There is probable cause; and
4. The warrant shall be particular. It must state with specificity what person or place will be searched and what property will be seized.

The Exclusionary Rule

Although the Fourth Amendment commands that searched be made in a certain way, it says nothing about how these commands are to be enforced. Theoretically, a person could seek redress for illegal searches and seizures through the courts, by bringing suit against the officer and government. Experience clearly showed that this was not the case and that this was an inefficient remedy. The mere threat of such suits did not deter the officers. For these reasons, the Supreme Court created the rule of evidence called "THE EXCLUSIONARY RULE."

Simply stated the rule mandates that all evidence obtained by federal officers by means of an unreasonable search and seizure, will not be admissible in court. The importance of this rule cannot be overestimated. In many cases the physical evidence which is come by as a result of a search, is absolutely necessary and crucial to establish the elements of the crime. Therefore, in cases where the crime charged is the possession of contraband, an illegal search to obtain such contraband will result in a dismissal because the contraband is needed to show guilt. In other cases, where the illegally seized evidence is simply an element of the entire proff, the possibility for dismissal is quite strong.

Federal Courts Adopt the Exclusionary Rule

In 1914, the Supreme Court in Weeks v. United States, 232 U.S. 383, held that evidence obtained as a result of an unlawful search and seizure would be excluded in federal courts. However, since the Fourth Amendment was not applicable to state officers, illegally seized evidence could still be admitted in both federal and state courts, if seized by state officers. This gave rise to the "SILVER PLATTER DOCTRINE". If a federal officer wanted to conduct a search he knew would be regarded as illegal, he would contact the local authorities who would conduct the search and hand the evidence over to the federal officer. This situation created unprecedented cooperation between federal and state authorities. It was ended in 1960 by another Supreme Court case, Elkins v. United States, 364 U.S. 206, in which it held that federal courts must exclude all illegally seized evidence regardless of who the officers were that made the search.

The basis for this decision and later rule, extending the prohibition to state courts, was laid down in 1949 by Wolf v. Colorado, 338 U.S. 25. In this case, the court did not exclude the evidence and the fruits thereof (the conviction was upheld) but the court said something far more important: the Fourth Amendment was applicable to the states !

Extension of the Exclusionary Rule to the States

In a landmark decision Mapp v. Ohio, 367 U.S. 643 (1961), the Supreme Court, as a matter of constitutional law, imposed the exclusionary rule of evidence upon the states. The court ruled for the first time that evidence material taken in an unreasonable search and seizure cannot be used in any court, state or federal, against the person from whom it was improperly obtained. Further, the court found that since Wolf v. Colorado, they had not seen the states making any effort to prevent violations of the Fourth Amendment by police officers.

This is not to say that federal law replaces or displaces state law. In Ker v. California, 374 U.S. 23 (1964), the court held that a state is free to adopt rules more stringent than those enumerated in either the Fourth Amendment or the federal statutes. Additionally, it is free to adopt rules less stringent than those stated. Whatever the differences which may exist between state law and federal law, the state standard must at least measure up to or include the constitutional standard.

Legal Searches

The Fourth Amendment only permits searches to be made on the authority of a warrant which has been issued on the basis of probable cause. As the case law developed, however, two important exceptions appeared:

1. Searches conducted with consent (i.e., where the person has waived his constitutional right); and
2. Searches incidental to a lawful arrest.

A. Searches by Consent

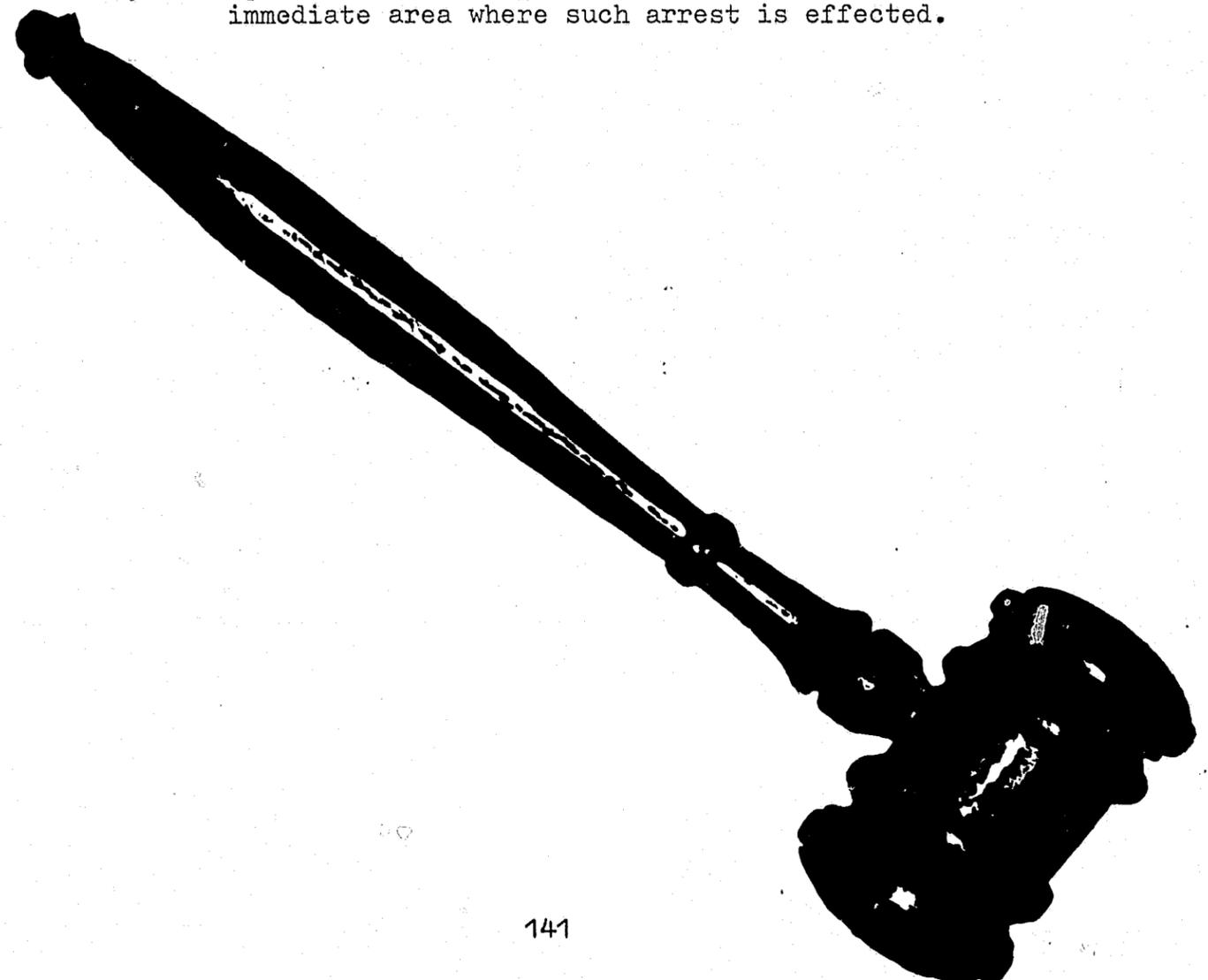
Searches conducted by consent are frowned on by the courts because they have taken the attitude that for the consent to be valid, the consent has to be intelligently given. That is, the person must understand what he is doing and, anyone who knows what he is doing is not likely to consent when he knows that contraband likely to convict him will be found. There have been exceptions (outwitting the police, and consent by person(s) other than suspect) which will be discussed under their proper classification.

B. Searches Incidental to a Lawful Arrest

In this type of search, although it is basically an exception to the general rule, accounts for approximately 90 percent of all searches made by police officers. It is allowable because the courts have recognized that at the moment of arrest, it is necessary for the officer to:

1. Prevent evidence from being destroyed;
2. Prevent the prisoner from assaulting the officer; or
3. Motor vehicles (this will be discussed in depth separately).

