CAVEAT

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CHAPTER 1: EYEWITNESS RELIABILITY

11. SOME TRUE STORIES

11.1 HERBERT T. ANDREWS

On February 26, 1914, Herbert T. Andrews was convicted in Boston, Massachusetts, of forging and uttering over forty bad checks. His conviction was based on the testimony of seventeen eyewitnesses that he was positively the man who had passed the checks. However, bad checks continued to be passed, and the real culprit was finally apprehended. The real culprit confessed and cleared Andrews. The prosecutor, Mr. Lavelle, in commenting on this case some years later, said there were several inches difference in height between the two men and they were "as dissimilar in appearance as could be."

11.2 MRS. DOROTHY WILSON MOERER

On October 4, 1955, Mrs. Dorothy Wilson Moerer, a farm wife from Chaute, Kansas, was convicted of passing bad checks on the testimony of three shop owners and a customer who had been present when one of the checks was cashed. Mrs. Moerer was released on parole but was charged again in February 1957 on subsequent new counts. Mrs. Moerer's husband was forced to sell their farm and use their life savings for legal fees to help his wife. Before she was brought to trial the second time, the real check passer was discovered and arrested. In the aftermath of this case, it came to light that two other women had also been arrested for passing these bad checks: Mrs. Minnie Pence of Fayetteville, Arkansas, who served time from October 1955 to July 1956, and Mrs. Lois Palmer of Harrisonville, Missouri, who was then in jail awaiting trial, as Mrs. Moerer had been, for the second time. In all, it was discovered that a dozen eyewitnesses in three different states had positively identified three totally different women as the one who had passed the bad checks. The only thing these three women had in common with the real check passer was that they all were short and heavy-set.

11.3 THE RAPE

Perhaps the most incredible example of the fallibility of eyewitnesses is this recent case: After burglarizing one home, a man in a military uniform entered another home where he committed rape and armed robbery. The rape was committed in the presence of five members of the rape victim's family who were bound and gagged but able to see what was happening. The victim was raped three times over a period of three hours and the man paraded nude before the other members of the family. He then ordered the victim's husband to drive him to another city. This trip took two and a half hours. On the basis of the description given by the victim and the witnesses, a soldier was arrested. He was identified as the rapist by the rape victim and her family, and then by six
other witnesses as the person they had seen leaving the scene of the original burglary. However, at the trial, he was able to prove that he was 400 miles away at the time the offenses were committed. Subsequently, the real criminal was arrested. The real criminal was a marine and not a soldier and he was five inches shorter than the soldier. In addition, his hair and skin coloring were markedly different. The only thing these men had in common was that they were both Negroes.

11.4 CHARLES REEVES

The taint of fallibility extends to the investigator as an eyewitness. Unless he is scrupulously alert to the possibility of error, even the trained investigator can be trapped. For example, on September 18, 1968, in Washington, D.C., two Tenth Precinct policemen, in the U.S. District Court, solemnly identified Gerald Reeves as the man they caught burglarizing a Northwest Washington liquor store on April 21, 1968. Subsequently, the deputy U.S. Marshal informed the court that the true defendant, Charles Reeves, was still in the cell block. A mistrial was declared. Strangely, Charles Reeves' attorney, although he conferred with his client less than a week before, also failed to notice the difference when Gerald rather than Charles was brought into the courtroom.

12. SOME CONSIDERED OPINIONS

12.1 UNSAFE BASIS FOR A VERDICT

"Evidence as to identification based on personal impressions, however bona fide, is perhaps of all classes of evidence the least to be relied upon, and therefore, unless supported by other facts, an unsafe basis for the verdict of a jury." 5

12.2 CAUSES MISCARRIAGE OF JUSTICE

"Eyewitness identification and description is regarded as a most unreliable form of evidence and causes more miscarriages of justice than any other method of proof." 6

12.3 LEAST RELIABLE FORM OF TESTIMONY

"The carelessness and superficiality of observers, the variety of powers of graphic description, and the different force with which the peculiarities of form or color or expression strike different persons, make recognition or identification one of the least reliable facts testified to even by actual witnesses who have seen the parties in question." 7

12.4 NO WITNESS TELLS THE WHOLE TRUTH

"Psychology has long questioned the naive acceptance by courts of the law of testimony by eyewitnesses. The old
experiment, common in college psychology classes, of staging an unexpected incident and asking students to describe afterward what they saw, convinces anyone who has ever participated in it that no witness tells the whole truth and that most witnesses in all good faith tell many untruths regarding what happened right in front of their eyes. This has been studied many times in the psychological laboratory without the slightest impact upon the rules and procedures of the courtroom."
CHAPTER 2: THE PSYCHOLOGY OF PERCEPTION

21. THE OBSERVATION PROCESS

21.1 PEOPLE ARE DIFFERENT

Studies in experimental psychology\(^9\) have established quite firmly that no two individuals observe any complex occurrence in precisely the same manner. All persons are subject to certain tendencies toward perceptual distortion. Perception of where a thing is depends on perception of what a thing is and when it is perceived. The observations of all persons are subject to this interdependence and this interdependence applies to aural as well as to visual perceptions.

21.2 VISUAL AND AUDITORY

Visual durations that are the same as auditory durations tend to be underestimated in comparison. In other words, events which we see happen seem to us to take less time to occur than events we hear happen. Events that we only hear about tend to be accredited by us to our own perceptions. If someone tells us about an event and we are asked about it later, we tend to remember the event as though we had seen it ourselves. Danger and stress situations cause us to overestimate duration and distance, the degree of variance depending on the degree of danger and stress. People invariably overestimate the length of verticals and underestimate the width of horizontals, and older people are less accurate in spatial judgments and depth perception.

21.3 COLOR

The retina of the eye is made up of two types of receptor cells called rods and cones. The cone cells are sensitive to the wavelength or color of light. The rods are more sensitive to the intensity of light but do not distinguish between wave lengths as readily as the cones. Thus, accurate color identification is more difficult in low light levels, and objects seen at night tend to appear as varying shades of grey. When the intensity of a pinpoint of light is varied against a dark background, we tend to see it as moving toward us or receding in the distance. Light colored objects seem heavier and nearer than dark objects of the same size and the same distance away.

21.4 IMPAIRMENTS

Individual physical or physiological impairments cause variations in perceptual ability. About nine percent of all males are color-blind to some extent. Most of these men see reds and greens as shades of grey, and some are totally unable to distinguish between red and green. Other common impairments are nearsightedness, farsightedness, binocular or binaural imbalance, tone deafness, and plain deafness. Observations made under the
influence of alcohol, narcotics, or drugs generally are subject to serious distortions.

21.5 PERSONALITY

Finally, the significance we assign to objects and events that we observe is molded by our personal values and attitudes which are derived from our total past experiences and these vary with race, nationality, sex, profession, and religion.

22. MEMORY

22.1 WHERE DOES IT GO?

Not only are events transformed and modified as they are perceived, but also while they are being stored in our minds. People commonly see more than they can report. It has been found that at the time of exposure and for a few tenths of a second thereafter, people have two or three times as much information available in their heads as they can later report. The availability of this information declines rapidly. The information, however, is not just forgotten. Some of it is subliminal and some of it is suppressed or repressed in its interaction with our personalities. A great deal of it can be brought back to consciousness by the stimulus of a careful interview.

22.2 SELECTIVITY

Memory is selective. Decisive people tend to recall their failures. The indecisive recall their successes. An individual tends to note and remember material which supports his social attitudes better than material which conflicts. There is a tendency to recall separate disconnected events which are experienced under the same heightened emotional state as a single casually connected event. There is a tendency also to remember single events that happened in childhood as though they had happened many times.