In order for the search to be valid and lawful, there are several points that must be kept in mind: the arrest must come first and precede the search (making it incidental to the arrest); the arrest must be valid (probable cause to believe, etc.); and the scope of the search is limited in time and place. It must be made right after the arrest and only the immediate person of the prisoner can be searched. (This last consideration was added to by subsequent case law). This has also been taken to mean the immediate area where such arrest is effected.



II SEARCH OF THE PERSON

Although not specifically mentioned in the Constitution, the authority to make a legal search has become well established as a result of many court decisions. It is not limited to serious crimes but can be made where the person is arrested for a misdemeanor or, where a person has not committed a crime but is taken into custody, (i.e., pursuant to a specific authority such as the Mental Hygiene Law (psycho) clearly a search is authorized.

Purpose of the Search

The purpose of the law in giving the arresting officer the authority to conduct a search of a person was previously outlined under "Searches Incidental to a Lawful Arrest", and had its basis in United States v. Rabinowitz, 339 U.S. 56 (1950), in which the court held "... the right to search where arrest is made to find things connected with the crime".

Experience plainly shows the necessity for such search. A recent study conducted by the Journal of Criminal Law, Criminology and Police Science entitled, "Police Officer Shootings: A Tactical Evaluation", indicated that failure to make a proper search in the first instance by police officers, was an important cause in 19 percent (nationally) of the injuries in cases where the officer was shot. Although it has not been established through case law, another good reason for allowing searches incidental to an arrest, is for the protection of the person arrested. Suicidal tendencies are not unusual in criminals and many prisoners, if given the opportunity will hang themselves, slash their wrists, etc.

At this point we should differentiate between the search made immediately after the arrest, described briefly as "stop and frisk", and the "full custody" search which is made at the station house. The second type of search is absolutely legal and is, in fact, required by the Patrol Guide (the old Rules and Procedures). What we are more concerned with now is the search by the arresting officer, incidental to the arrest.

Arrest must be Lawful

If the arrest is unlawful in the first instance, then it cannot justify the subsequent search. Most searches which have been declared illegal, have been so held because the arrest was invalid. It must be remembered that the probable cause to believe that a person has committed a crime must arise before the arrest is effected. If it arises afterward, the arrest is unlawful and so is the search.

On the other hand, if the arrest has been valid and the probable cause arose prior to the arrest, then any search is lawful. Any evidence or contraband indicating another crime has been committed, then the prisoner can also be lawfully charged

with that crime. Example: a police officer observes a perpetrator take a pocketbook and flee. He gives chase and effects the arrest. The arrest is valid because it was effected for a crime committed in his presence. He then searches his prisoner and finds contraband - a pistol. He can legally be charged with the unlawful possession of the weapon because this too is a crime committed in his presence.

Arrest Must be Bonafide

No matter how valid the arrest may be in a technical sense, if the court finds that it was used simply as a convenient excuse or pretext for making a search, then the search will be regarded as unreasonable - ergo illegal. For example, in one case, Taglovare v. United States, 291 F. 2d 262 (1961), facts brought out at the trial convinced the court that the police really wanted to search for narcotics. The defendant was so charged after the police had arranged the day before to have him arrested on a traffic warrant. The arrest was declared not to have been a bonafide one and therefore, did not justify the search. A minor infraction for which a summons is usually issued, will not normally justify a subsequent search. Exceptions are of course possible, but generally speaking, the court will find it difficult to believe an officer acted in good faith when he claims he discovered contraband in the prisoner's possession after he arrested him for going through a signal light.

Arrest must be Contemporaneous

The search, in order to be incidental to an arrest, must follow as soon as reasonably possible (contemporaneous) after the lawful arrest. A search made tomorrow on an arrest effected today will not be considered contemporaneous.

The reasons previously mentioned under "Purposes", justify immediate - ergo contemporaneous searches, but they have no relevance to a search made later in time. There are no hard and fast rules as to how much time may elapse before the search loses its contemporaneous aspects. Each case must turn on its own facts and circumstances.

Scope of the Search

Case law allows a reasonable search of the person to extend somewhat beyond the physical body of the person arrested to things within his reach and/or under his control. But again, one must remember the reason for the search must be valid and those things outside his grasp or control is probably beyond the scope of a permissible search. The basis for this comes from Chimel v. California, 395 U.S. 753 (1969). In this case the police conducted a search of a premises claiming authority on the arrest warrant. The court held that the arrest warrant only permitted search incidental to the arrest and only those areas specifically within

his control.

In a later decision, Vale v. Louisiana, 339 U.S. 90 (1970), the court went somewhat further. In this case, the state officers effected an arrest on the street and on the basis of this arrest, went to the prisoner's house and conducted a search. The court held that this practice was inadmissible.

Simply stated, anything in the prisoner's actual physical possession may be searched, such as a suitcase or a shopping bag. Anything in open view may be seized by the arresting officer if it is either contraband or evidence. There is a difference between searching and seizing. Example: if a man is arrested in his office, the arresting officer may search the person of the prisoner and anything reasonably within the prisoner's reach. They could not, however, go through all the drawers in the room. But, if without having to open any drawers or doors, they see some evidence or contraband, it can still be seized incidental to the arrest, without the necessity of getting a search warrant.

Force Used to Conduct a Search

In making an otherwise reasonable arrest and incidental search, a police officer can use the necessary force determined by the circumstances.

Search by Consent

Theoretically, a person may waive his right to privacy given him by the Fourth Amendment and consent to be searched. But such consent must be intelligently given and without duress on the part of the police. As pointed out earlier, courts find it hard to believe that anyone will consent to a search when he knows that evidence may be found, capable of incriminating him. Accordingly, when police attempt to justify making search on the basis of a person's consent, the court places the burden on the police of showing by clear and convincing proof, that such consent was freely given. Courts have held that even the sight of a weapon or a shield, or even when he identifies himself as a police officer, is enough to coerce someone against his will, into consenting to a search, and such search will be held invalid.

In one case, a police officer was questioning a prisoner, the suspect told the officer, "...if you don't believe me, you have my permission to come in and search." The court held that this was not a valid consent but merely the bravado of a small-time criminal.

Search With a Warrant

Warrants for searching persons (as distinguished from places) are a valid way of conducting a search, and should be used whenever possible. Experience has shown that such warrants

are rarely used. The reason for this is because the criteria for obtaining a warrant are the same as the criteria for making an arrest (probable cause). If there is probable cause to believe that a person is carrying contraband, it is not necessary to secure a warrant to conduct a search. This is set forth in the New York "Stop and Frisk" law and lately reinforced by a Connecticut case, Adams v. Williams, 407 U.S. 143. In this case, a police sergeant was seated in his patrol car at night, in a high crime area. He was approached by an unknown informant who told him that there was a man seated in another vehicle who had a pistol in his waist band. The informer left and the sergeant went to the car. The defendant rolled down his window and the sergeant reached in and removed the pistol from his belt. He was arrested and he and his car was searched. Another weapon was found along with a quantity of heroin. The prisoner was given these added charges. The court upheld the conviction stating that it was not necessary for the police to wait for the commission of a crime; that there was sufficient reason for the officer to act.

Custody Searches

Quite apart from the right to search incidental to an arrest, by consent, or on the basis of a warrant, we enter the area where persons are taking custody of prisoners. They have the right to conduct a full custody search for security reasons. Thus we have the mandatory search of a prisoner before he is lodged in detention cells.

Stop and Frisk

Previously mentioned was the "Stop and Frisk" rule. Factually, the New York Court of Appeals in People v. Rivera sanctioned stop and frisk. The Legislature in the same year enacted Section 180A of the Code of Criminal Procedure which statute was the Stop and Frisk Law. Section 140.50 of the Criminal Procedure Law entitled "Stop and Frisk" is the re-enactment of S. 180A of the C.C.P. The case of Terry v. Ohio reaffirms the right of stop and frisk.

Subd. 1 - In addition to the authority ... for making an arrest without a warrant, a police officer may stop a person in a public place ... when he reasonably suspects that such person is committing, has committed or is about to commit either a Felony or any Misdemeanor defined in the Penal Law, and demand his name, address and explanation of his conduct.