22.3 SUGGESTIBILITY

There is a startling propensity in some people to remember suggested events in all good faith as though the events had in fact occurred. The impact of suggestion on recollection cannot be exaggerated in this context. It is of great importance to the criminal investigator. A person who is oriented to personalities, who gets his cues from people with authority or status, tends to be suggestion-prone. There is an urge in certain of these people to conform, to not stand out; and if other people make statements which are slightly different from what such a person has previously said, his confidence in his own perceptions tends to be weakened and his confidence that the views of others may be the correct views increases. Such a person is likely to deny the
evidence of his own senses and not alter his statements to concur with those of the others.

22.4 SOME STRANGE FACTS

Generally, the more educated a person, the more complete and accurate will be his description of an event. People remember actions or events more readily than objects. Memory of precise language or words is extremely unreliable. Persons who are required to write out their observations remember more and remember more accurately. The more punitive the nature of the witness, the more accurate his recall. Repugnant things tend to be forgotten. Events with a sexual overtone are more easily remembered. The higher the status of the person conducting an interview, the more the witness will recall and the more accurate will be his recollection.

23. THE ARTICULATION OF MEMORY

23.1 NOBODY SAYS WHAT HE MEANS

There is an irresistible tendency for people to report whatever is in their minds, no matter how it may have come to them, as concrete and absolute events. This tendency is a common, almost necessary accommodation to the practicalities of vocal intercourse. There is no remedy for this except careful evaluation by the recipient of the information. For example, if a person says, "It was raining and the sky was gray," it should not be assumed that the person actually recalls both facts. It is quite possible that he recalls one fact and infers the other; or has deduced both from a third recollection; or has inferred one or both facts from a statement made by another witness or from a statement suggested to him by a third person who could not possibly know. The matter must be pursued if it is necessary to know the true facts of the matter.

24. THE NEED FOR ACCURACY

24.1 ERROR IS THE FAULT OF THE INVESTIGATOR

The number of persons convicted of crimes on the testimony of an unreliable eyewitness is probably not large compared with the total number of persons convicted. However, this is small comfort for the innocent. When such a miscarriage of justice occurs, it is usually the fault of the investigating officer, and rarely the fault of the witness. The officer is the one who obtains, verifies, evaluates, transmits, and reports what a witness has said. The courtroom scene where the witness testifies is only the last act of a drama which has, up to that point, largely been written and directed by the criminal investigator whose obligation was as much to expose the unreliable witness as it was to locate a reliable one. The reliability of a witness is judged by the accuracy of his information. If his information is accurate, then he can be considered reliable. Sometimes speed is an important
factor and a quick rather than a complete rundown of information is needed; but even here, accuracy must not be sacrificed. An accurate though complete statement or description of persons or events may be acceptable, but a complete syllabus, if it is not accurate, may well be useless or even dangerously misleading.

25. GROUND RULES FOR INTERVIEWING

25.1 COULD HE HAVE SEEN IT HAPPEN?

Before accepting as true any statements of a potential eyewitness, no matter how cooperative or convincing he may be, the investigator should verify independently whether the person was actually in a position to see or hear what he is reporting. Were there obstructions to his line of vision? Was the light sufficient? Could he actually have heard what he says he heard? Is his vision adequate? Is he color-blind? Has he talked to other witnesses or discussed the event with anyone else?

25.2 IS HE ABLE TO REMEMBER?

Extreme emotion, especially fear, materially reduces the ability of a potential witness to give accurate information. Prejudice also impairs the ability of a potential witness to report accurately what he has seen or heard. An extremely prejudiced person will unconsciously report what he expected to see, what his prejudgment concluded, and not what actually occurred. When fear and prejudice are combined in the same potential witness, the investigator must find independent corroboration of the facts reported.

25.3 HELP HIM TO TELL YOU THE TRUTH

Since some people are susceptible to suggestion, especially if the suggestion comes from a respected law enforcement officer, the investigator should carefully avoid the use of leading questions when interviewing potential witnesses. Unless there is a good reason for doing otherwise, the officer should question witnesses separately so they do not overhear each other's statements. He should interview witnesses at the earliest practical time and he should begin by interviewing the witness he considers most likely to have important information.

26. WHAT AFFECTS PERCEPTION?

The perception of any object, event or person involves the interaction of three major components:

1) Observed: The characteristics of what is being observed. Certain factors will influence your ability to observe and perceive, more so than others. Some of these factors are:

   a) bright or exotic colors
b) unusual attire  
c) exotic vehicles  
d) moving objects  
e) things with provocative and sensuous overtures (i.e., attractive women/men)  
f) things that are out of place or out of the ordinary

Observer: There are certain conditions and characteristics that will influence the observer. In order to perceive events properly, the observer must be:

a) physically present  
b) conscious  
c) attentive to the event

Past experiences and background might also have a major bearing on the observer. Some of these are:

a) education  
b) family  
c) personal interest  
d) religion

Ambient Conditions: The surrounding conditions during the observation, such as weather, illumination, background noise.

26.1 SOURCES OF WITNESS ERROR

Key physical factors:

1) **Eyesight** (will be discussed in detail in Chapter 3)

2) Hearing, next to sight, is our most important sense for receiving information. Thirteen percent (13%) of the information we receive comes to us from this sense. It is, however, very difficult to determine from which direction sound is coming. Recognizing known voices can be a major problem. One can recognize known voices only 50 percent of the time.

3) **Other Physiological Influences**

a) The senses of taste and smell are subject to frequent distortion by physical disorders and by
external stimuli. A strong taste or odor may completely conceal the presence of other tastes or odors.

b) Defects, both temporary and permanent, in the physical condition.

c) Age

d) Disease

e) Undernourishment and overnourishment

f) Pain, hunger and fatigue

g) Unnatural positions of the body

4) **Point of View** is the angle at which one views an event.

5) **Illusion** is a false perception based on observable facts, incorrectly interpreted by a witness.

26.2 **MORE SOURCES OF WITNESS ERROR**

Major psychological factors:

1) **Interest**

   a) is derived from one's background and past experience.

   b) can be positive and negative influence on a witness.

2) **Emotions**

   a) intense hate, fear, love, worry and prejudice may result in inaccuracies.

3) **Cultural background**

   a) Our sense of morality, the meaning of achievement, our concept of appropriate action are all colored by our cultural sense of what is right, moral or virtuous.

   b) The significance we assign to objects and events that we observe is molded by our personal values and attitudes which are derived from our total past experiences and these vary with race, nationality, sex, profession, and religion.

4) **Social role**
a) How we view others may be based on where they are in the organizational chart, how much schooling they have had, or in which social niche we have chosen to categorize them.

5) Previous experience
a) Greatly affects the way one views a situation.

6) Expectations
a) May be derived from previous experience.
b) Prejudices, superstitions, poor decisions can result from negative expectations.
c) If used properly, can be a valuable tool.

7) Projection
a) The unconscious tendency to attribute to other people traits or characteristics we possess ourselves.

8) Stereotyping
a) Can be dangerous in a problem-solving situation because it can lead to assumptions about individuals that lead to limited contributions.

9) Group pressure
a) A very powerful force in shaping perception.

10) Tunnel vision
a) Seeing the world as if through a long tunnel
b) Perception can be restricted to the point that truth, or objective reality existing outside the self, is completely absurd.