Subd. 2 - When upon stopping a person under circumstances prescribed in subd. 1, a police officer reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury and of a sort not ordinarily carried in

public places by law abiding persons. If he finds such weapon or instrument, or any other property the possession of which he reasonably believes may constitute the commission of a crime, he may take it and keep it until the completion of the questioning at which time he shall either return it, if lawfully possessed, or arrest such person.

Police Officer Searches

When an officer comes under suspicion, unless an arrest is affected, he may not be searched nor requested to empty his pockets. Example: there is an allegation that officer has been given money in a distinctive fold or denomination, unless there is enough independent evidence to arrest, he cannot be searched nor requested to empty his pockets.



OFFICER! I DON'T THINK YOU HAVE
THE PROPER ATTITUDE.

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III SEARCH OF A PREMISES

Although the search incidental to an arrest is a very important factor in the search of persons, it is relatively unimportant authority in the search of a premises. This is because such a search is limited to the actual person of the prisoner and to those "things" which are within his grasps, control or in open view. The majority of premises searches are made on the authority of a warrant or by consent.

Search by Consent

A. When Consent is Required: if the officer has no search warrant and the premises is protected by the Fourth Amendment, then consent to search is required. This raises the question of what premises are protected by the amendment? The Constitutional Amendment speaks only of "houses" but this has been broadly defined by case law to include not only private dwellings, but also out-buildings, apartments, hotel and motel rooms, boarding houses, guest rooms, offices, barns and trailers, as well as desks, desk drawers, lockers, cabinets and suitcases.

B. When Consent is not Required: the protection of the Fourth Amendment has not been extended to "open fields" therefore, consent to search is unnecessary because there are no constitutional rights to be waived by such consent. "Open fields" are defined as land beyond the "curtilage" (proximity) of a building. If the land is within the curtilage, then it would be part of such dwelling or building. The curtilage is defined as the enclosed space of ground and building within the immediate vicinity surrounding a dwelling ... a space necessary and convenient and habitually used for family purposes and the carrying on of family employment.

Police officers, therefore, may enter vacant lots, woods, pastures, etc., and search for evidence. This is true even though the land may be fenced in and the officer may be trespassing. Other premises that may be searched by the police without securing a warrant or consent are vacant or abandoned buildings.

Another important exception to the requirement of consent is where there is an obvious emergency situation, or a case of "hot pursuit". This was established by Warden v. Hayden, 87 S.C. 1647 (1967). This case involved the police who had been informed that an armed robbery had just taken place (5 minutes in the past) and that the perpetrators had entered a house. The court held that the officers were justified in entering the house and in searching for the suspects and their weapons. Further, they held that any other evidence obtained during this search could also be charged against the suspects.

Who is in Possession of a Premises ?

Generally speaking, the person the law allows to give consent is the person that has the right of possession in the premises. Note that the key word is possession and not ownership. The Constitution has shown little concern with the legal right or title to a premises. What it guarantees is the right to be in one's home or office or other protected place, free from unreasonable invasion by the government. The person having the right of possession is the person who may give consent.

A. Teneants - one who by agreement acquires the right of possession but not ownership of a house, apartment, room, office, building, ranch, farm, etc., the duration of the tenancy does not matter. During this period of tenance, the tenant since it is he and not the owner who has the right of possession, is the one that can give consent for search of the premises. If he consents, any evidence uncovered can be used against him and any other person.

B. Joint Tenants/Common Occupants

Where the premises is mutually in the possession of two or more persons, then one can give consent to a search which would be effective against all the occupants. So, if two men share an apartment or room, and one of them becomes suspect, a police officer could obtain valid consent from the roommate to search for evidence, as long as the search is confined to areas mutually in possession of both persons. However, if part of the room or apartment is exclusively used by the suspect (private room, closet, drawer, etc.) that portion of the premises could not then lawfully be searched.

If both persons are present and one of them objects to the search, while the other consents, then it is assumed that the search is balid (although there is very little authority for this).

C. Partners

The same principle as "Joint Tenants" applies to partners. In United States v. Sferas, 210 F. 2d 69 (1953), the Supreme Court held, "the rule seems well established that where two persons have equal rights to the use and occupation of a premises, either may give consent to search and evidence thus disclosed can be used against either." But even in cases where consent is received from a partner, it cannot extend to another partner's private desk drawers, office or locker. However, it does apply to partnership financial records. The basis for this comes from United States v. Goodman, 190 F. Supp. 847 (1961). Silent partners would not have the same effect.

Husband and Wife

Since the emancipation of women in modern times, wives have been considered to have equal rights of possession and unless there are some very special circumstances, the same rules of

consent apply. But again, the wife's consent cannot extend beyond mutual effects to the personal effects in the sole possession of the husband. (Example: a husband's cuff link case in a bedroom dresser drawer, was held to be in the sole possession of the husband and his wife's consent is invalid - Hawaii v. Evans, 372 P2 365); police officers investigating a hit and run accident aksed the wife for permission to search the car which was registered in her name. The automobile, however, was paid for by the husband who had sole possession of it; the wife had never driven the vehicle. In view of her lack of possession, she could not consent validly to the search - Dalton v. Indiana, 105 NE 2d 509.

Though the case law is not sufficiently developed to describe a broad general rule, it appears that consent of one spouse alone should not be relied upon to authorize forcible entry and search over the objections of the other spouse who is present on the premises at the time.

Parent and Child

There is considerable authority for the view that a parent may give consent to search, effective against his child, for a bedroom or other part of the parent's premises occupied by the dependent child - even where the child is emancipated (over 18 years of age) - unless he pays rent for his room, and is then considered a tenant. A child, however, cannot consent or authorize a search of the house which is effective against his parents.

Agents

An agent is one who has been given authority by another to act for him. Whether an agent can consent to a search of his principals' property, depends upon the extent of authority and the right of possession delegated to him. As a general rule, officers looking to obtain a valid consent to search business premises should make the request of the highest ranking employee or business representative - United States v. Maryland Baking Company, 81 F. Supp. 560 (1948).

Some evidence of an agent's apparent authority and right to possession of the premises may be found in the extent of his proprietary interest in his principal's business.

Employee-Employer

A mere employee, having no agency relationship or other special authority, has no right to possession of the premises and therefore cannot authorize a search by consent. The following consent searches were held to be invalid:

- a. Clerk consenting to removal of company business records.
- b. Handyman consented to search of basement of store.
- c. Secretary could not consent to search of employer's files.
- d. Housekeeper consented to search of employer's home.
- e. Accountants having limited access to business records.

The employer's authority in the employment premises is much broader, but it is not unlimited. He may consent to a search of those parts of the premises which he occupies exclusively and of those parts to which he allows employes non-exclusive access. But, where there are areas set aside for an employe's exclusive use, such as a particular section of an office, desk, a locker or other receptacle of personal property, the employer may not consent. Police officer's lockers - because he is a civil servant and subject to governmental (city) rules, his locker may be opened and an inspection made. Any contraband in open view can be charged against officer. Further search requires a warrant.

Custody

An agreement, expressed or implied, to create a bailment or merely to make a loan controls the extent of the custodian's rights over the property. The owner may grant full control, in which case the custodian apparently has the capacity to consent to a search. Valid consent was held to exist where:

- a. Friend consented to search of trunk of borrowed car.
- b. Consent by one given locked briefcase and key.

When control is limited, for example, to mere custody for storage purposes with rights of access specifically denied, such custodian may not consent. The following were held valid:

- a. Baggage left in hotel room retained under statutory lien for unpaid room rent subject to search by consent of management.
- b. Search of books and records of bankrupt companies consented to by trustee.
- c. Property hidden by trespasser is subject to search by consent by one in possession of premises.
- d. Consent may be obtained from one who has recovered property.

Host and Guest or Visitor

A guest or visitor, lawfully present, has a constitutional

right to object to an unreasonable search of the premises when the fruits of the search are to be used against him - Host not present.

The generally recognized rule declares that the host's waiver of the constitutional protection afforded his premises is effective against a guest or visitor. It would not authorize the officers to search the personal property of the guest without his consent.