11) Intense feelings and attitudes
a) The stronger the motivational state, the greater the perceptual changes
b) Danger and stress situations cause us to overestimate duration and distance, the degree of variance depending on the degree of danger and stress. People invariably overestimate the width of horizontals and older people are less accurate in spatial judgments and depth perception.
12) **First impressions** - The first impression that we have of people or situations plays a large part in shaping our later beliefs.
CHAPTER 3: HOW THE EYE SEES

31. THE FOVEA

31.1 TWO DEGREES IN THE ANGLE OF VISION

The act of observing is the act of turning one's eyes so that the observed image falls on the fovea, a specialized area smaller than the head of a pin near the center of the retina. This small area is the only part of the retina with a sufficient number of receptor cells to provide detailed vision. It provides detailed vision for only about two degrees of the field of vision. At a distance of five feet, the two degrees subtended by the fovea provide detailed vision for an area approximately two inches in diameter. At fifty feet, the area of distinct vision is about one foot in diameter. However, even though the part of the retina outside the fovea is poorly equipped for resolving detail, it is very sensitive to movement in the field of vision and functions as an early-warning system. A movement seen in the corner of the eyes, the part of the retina outside the fovea, causes the eyes to jump involuntarily so that the area of the movement is focused on the two foveas where it can be perceived in detail.

32. THE SACCADE OR EYE-JUMP

32.1 FIVE HUNDRED DEGREES PER SECOND

The eye picks up whatever image is focused on the fovea and the image is transmitted through the optic nerve to the brain where it becomes an observation. While the mind is observing, the eyes are jumping from point to point across the scene. These jumps are called saccades and are so frequent and rapid that they can be recorded only by special instruments. The speed of the movement from fixation to fixation is measured in milliseconds. It approaches an angular velocity of 500 degrees per second. The duration of a particular fixation between jumps varies depending on the observer and the nature of the scene. However, regardless of the actual duration of a fixation, the eye picks up the image in the first half-second or less.

33. KNOWING WHAT TO LOOK FOR

33.1 IF YOU ARE NOT LOOKING FOR IT, YOU WON'T SEE IT

Studies into the mechanics of where people look in the course of activities such as driving, flying, looking at pictures, reading, and examining X-rays indicate that feedback occurs in the link between the image picked up by the eye and the subsequent observation accomplished in the mind. The brain does not receive the image passively but partly controls what it receives in accordance with the observer's prior specific training and general experience. In other words, knowing what to look for enables the observer to recognize it when he sees it. If he does not know
what he is looking for, the observer may not recognize or understand what he is looking at, even after prolonged study. On the other hand, if he is prepared, the observer may recognize and understand what he sees in a fraction of a second and without looking again be able to describe it accurately in detail.

34. THE MAN WITH THE CAMERA EYE

Although the ordinary citizen may not perform reliably as an eyewitness, this fallibility stems mainly from lack of experience and not usually from inherent disability. The veteran investigator knows this is true from his experience with potential witnesses, and from the fact that his own ability as a witness has improved with his years of experience. But experience is only a form of practice. Practice is the key to success. The importance of practice is well illustrated by the achievements of Constable Dennis Lannon of the Vancouver, British Columbia Police Department. In 1963, the Department began to publish a weekly "Most Wanted Bulletin" with pictures and descriptions of suspects for whom warrants were outstanding. Shortly thereafter, Constable Lannon recognized and arrested one of the suspects. Then he saw and arrested another. Then another. And another. In the following months, he astonished his partners and amazed his superiors by continuing to recognize and arrest wanted suspects during his tour of duty. By March of 1966, when his feats were first publicized, Constable Lannon had arrested 125 suspects after recognizing them on the streets of Vancouver in the ordinary course of his patrol. In an interview, Constable Lannon admitted that he kept a complete file of mug shots from the Vancouver Police Department, the R.C.M.P., and outside agencies, and that he studied them constantly to refresh his memory. He said:

"There really isn't very much to it. Everyone is different but all look like someone else. When I see a picture, I examine the nose and eyes especially, or any outstanding feature such as very prominent scars. Mostly though, I compare the picture to someone I know that it resembles. In this way, I go looking for the person I know, or the person who looks like him until I run across the man wanted on the warrant. It is hard to remember a lot of pictures but if a person studies the picture and compares it with 'Joe Doaks,' the grocer down the street who looks a great deal like the picture, the picture can be remembered. The best way to find out is to try it. When a policeman, after trying this method and studying the picture a lot, makes his first arrest from memory, he has proven to himself that it is possible and it seems that with this confidence, the game becomes easier."