D. Voluntary Consent

The most difficult question for the courts to decide in consent search case is whether the consent was truly voluntary. The strongest statement on this is found in Higgins V. United States, 209 F. 2d 819 (1954), where the court expressed the opinion that "... no sane man who denies his guilt would actually be willing that policemen search his room for contraband which is certain to be discovered." In other cases, the court has found that criminals may think they are quite clever and can outwit the police. Consent is then given because they do not think the police will find the contraband. The location sometimes makes obvious this intent:

- a. A trash can
- b. A washing machine
- c. Between back and springs of chair
- d. A towel rack on back porch
- e. In a carpet sweeper
- f. In a hollowed pencil or block of wood
- g. In a bird's nest in an awning outside the apartment window

No Duress

Burden of proof required of prosecution includes presenting evidence of clear and convincing proof that consent was voluntary and free of duress. The following are factors influential in determining legal effectiveness of the consent obtained:

1. Appropriate time - acceptable during daylight hours. Emergency situations search anytime.
2. Number of officers - evidence that the officers appeared in such numbers as to constitute overwhelming force tends to destroy the voluntariness of consent.
3. Display of weapons or other symbols of authority - officers seeking permission to search should avoid unnecessary display of weapons, and requests should be independent of the power of authority represented by the badge and uniform.
4. Approach to the premises - avoid unnecessary appearance of force. The siren, flashing light, number of cars or officers, all valid symbols of authority are inappropriate.

5. Announcement of presence, identity, purpose - officer should make know his presence, identify himself, declare his purpose, and request permission to enter.
6. Language of the request for consent - language must convey a request and not a command.
7. Status or condition of the one from whom consent is obtained - courts have taken cognizance that certain persons may be more sensitive to duress than others - the case of women, the very young, the very old, the foreign born, and all others for whom special consideration has been shown in the past.
8. Custody - where the person giving consent is in custody, the burden of proving voluntariness becomes more formidable but not impossible. Arrest and custody are merely factors to be considered.

No Fraud

Consent to search obtained by fraud is void and evidence acquired as a result of such "consent" is subject to the exclusionary rule as the product of an unreasonable search and seizure. Valid consent cannot be obtained by advising falsely that a search warrant is available "anyway", and threat of arrest will be lifted as soon as consent is given.

Search by Warrant

Warrants are the most favorable means in the law for conducting a search and they should be used wherever possible. The courts, however, do not issue warrants with a rubber stamp. In applying for a warrant, police must present facts establishing probable cause to believe that contraband is located in a premises. They must specifically describe the place to be searched and the items sought. The officers must then swear to these facts.

IV SEARCH OF MOTOR VEHICLES

Automobiles play a prominent role in the crime picture. Basically they are protected by the Fourth Amendment against unreasonable searches and seizures in the same way as persons and places. However, an automobile can be moved quickly to an unknown location beyond the jurisdictional reach of the police. Because of this, some of the requirements for a valid search have been modified. Unlike a person or a fixed premises, a mobile vehicle can be at the same time an implement of a crime, the fruit of an offense, and a form of derivative contraband. While a fixed structure is most often the subject of a search for evidence of a crime, an auto in addition may be the specific object seized.

Historically, the courts have taken a more lenient view of automobile searches holding that automobiles do not enjoy the same degree of protection from the Fourth Amendment as does the home. The basis for this comes from Preston v. United States, 376 U.S. 364 (1964).

Carroll Doctrine

As previously mentioned, there are three ways in which a police officer may legally and validly conduct a search:

1. Search with a warrant;
2. Search by consent; and
3. Incidental to a lawful arrest.

This is a fairly constant rule but there is one small exception and this relates to automobiles. It is called the "CARROLL DOCTRINE" because it first arose from Carroll v. United States, 267 U.S. 132 (1925). In this case the court held that "A policeman may search a readily mobile vehicle without a warrant and without a previous arrest, if he has probable cause to believe that the vehicle contains contraband."

This rule has a somewhat limited application because generally if there is probable cause to believe that there is contraband in the car, there is also sufficient authority to affect and arrest. But situations do arise in which grounds for an arrest are lacking but which call for the search of the car.

In some cases, the transporter has not knowledge of the contraband, although there apparently appears to be prima facie evidence, the courts have looked with disfavor on such arrests. The appropriate procedure would be to search the vehicle. The basis for this comes from Eldridge v. United States, 302 F. 2D 463 and Corngold v. United States, 376 F.2D 21 (1966). In all cases, of course, if it is possible to get a warrant without jeopardizing the evidence, one should do so. However, since the car is mobile and may readily be driven away, it is usually necessary to search as quickly as possible.

Necessity of a Warrant Despite Mobility of Car

When there is sufficient time to secure the proper warrants, one should be sought. (Example: a bookmaker with a prescribed route; make and model of car known). An arrest can be made of course on probable cause, but the search is then limited as previously discussed.

Entry on Private Premises

Where police officers, acting on adequate probable cause, and following at a close interval behind a vehicle, are authorized to search a vehicle on a private street and they may enter onto private property to conduct such search. This comes from Scher v. United States, 305 U.S. 251.

Examination of Impounded Vehicle

It is common practice in police departments for arresting officers to take possession of a vehicle whenever driver is taken into custody. They not only have the right to do this, but in some departments there is a mandate to do this, to insure safe-keeping during prisoner's confinement. There are three basic reasons for doing this:

1. It is taken as evidence;
2. It is being taken to safeguard; or
3. Forfeiture proceedings.

If the vehicle is evidence of a crime, or it is seized under laws that call for forfeiture (usually narcotics and tax laws) then there is no problem as to search. The vehicle can be dismantled and a thorough search conducted.

If the vehicle is impounded to protect the owner's property during his absence, then the vehicle is protected by the Fourth Amendment and cannot be searched unless it meets all the constitutional requirements (i.e., incidental to an arrest, contemporaneous, with a warrant, consent, etc.).

Inventory Search

Since the primary reason often is for protection of prisoner's property from loss or damage, it is not only reasonable but appropriate that police examine vehicle and take inventory. In fact, this practice has been held by some courts to be necessary in order to defeat dishonest claims of theft or loss of contents. Since the purpose of such examination is not for the purpose of securing evidence of a crime, it is not a search within the purview of the Fourth Amendment, and the general rules developed do not apply. It is important to understand that this procedure is not supposed to be used as a subterfuge in order to search for evidence. However, if the search is bonafide, contraband or incriminating material may be properly seized and used in court to incriminate subject.

Arrest Must be Bonafide

A Search of a vehicle can be incidental to a bonafide lawful arrest. Few motorists can drive without committing minor infractions of the Vehicle Traffic Law. Some officers have used this knowledge to effect an arrest as a means to detain and search. Furthermore, some courts go so far as to preclude a search incidental to an arrest if the incident clearly does not call for an arrest. There must be some logical nexus between the search and the arrest.

Scope of the Search

Search incidental to an arrest when made in a car - the extent of the search of a vehicle is related to the type of crime an arrest is effected for. In the case of an armed robbery where the suspects were arrested in a vehicle but no weapons were found, a search of the trunk would be authorized.

Abandonment

Since the purpose of the Fourth Amendment is to protect the individual's privacy or his property, it does not extend to abandoned property that has deliberately been gotten rid of. Anyone who abandons such property cannot later complain of its use against him. Abandonment is a question that depends on intent and a court makes this decision from all the surrounding circumstances.

V SEARCH WARRANTS

As we have seen, the Fourth Amendment protects people against unreasonable searches and seizures and intrusions into the individual's privacy. It also says that "... no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." In previous phases it was pointed out that the only way searches can be conducted without a warrant is when they are made:

1. Incidental to a lawful arrest;
2. with consent; or
3. an automobile, if there is probable cause to believe that there is contraband therein.

All other searches require a warrant. This rule is absolute!

What is a Search Warrant ?

Section 690.05 of N.Y.S. Criminal Procedure Law defines a search warrant as "... a court order and process directing a police officer to conduct a search of a designated premises, or of a designated vehicle, or of a designated person for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant."

Purpose of a Search Warrant

The purpose of the Fourth Amendment is to protect a person's right to privacy - his right to be left alone. Before a police officer can violate these rights, the law requires that he secure permission from a court of competent jurisdiction. This permission is issued in the form of a warrant. The reason for requiring a warrant is that it allows the court to act as a buffer between the people and the police.

Affidavits

A sworn written statement signed by the policeman applying for the warrant in which are contained the facts upon which he thinks he has probable cause to believe a search is justified. In addition to swearing to the truth of the affidavit, a police officer may also orally testify before a judge to additional reasons supporting his application for a warrant. A judge may also question witnesses that have been produced in order to show probable cause.

From the facts in the officer's affidavit, the judge decides if the facts alleged support probable cause. It is therefore necessary to put as many facts as are available to support the belief of probable cause.

Requirements of an Affidavit

1. Name of occupant, if known. If the name is unknown, the best description possible and the person is identified as John (Jane) Doe.
2. Description of premises:
 - a. single family, private dwelling, two family, loft building, apartment house, etc.
 - b. construction - frame, brick, stucco, masonry, etc.
3. Street and/or location - street address plus description.
4. Specific location to be searched. The more limited the scope, the more likely the warrant will be issued.
5. Facts of a crime (e.g., gun used in robbery, illegally possessed narcotics are stored on premises, or fur coats stolen from...)
6. Facts showing probable cause:
 - a. Observations;
 - b. information (from informants)
 - 1) reliable in the past (convictions)
 - 2) corroborating facts of informer
7. Description of things to be seized.
8. Night time execution. Normally warrants are only executed in daytime. If there is good reason to execute at night, it must be specifically endorsed by magistrate. Facts must be put in affidavit.

Arrest Warrants

The discussion up to this time has been about search warrants. The criteria for an arrest warrant is the same as that for a search warrant. Since this is so, officers with probable cause frequently make summary arrests instead of taking the time to secure a warrant. Nevertheless, there are certain advantages to arrests warrants:

1. Courts favor warrants. The validity of the arrest is less likely to be questioned by a court when authorized by a court.
2. When police acts pursuant to an arrest warrant, he acts "ministerially". He is no longer acting at his own discretion but following the orders of a court. Therefore, the officer cannot be civilly liable for the consequences if there is a law suit for false arrest.

S.O.P. 26

Standard Operating Procedure # 26 issued under the authority of the Chief Inspector, is still the official guideline for members of the New York City Police Department. The recent

Supreme Court decisions call for the promulgation for new laws, but until this is completed by the legislature, this order will be complied with.

NOTE: it should be noted that § 690.45, subd. 6 provides that a search warrant, if proper facts are known may contain a proviso that the executing officer may enter the premises to be searched without giving notice of his authority. (No Knock).



REPORT WRITING

The investigative efforts of seeking out witnesses, searching out and receiving evidence, and performing the many tasks designed to complete an assignment successfully, may all prove meaningless if these activities are not adequately reported. Internal investigations involve much more than the challenge of the search, it also includes the vital process of recording information and transmitting such information to others. The ability to prepare a satisfactory investigative report must then be recognized as a skill required of the internal investigator, as an accepted means of measuring his total effectiveness, and as an invaluable training aid.

A. The Report Writer

The investigator as a report writer knows his objectives:

1. Investigative Final Report
To summarize an investigation for the information of the First Deputy Commissioner or the Police Commissioner, thus providing a permanent record of the investigation.
2. Interim Report
To describe a major development or changed character of an investigation to a superior
3. Status Report
To answer a superior's question: "What has been done up to this point in the investigation?"
4. Activity Report
To provide a measure of effectiveness of an individual or a field investigative unit

The investigator plans his report by outlining:

1. The person(s) who conducted the investigation
2. What are the allegations
3. Body of the report
 - a. The investigative details which are enough to give the reader confidence that a capable investigation was conducted, but the reader's time should be kept in mind.
4. The investigator's conclusions and recommendations

B. The Investigator's Report

A report is a formal statement of facts and normally is in writing. It should be orderly, systematic and concise in manner. Reports are an essential part of any large organization. All reports should have certain basic qualities that will enable one receiving the report to have an understanding instantaneously, of the information gleaned by the writer in his investigation.

In internal investigations there is nothing more valuable than the composition of the official report. This report is usually the foundation upon which the case, for or against the suspect, is built. In most cases, these reports can be the deciding factors in the successful conclusion.

Using effort and care, anyone can develop the skills that are necessary to prepare a proper and intelligent report. Report writing is an acquired trait.

Investigations conducted by Internal Affairs Units usually comprise the more important, complex, sensitive and difficult type and therefore require quality results, both in the investigative techniques employed and the reports of such investigations.

Reports at the completion of an investigation are used as a measure of the effectiveness of such investigation. It is therefore necessary for the investigator to keep in mind that these reports that he prepares are sent outside the Department and they reflect upon the efficiency of the investigator himself, and the Department as well.

Our objective in this section is to provide investigators with guidelines for the proper preparation of Final Reports. If the investigator has a familiarization with the tools and forms used, as well as the various techniques employed, they will assist him in improving both the quality of his investigation and his Final Reports.

Report Body

Reports should intelligently communicate the facts, (information) obtained by research and investigation. The report becomes the permanent record of such information obtained. There should be a separate enumeration of the allegations made and the answers to each, providing the basic information for decision making.

Supervisors in the review of reports, have a measure of the progress being made in the investigation, which enables him to adequately determine the direction of the investigation and the reliability of the investigator. In addition, the report provides others with the information necessary for continuing, expanding, or concluding investigations.

The proper analysis of the allegations or incidents of deviation, can help pinpoint the causes for a particular series of events, heighten accountability, and through the activity reports, assist the superior in coordinating the activities of many people; In sum, reports transmit information.

Kinds of Reports

It is of great importance that the investigator have an understanding of the kinds of reports that are used during the course of the investigation, in order that he can adequately conform to the procedures, which culminate in the Final Report.

1. Investigative Final Report: a report prepared by the investigator upon the completion of his investigation, when the desired results (determined by the Unit Commander and the investigator) have been achieved and no further action can or should be taken - File. (See Appendix M).
2. Interim Report: a self-initiated report prepared when the character of the investigation has changed because of a major development and requires the need to call someone's attention to a particular aspect of the investigation.
3. Status Report: a report required of the investigator after a specified period of time has elapsed to indicate where a particular investigation now stands.
4. Activity Report: a report used as a measuring device by the Unit Commander and others, to determine or measure the effectiveness of the investigator or a unit. It employs the use of statistical data usually presented in the form of charts or graphs. A paragraph summarizes the data and another indicates the importance of the data (i.e., trends, problems, etc.)
5. Investigator's Report: a report used by the investigator to record the results of a day's investigation and includes all pertinent information such as observations, records obtained, persons interviewed, etc.
6. Special Report: a report, usually not an investigative report, that is prepared in answer to request(s) by other commands and involves the review and comments on proposals

or recommendations.

Preliminary Steps in Report Writing

It is of primary importance for the investigator to know his subject area. It is far easier to write about something with which he is familiar. Whenever possible, the report of an investigation should be written by the investigator himself. No report should begin until all the pertinent information and data has been amassed by the investigator.

It is equally important for the investigator to know what his purpose is, which should be to accurately record the details of his investigation. He should therefore know what he is trying to do. To accomplish this, the investigator must not only be thorough but he must also arrange his material in such a manner that the reader gleans a sense of the investigation.