35. USING YOUR EYES TO GAIN THE MOST OF OBSERVATIONAL SKILLS

The following points should be developed and honed by the officer to improve his observational skills:
1. Develop the skill of looking up and down as well as side to side.

2. When first coming to a scene, make a general overview look; then, divide the scene into segments by using either the clock or quadrant method.

3. During nighttime or in dark areas, learn to use peripheral vision to detect moving objects.

4. Remember, do not allow psychological factors to distract your attention.
CHAPTER 4: DESCRIPTION AND IDENTIFICATION OF PERSONS

41. STANDARD FORMATS

In the field of criminal investigation, the efficient and effective description of persons, as well as of places and things, has always depended on the use of standardized format. However, until recently national standards did not exist. Standardization was effective within agencies and departments but not between agencies and departments. The need for national standards became apparent in the early stages of planning for the NCIC, the National Crime Information Center, which was conceived as a service for the exchange of information between all levels of the nation's law enforcement agencies. On March 23 and March 24, 1966, in Washington, D.C., the Committee on Uniform Crime Records, International Association of Chiefs of Police, met with representatives of the major city police departments, state police agencies, and the FBI to develop uniform standards. On January 27, 1967, the NCIC computer center at FBI Headquarters in Washington, D.C. was able to commence operations using the adopted formats. Wherever applicable, the descriptive formats developed for NCIC have been used in this text.

42. THE THUMBNAI DESCRIPTION

42.1 REMEMBER THE FORMAT

After a violation has been discovered, the next step is usually to identify the violator. A criminal case rarely gets off the ground until this has been done. However, unless the violator was caught in the act or leaves a classifiable set of fingerprints behind, his identification will probably hinge on an accurate description from witnesses who are untrained, sometimes reluctant, and occasionally hostile. The investigator's responsibility is to quickly draw out a description of the suspect which is accurate, complete, and concise, and then transmit this description to other officers who can assist in capturing the suspect before the trail gets cold. This is not a simple assignment. Even when the investigator himself is the eyewitness, there are problems to overcome. During surveillance of such things as still sites, moving convoys, smuggling operations, and similar activities light levels are often too low, distances too great, or glimpses too fleeting to permit a good look at the people involved. Yet, granting the importance of the investigator's skill in interviewing and conducting surveillances, his ability to obtain a useful description depends just as much for success on one more thing; mastery of the use of the following six-element-format:

1. Sex
2. Race
3. Age
4. Height

5. Weight

6. Color of Hair

42.2 RACE

Designation of race for emergency thumbnail descriptions can generally be limited to one of these four: White, Negro, Indian, Oriental. The vast majority of people in the United States can be classified by how they look under one of these four racial descriptors. It does not matter for the purposes of a thumbnail description that a person is actually White if he looks Indian, or vice versa. He should be classified according to how he looks. The object here is not anthropological correctness by descriptive pertinence. As a rule, Mexicans and Latins are classified as White although in some areas it may be more helpful to make a distinction. Similarly, in international areas, it may be important to distinguish, if possible, between Chinese and Japanese, or between some of the other groups such as Asian Indian, Filipino, Korean, Indonesian, Polynesian, or even Eskimo. In most cases though, it won't be necessary to go beyond one of the first four groups.

42.3 AGE, HEIGHT, AND WEIGHT

Age should be estimated in five year spans, height in three-inch spans, and weight in ten pound spans. More accuracy is generally not possible, and not at all necessary for emergency purposes. Of course, if the exact age, height or weight is known, it should be given.