The investigator must also know his reader. After he has determined his problem and purpose, he must then decide who is going to read his investigative report, and ask himself these two questions:

1. Who will read what I write?
2. How much background in the subject can I expect my reader to have?

Good Report Writing

The following hints towards better report writing and preparation are offered as guidelines:

1. Find ways to get into the writing mood by establishing a deadline, or by setting aside a particular time of the day to be designed as "writing time."
2. Prepare an outline including the identity of the investigator; enumerate the allegations (this has been found to be the largest problem area), read the complaint - list the allegations and then reread; the body of the report should include the investigative details and findings; and the conclusions and recommendations.
3. A good method of approach - think a little, write a little. The important thing is to get something down on paper. Do not trust your memory (especially with a heavy case load) and do not plan to write the report in its entirety at one time.
4. Jot your thoughts on paper quickly, worry about grammar, syntax and readability later. If there is dictation or recording equipment available, use it. Get your thoughts recorded. You can organize at a later time.
5. Learn to skip to other areas if you become bogged down. Writing facilitates writing.
6. Seek critical examination by others. Perhaps they will see something that you may have overlooked or perhaps something which is understandable to you but not to the reader. The chances are, then, that your report will not be understandable to others.
7. Delegate some of the mechanics and some of the editing tasks to others. Organizing the information is an example of the mechanics. There will be times when you know what you want to say, but become bogged down in trying to express yourself. The best way is to say what you want to

8. say and then have someone organize it and edit it.
8. Stop writing when everything that needs to be said has been said. This is one of the most difficult tasks in report writing. Through the intelligent use of your outline, you can avoid needless repetition of relatively unimportant facts.
9. Make realistic estimates of time to be spent gathering information and writing the report. When we discussed "getting in the mood" (paragraph 1) it was suggested that the investigator set a deadline. However, keep in mind that the quality of the report is far more important than the quantity. An unrealistic deadline makes for slipshod report writing.
10. Use clear writing techniques. Use the right word. An improper word can alter the interpretation. Two very useful tools for the investigator are a good dictionary and a thesaurus.

The investigator/report writer should try to avoid writing in the passive voice, and try to be direct. Another useful tool is an English grammar text to familiarize yourself with parallel construction, dangling modifiers, and the antecedent agreement of pronouns. Additionally, there are volumes of mathematical formulae developed to figure out the ideal sentence and paragraph lengths. However, the best formula is the "4S formula":

1. be Short
2. be Simple
3. be Strong (direct)
4. be Sincere

The person to whom you are writing the report cannot sense voice inflection to understand what you are trying to say. He must therefore rely on your punctuation. Mistakes in this area can change the meaning and interpretation. A useful motto for investigators was written by Rudyard Kipling in 1902:

"I keep six honest serving men
(they taught me all I knew);
Their names are What and Why and
When and How and Where and Who."

APPENDICES

- A. Misc. form #686 "Name Check Cards"
Criminal Proceedings Card
Misc. form #390 "Suspension Card" and "Suspension Record"
- B. Communication Referral
Case Assignment Sheet
- C. Investigative Plan (Parts A and B)
Investigative Plan (Part C)
- D. Suggested Tape Heading for Interviews
- E. Suggested Tape Heading for Interrogation (Hearing)
- F. Worksheet re: Equipment Needed
- G. Investigating Officer's Daily Report
- H. Suggested Tape Heading for Payoff Situation
- I. Photography Information Sheet
- J. Suggested Tape Heading for Recording Telephone Conversation
Suggested Tape Heading for Recording an Arrest
- K. Check List Before Line-Up Identification
- L. Check List During Line-Up Identification
- M. Sample Final Report

NAME _____	COMPL or PCT _____ C# _____						
ADDRESS _____	TYPE OF PREMISES _____						
ALIASES _____							
	CLASS	COM'D	VOL	PAGE	CODE		REMARKS
1							
2							
3							
4							
5							
6							
7							
8							

Misc. 686							
	CLASS	COM'D	VOL	PAGE	CODE		REMARKS
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							

CRIMINAL PROCEEDINGS			
Indicted Yes — No	By Whom	Date	
Criminal Court Arraignment and Adjournalment Dates		Bail \$	
		Parole	Yes No
Criminal Trial Dates		Plea	G. N.G.
Final Charge and Disposition			
DEPARTMENTAL PROCEEDINGS			
M. of F. Preparing C&S	Rank	Shield	Command
Date C&S Rec'd at 1 D.C.O.	Date C&S Fwded. to: D.R.U.		
Dept. Hearing and Adjournalment Dates			
Restored to Duty <input type="checkbox"/> Yes <input type="checkbox"/> No	Authority	Effective Time and Date	
Final Disposition (Reason and Authority)			

						Suspension #
Surname	First	M. I.	Rank	Shield	Command	Res. Pct.
Suspended By			Effective Time and Date			
Cause						
Specific Reason						
Additional Remarks:						
SUSPENSION CARD						
						M.F. 300

SUSPENSION RECORD	
Name _____ (Last) (First) (M.I.)	Shield _____
Rank _____	
Present Command _____	Date Appointed _____
Date Suspended _____	Authority _____
Date of Arrest _____	
Charge _____	Date Restored to Duty _____
	Date Dismissed _____
Arresting Officer _____ (Name)	(Command)
Place of Arrest _____	
Misc. 628	SUSPENSION NO.

COMMUNICATION REFERRAL

File No.	COMMUNICATION SUMMARY
P.C. Serial No.	

DEPARTMENT OF INVESTIGATION NOTIFIED AS PER EXECUTIVE ORDER 21 s. 70

1st ENDORSEMENT

INTERNAL AFFAIRS DIVISION, _____, 19____. Referred to CHIEF INSPECTOR,
for appropriate action and report.

By DIRECTION OF THE FIRST DEPUTY COMMISSIONER

Commanding Officer

(for use by the Chief Inspector's Office only)

RECEIVED AT O.C.I. Date _____, Time _____ hrs.
Rank _____ Name _____

2nd ENDORSEMENT

OFFICE OF _____ Date _____

Referred to: _____
for determination and appropriate action.

INTERNAL AFFAIRS DIVISION

CASE ASSIGNMENT

CLASSIFICATION: CORRUPTION - MISCONDUCT - ADMINISTRATION

FORWARDED: TIME _____ DATE _____

SERIAL NUMBERS P.C. _____

1 DC _____

IAD _____

C# _____

M# _____

INVESTIGATOR ASSIGNED _____ UNIT _____

SYNOPSIS OF CASE:

CARDS PREPARED:

NAME _____ LOCATION _____ COMPLAINANT _____ OTHERS _____

UNIT COMMANDER

THIS FORM WILL BE PREPARED BY THE UNIT COMMANDER WITHOUT DELAY AND FORWARDED TO THE EXECUTIVE OFFICER OF THE INTERNAL AFFAIRS DIVISION. AFTER TRANSCRIBING THE INFORMATION CONTAINED IN THIS FORM TO THE PROPER RECORDS, THIS FORM WILL BE FILED WITH THE ORIGINAL PAPERS

INVESTIGATIVE PLAN

IAD# _____ 1DCO

(Date Assigned)

REF:

PART A

ASSIGNED INVESTIGATOR

UNIT SUPERVISOR

PART B

ALLEGATIONS:

PURPOSE OF INVESTIGATION

ADDITIONAL ALLEGATIONS DEVELOPED

OTHER POINTS TO COVER

PART C

(INVESTIGATIVE STEPS TO BE TAKEN)

REF

1] IDENTIFICATION OF POLICE PERSONNEL INVOLVED

2] PERSONS TO INTERVIEW

3] PREMISES AND LOCATIONS TO OBSERVE

4] RECORDS TO OBTAIN AND CHECK

5] OTHER AGENCES TO CONTACT

6] OTHER INVESTIGATION STEPS

HEADING FOR INTERVIEWS
(Test the Tape Recorder)

THE DATE IS _____ THE TIME IS _____
THIS IS LT/SGT _____ AT (Place of Interview) _____
PRESENT WITH ME IS _____ OF (Command) _____
WE ARE ABOUT TO INTERVIEW _____ OF (Residence) _____
IN CONNECTION WITH (Brief resume of complaint) _____
WHICH OCCURRED ON _____

END OF THE TEST

THE DATE IS _____ THE TIME IS _____
THIS IS LT/SGT _____ AT (Place of Interview) _____
PRESENT WITH ME IS _____ OF (Command) _____
WOULD YOU PLEASE STATE YOUR NAME AND ADDRESS? _____
FOR THE PURPOSE OF VOICE IDENTIFICATION
ALSO PRESENT WITH YOU IS _____ (Use where applicable) _____
SUBSTANCE OF INTERVIEW.....