42.4 COLOR OF HAIR

Hair color should be given as Black, Brown, Blond, Red, White, Gray or Partially Gray, Sandy, or Bald. In this context, Bald means hairless. Designations such as Dark or Light can be used to modify the colors but should not be used alone unless more accurate information cannot be obtained.

42.5 THE CLOTHING WORN

In the category of emergency or thumbnail description, there are two additional and supplementary elements to be considered. These are (1) the clothing worn and (2) the unique characteristic. Most flash descriptions will include after the physical description, a rundown of what the suspect was last seen wearing. Although this can be of great importance, it should not be used in lieu of a physical description. As a rule, descriptions of clothing should be obtained from witnesses after the physical description simply to ensure that a physical description is obtained. A description of a suspect based only on what he was
last seen wearing begins to lose its value as soon as he takes off his coat or hat, or changes his clothes in any way.

42.6 THE UNIQUE CHARACTERISTIC

Often, there is one unique characteristic of an individual that distinguishes him from other people. This could be a missing finger; a scar across the cheek; a cauliflower ear; a distinct limp; a peculiarity of gait, speech, or mannerism that sets him apart. One physical characteristic that is outstanding and unique can help to identify a person beyond a reasonable doubt. Such a unique feature combined with the six other physical descriptors will make an identification all but certain. Unique distinguishing characteristics should be stressed in any description but are not enough by themselves to insure identification. They should be used as a supplement to the other physical descriptors.

43. DEVELOPING OBSERVATIONAL SKILL AND DESCRIPTIVE ABILITY

43.1 THE SECRET

Practice, of course, is the only means by which a measure of skill and ability can be developed. The question is how to practice. Traditionally, texts on the subject have included exhaustive lists of descriptors with an admonition to become familiar with them as a first step. Actually this is not a good first step. It is asking too much of the student and not giving him enough in return, because when he has memorized the list, he is still not able to observe and describe. The proper method for developing observational skill and descriptive ability is the two-fold method: (1) observe a person and (2) describe him. The secret of great skill is knowing what to look for and to always observe and describe in the same sequence, in a systematized manner. First, get this information:

1. Sex
2. Race
3. Age
4. Height
5. Weight
6. Color of Hair

When that information is firmly in mind then try for this:

7. Style or Cut of Hair
8. Eyes
9. Nose
10. Lips
11. Chin
12. Any Unique Feature

43.2 DON'T LOOK HIM IN THE EYE
Don't look into the subject's eyes while attempting to get his description. When we look into people's eyes, we generally do so to sense what they are thinking or how they feel. This is so habitual that the mind automatically tends to disengage from whatever else it is thinking in order to open up the "attitude-sensing" channel, even when we catch somebody's eye by accident. The description-getting process may be short-circuited if we look into the subject's eyes.

43.3 LOOK FOR THE OBVIOUS

Look only for the obvious or distinctive qualities. If all you notice about the nose or mouth or ears is "normal" or "medium" or "average," forget it. Look for something else. Find the distinctive, concrete thing about the feature or go on to the next one. Don't ignore or disregard anything that is conspicuous about a person, like a missing arm for example; but concentrate first on obtaining the features listed above. With very little practice, you should be able to provide an excellent description of a person after looking at him for only a few seconds.

43.4 SOME ILLUSTRATIONS OF DESCRIPTORS

Illustrations of some of the more common descriptors are set forth on the following pages. These are only a few of the possibilities.

EXHIBIT 1

Hairlines

Style or Cut of Hair

After the color of hair has been determined, or at the same time that it is being determined, characteristics of style and cut should be noted, especially the hairline.