HEADING ON TAPES FOR HEARING
(Test the Machine)

THE DATE IS _____ THE TIME IS _____
THIS IS LT/SGT _____ AT (Place of Interview) _____
PRESENT WITH ME IS _____
WE ARE ABOUT TO INTERVIEW _____
IN CONNECTION WITH _____
WHICH OCCURRED ON _____ AT _____
(End of the Test)

ACTUAL HEARING

THE DATE IS _____ THE TIME IS _____
OFFICER I AM _____ PRESENT WITH ME IS _____
WOULD YOU PLEASE STATE YOUR NAME, RANK, SHIELD, COMMAND _____
FOR THE PURPOSE OF VOICE IDENTIFICATION
ALSO PRESENT WITH YOU IS _____
THIS IS AN OFFICIAL DEPARTMENT INVESTIGATION. IT IS MY DUTY TO
INFORM YOU THAT YOU ARE REQUIRED TO ANSWER QUESTIONS DIRECTED TO
YOU BY A SUPERIOR OFFICER TRUTHFULLY AND TO THE BEST OF YOUR
KNOWLEDGE.
ARE YOU FAMILIAR WITH GENERAL ORDER #15?
ARE YOU SATISFIED WITH YOUR REPRESENTATION?
AT THIS TIME YOU ARE PRESENT (AS A WITNESS ONLY) AS THE SUBJECT
WITNESS: THERE ARE NO ALLEGATIONS AGAINST YOU.
SUBJECT: THE ALLEGATIONS AGAINST YOU ARE AS FOLLOWS.....

R. & P. 2/35A.10 (General Order #15)

"I WISH TO ADVISE YOU THAT YOU ARE BEING QUESTIONED AS PART OF AN
OFFICIAL INVESTIGATION OF THE POLICE DEPARTMENT. YOU WILL BE
ASKED QUESTIONS SPECIFICALLY DIRECTED AND NARROWLY RELATED TO THE
PERFORMANCE OF YOUR DUTIES. YOU ARE ENTITLED TO ALL THE RIGHTS
AND PRIVILEGES GUARANTEED BY THE LAWS OF THE STATE OF NEW YORK,
THE CONSTITUTION OF THE STATE OF NEW YORK AND THE UNITED STATES
CONSTITUTION, INCLUDING THE RIGHT NOT TO BE COMPELLED TO INCRIM-
INATE YOURSELF AND THE RIGHT TO HAVE LEGAL COUNSEL PRESENT AT
EACH AND EVERY STAGE OF THIS INVESTIGATION. I FURTHER WISH TO
ADVISE YOU THAT IF YOU REFUSE TO TESTIFY OR TO ANSWER QUESTIONS
RELATING TO THE PERFORMANCE OF YOUR OFFICIAL DUTIES, YOU WILL BE
SUBJECT TO DEPARTMENT CHARGES WHICH COULD RESULT IN YOUR DISMISSAL
FROM THE POLICE DEPARTMENT. IF YOU DO ANSWER, NEITHER YOUR
STATEMENTS NOR ANY INFORMATION OR EVIDENCE WHICH IS GAINED BY
REASON OF SUCH STATEMENTS CAN BE USED AGAINST YOU IN ANY SUBSE-
QUENT CRIMINAL PROCEEDING. HOWEVER, THESE STATEMENTS MAY BE USED
AGAINST YOU IN RELATION TO SUBSEQUENT DEPARTMENTAL CHARGES..."

WORKSHEET
EQUIPMENT NEEDED

APPENDIX "F"

APPENDIX "G"

INVESTIGATING OFFICER'S REPORT

Kel Intelligence Kit # _____

Tape # _____

Tandberg Tape Recorder # _____

Tape # _____

Sony Tape Recorder # _____

Tape # _____

Craig Tape Recorder # _____

Tape # _____

Minifon Recorder # _____

Wire # _____

16 mm Movie Camera # _____

Pentax Camera # _____

Lens # _____ Type _____

Minox Camera # _____

Lens # _____ Type _____

Polaroid Camera # _____

Lens # _____ Type _____

Bugging (Faurot) Device # _____

Wire # _____

Currency Marking Kit # _____

Extra Equipment: _____

Extra Recording Tapes _____

Special Equipment _____

FROM: _____ COMMAND: _____

CASE # C# _____ I.A.D. # _____ OTHER _____

ACCOMPANYING INVESTIGATOR (S) _____

REVIEWING: _____
OFFICER'S: _____ DATE: _____
COMMENT: _____

.....

ACTUAL SIZE OF FORM
8½" x 14"

<u>TIME SPENT</u>	<u>VEHICLE (S)</u>	<u>EXPENSES INCURRED</u>
Clerical _____	Dept. _____	_____
Observations _____	_____	_____
Interviews _____	Private _____	_____
Travel _____	_____	_____

INVEST. OFFICER _____ SUPV. OF UNIT _____
RANK & SIGNATURE _____

ORIGINAL COPY TO C.O., I.A.D.
DUPLICATE FILED IN UNITS CASE FOLDER

THE TIME IS _____ HRS; THE DATE IS _____

THIS IS LT/SGT _____ COMMAND _____

TESTING KEL/MINIFON NUMBER _____ TAPE NUMBER _____

THIS DEVICE IS BEING PLACED ON THE PERSON OF (complainant's name) _____

TO RECORD CONVERSATION WITH _____ (state the facts) _____

FOR THE PURPOSE OF VOICE IDENTIFICATION WILL YOU PLEASE RECITE YOUR

NAME AND ADDRESS _____ (complainant replies) _____

DO YOU GIVE ME PERMISSION TO PLACE THIS RECORDING DEVICE ON YOUR

PERSON? _____ (complainant answers yes or no) _____

(use the complainant's name) _____ HAS BEEN SEARCHED AND ALL MONEY

REMOVED. IS THAT CORRECT? _____ (complainant answers yes or no) _____

NOW I AM GOING TO GIVE YOU THE MONEY THAT HAS BEEN MARKED AND

SERIALIZED, BUT FIRST I WILL READ THE SERIAL NUMBERS TO YOU AND AT

THE SAME TIME I ASK YOU TO LOOK AT THE MONEY TO VERIFY THE SERIAL

NUMBERS. (SERIAL NUMBERS OF EVERY BILL TO BE READ ALOUD AND TO BE

VERIFIED.)

NOW (COMPLAINANT'S NAME) _____ WILL YOU TAKE THIS MONEY AND

PLACE IT IN YOUR POCKET? (SPECIFY WHICH POCKET IT IS PLACED)

THE TIME IS NOW _____ HRS. TURNING OFF RECORDING DEVICE

PENDING THE ARRIVAL OF THE ALLEGED SUSPECT OR OTHER.

(CONCLUDING STATEMENT AS APPROPRIATE)

SLOW SPEED FILM ASA 25 to 50

Excellent for brightly lighted scenes such as tropical beaches or snowy landscapes. When you want fine detail, a rich gradation of tones and virtually no grain.

MEDIUM SPEED FILM ASA 100 to 200

Offers great latitudes in exposures; a setting, a step or two off the proper one will not prevent the making of a suitable print. This is general purpose film suitable for most subjects and lighting conditions.

FAST SPEED FILM ASA 400 to 500

Provides great latitudes in exposure and is best for taking pictures when light is dim or fast action demands high shutter speeds.

SUPER FAST SPEED FILM ASA 1000 to 3000

Can be used to take pictures in extremely dim light, as little as given off by a single candle. With these films, however, even small enlargements may not exhibit the definition that a slower speed film could render.

	ASA 80/125	ASA 160/250	ASA 400/500	ASA 1000
NORMAL DAYLIGHT	125	250	500	Not
FRONT LIGHTED	f16	f16	f16	Recommended
DARK OVERCAST DAY or RAINING	125 f5.6	250 f5.6	125 f8	1000 f11
SUNRISE	125 f5.6	250 f8	125 f8	1000 f11
SUNSET	125 f5.6	250 f5.6	125 f5.6	1000 f8
TWILIGHT	125 f5.6	250 f4	125 f5.6	1000 f8
BARS, STAGES, HALLWAYS	15th f2.8	30th f2.8	60th f2.8	250 f5.6

FRONT LIGHTED SUBJECTS:

In full sunlight, takes a basic exposure combination of f16 at whatever shutter speed comes closest numerically to the reciprocal of the ASA rating of your film. For example, (without using a light meter) your film speed is rated at ASA 100, the reciprocal is 100 and the closest shutter speed is 125. Thus, the basic exposure combination is f16 at 125. The same exposure can be made with a higher or lower speed, varying the aperture: f22/60; f16/125; f11/250; f8/500; f5.6/1000 (NOTE: by doubling the shutter speed and halving the lens opening, the amount of light reaching the film remains constant.) A side-lighted subject requires more exposure than a front-lighted subject, and a back-lighted subject requires even more exposure than either the front or side-lighted ones.

MANUFACTURER AND FILM NAME

BASIC EXPOSURES FOR SUNLIGHT

	ASA	f STOP	SHUTTER SPEED
KODAK Panatomic X	32	8	125
KODAK Plus X Pan	125	16	125
KODAK Tri X Pan	400	16	500
GAF Super Hypan	500	16	500

REMEMBER IF YOU FEEL THAT YOU ARE NOT DEFINITELY SURE ABOUT WHAT EXPOSURE SHOULD BE, DO THE FOLLOWING: SELECT AN EXPOSURE THAT YOU FEEL IS THE PROPER ONE, SHOOT AT THIS EXPOSURE THEN SHOOT ONE AT A LESSER EXPOSURE AND ONE AT MORE EXPOSURE. IN 90% OF THE SHOTS, ONE OF THE THREE PHOTOS WILL BE EITHER EXACT OR CLOSE ENOUGH TO GIVE YOU A SUITABLE REPRODUCTION. (EXAMPLE: YOU THINK THAT THE EXPOSURE SHOULD BE 125 AT f8. SHOOT ONE SHOT AT THAT EXPOSURE, THEN SHOOT ANOTHER AT 125 AT f5.6 AND ANOTHER AT 125 AT f11. THIS PROCEDURE IS KNOWN AS BRACKETING.

APPENDIX "J"

SAMPLE TAPE HEADINGS

The following is a sample tape heading that can be used when any telephonic communication will be monitored and recorded:

THE TIME IS _____ THE DATE IS _____
THIS IS LT/SGT/DET _____ OF _____ (command) _____
THIS _____ (type recorder) _____ RECORDING DEVICE IS TO BE USED TO
RECORD THE TELEPHONE CONVERSATION BETWEEN _____ (complainant) _____
AND _____ (suspect) _____ REGARDING AN ALLEGED PAYOFF THAT IS
TO TAKE PLACE AT _____ (time, date and location) _____
FOR THE PURPOSE OF VOICE IDENTIFICATION WILL YOU STATE YOUR NAME AND
ADDRESS? _____ (complainant replies) _____
DO YOU GIVE ME PERMISSION TO RECORD THIS CONVERSATION? _____
_____ (complainant replies) _____. THIS RECORDING IS BEING MADE OVER
TELEPHONE NUMBER _____ AND THE COMPLAINANT IS ABOUT TO
CALL SUSPECT OVER _____ (state number to be called) .

When the telephone call is concluded close the tape by recording the time, date, your identity and the fact that the conversation is concluded.

The following is a sample tape heading that can be used when the arresting officer is to wear a recording device to transcribe the facts of an arrest effected:

THE TIME IS _____ THE DATE IS _____
THIS IS LT/SGT/DET _____ OF _____ (command) _____
THIS _____ (type recorder) _____ RECORDING DEVICE IS TO BE USED TO
RECORD THE ARREST OF _____ (identify suspect) _____
SHOULD SUCH ARREST BE EFFECTED IN REGARD TO ALLEGATIONS OF A PAYOFF
BY _____ (identify complainant) _____

The arresting officer should remember to record his identity at the time arrest is effected; to state what the suspect is being put under arrest for; the reading of the Miranda Warnings; where the item exchanged was found; the location of trace evidence; and reading the identity of the evidence (serial numbers, denominations, etc.) and lastly, removal to the station house for booking.

CONTINUED

2 OF 2

CHECK LIST BEFORE LINE-UP IDENTIFICATION

1. No line-up identification shall be held without first discussing the advisability of such line-up with the unit commanding officer.
2. Arrange reporting times of subject and witnesses so that there will be no possibility of their meeting prior to line-up identification.
3. Arrange separate waiting rooms to prevent expose of subject or other line-up participants to witnesses prior to line-up identification.
4. Obtain complete description of subject from witnesses prior to line-up identification.
5. In the event the witness refuses to make a face to face identification, arrange for an alternate means of viewing line-up.
6. The subject shall be informed of the nature of the complaint or complaints and he shall be advised that he is going to be viewed by others for the purpose of establishing his identity in so far that particular complaint or complaints is concerned.
7. The subject shall be advised that he is entitled to have an attorney and other representative present during such proceeding.
8. The subject shall also be advised that the presence of the attorney may be waived. (Waiver must be voluntary and expressly given. Witnesses to waiver shall be obtained where possible)
9. Arrange for a minimum of 8-10 other persons of the same sex, race and approximate age, height, weight and manner of dress.
10. Inform subject that he will be permitted to select his own position in the group and that he will be permitted to change that position during the course of the line-up if he so desires.
11. Inform attorneys and/or representatives that they are present to see that the rights of the person complained of is not violated. All objections will be noted on the record including the rulings of the officer conducting the line-up.
12. A record of the pre-line-up procedures and line-up identification procedures shall be kept and such record shall be stenographic if practical.
13. Arrange for a photographer. Photographs of the line-up will be taken when practical.

CHECK LIST DURING LINE-UP IDENTIFICATION

1. Conduct line-up in quiet and disciplined manner.
2. Permit subject to change his position, if he so desires, at any time during the course of the "line-up".
3. Allow the attorney and/or other representative to be present at time of identification. Caution the attorney and/or representative not to comment during the identification.
4. Be certain that the stenographer, if used, is in position to record the exact statement of identifying witness.
5. No one shall be permitted to remain in line-up room unless essential to line-up procedure.
6. Allow only one witness in line-up room at a time.
7. Allow no one to prompt or coach the witness.
8. Record the statement of the witness verbatim.
9. Indicate the person identified by position for the record by repeating aloud the position indicated by the witness.
10. Do not permit contact or conversation between a witness who has identified a subject and one who is awaiting his turn to view line-up.
11. Record all rulings on objections made.
12. Have photograph taken of each position that subject selects, where photographs are practical.
13. Be aware that a perfect line-up may not be possible and that the subject's rights are preserved if the line-up meets an objective standard of FAIRNESS.



POLICE DEPARTMENT
NEW YORK, N. Y. 10013

APPENDIX M

U. F. 49
P.D. 158-181

REPORT UNDER

IAD #
FIAU #

DATE:

From: Lieutenant/Sergeant

To: Commanding Officer,

Subject: ALLEGATIONS OF

1. Matter investigated by.....(identify investigators)
2. Allegation received.....(by whom and method.....
mail, phone, in person)
and alleges:
 - A. Allegation #1
 - B. Allegation #2
 - C. Allegation #3, etc.
3. Records disclose.....(record check - Police Department,
other departments, City-State-
Federal Agencies)
4. Observations disclose:...(subject(s) and/or premises and
the results thereof)
5. Interviews...(Complainant - if anonymous and unable to
locate, so state.) (Witnesses)
6. Interrogations of...(Officers - include extension of
G.O.15 and/or Miranda where appro-
priate.)
7. Conclusions:
 - A. Allegation #1 - Substantiated or Unsubstantiated
Findings.....
 - B. Allegation #2 - Substantiated or Unsubstantiated
Findings.....
 - C. Allegation #3 - Substantiated or Unsubstantiated
Findings.....

John J. Smith
Lieutenant/Sergeant

END