- Straight, Curved, Widow's Peak, Low, High, Receding
- Bald (hairless), Partially Bald or Balding qualified as to whether Occipital, Frontal, or Temporal
Hairlines

<table>
<thead>
<tr>
<th>Straight</th>
<th>Curved</th>
<th>Widow's Peak</th>
<th>Low</th>
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</table>

- Occipital Balding
- Frontal Balding
- Temporal Balding
EXHIBIT 2

Hair Styles

Characteristics of hair styles should be noted.

- Curly, Straight, Wavy, Kinky or Woolly
- Crew-cut, Butch, Pompadour, Unruly, Unkempt, Shoulder Length
- Bleached, Streaked, Tipped
- Parted on Left, Right, or Middle
Hair Styles

Well Groomed, Left-hand part

Unruly

Curly

Close Cropped

Butch

Unkempt

Pompadour

Slicked Down
Occasionally, the two eyes may be different colors, or the same eye may contain two distinct colors. For descriptive purposes, this should be noted as a unique feature. However, eye color is not as useful a descriptor as other features of the eye or as other facial characteristics. Eye color often seems to vary with lighting conditions, in some cases with emotional state. There is a middle range of color which sometimes seems to be brownish, sometimes bluish or even greenish. This color is usually denoted as hazel. When eye color is obvious and distinctive, it should be stated. If there is a question about the color, it should probably be described as Hazel, or simply as Dark, or Light, or Pale.

- Sunken or Deep-set, Wide-set, Close-set, Bulging or Popeyed, Cockeyed, Narrow or Squinty, Oriental or Slanted

- Piercing, Dull, Shifty, Bloodshot, Watery, Blinking
Oriental

Cockeyed (Manifest Strabismus)

Deep-Set

Wide-Set

Pop or Bulging Eyes

Close-Set

Wide Eyed

Squint Eyed
EXHIBIT 4

Noses

- Short, Long, Thin, Thick, Flat, Broad, Pointed, Bulbous

- Ski-jump (Concave), Hooked, Roman, Aquiline, Broken, Twisted, Bashed in, Humped (undulating)

- Red, Blue, Veined, Hair in nostrils, Runny
Noses

Concave or Ski

Hooked, Roman, Aquiline

Humped

Upturned

Downturned

High Bridge

Low Bridge (Deep Root)

Small, Short

Large, Long

Pointed

Bulbous
**EXHIBIT 5**

**Lips**

- Thick, Puffed, Thin, Harelip, Puckered, Rosebud, Flabby, Cupid's Bow, Protruding lower or upper

- Red, Blue, Pale

- Large or Small Mouth, Bad Teeth, Buck Teeth, Stained Teeth, Missing Teeth, Perfect Teeth
Lips

Large, Wide  Tiny, Rosebud  Thick, Fat

Harelip  Cupid’s Bow  Thin

Protruding Lower Lip  Protruding Upper Lip
EXHIBIT 6

Chins

- Receding, Jutting, Large, Small, Pointed, Square, Cleft, Dimpled, Double

- Strong, Weak, Creased (horizontal wrinkle under lower lip)
The items previously listed are the key features for effective description. They are the features that people usually notice and are best able to comment upon when attempting to describe one person to another. Other features that draw attention, if present or outstanding in any way, are:

1. Age lines
2. Ears
3. Eyebrows
4. Face colors (complexion)
5. Scars
6. Beards, Mustaches
7. Glasses
8. Head Gear

Ears in particular are important for identification purposes because they form patterns and shapes which are as unique for each individual as fingerprints. Positive identification can be made from ear characteristics alone, although this is not often done as a practical matter.
Ears

- Large Lobe
- No Lobe
- Pointed
- Flat on Top, Pointed

- Round
- Square or Diamond Shaped
- Triangular

- Large, Bat, or Rabbit Ears
- Pinched
- Protruding
44. MUG SHOT IDENTIFICATION

In a recent case the Supreme Court held that photographic identification must be accomplished in a manner which is not "unnecessarily suggestive." If the identification procedure is found to be "unnecessarily suggestive," the court may suppress identification testimony of witnesses who viewed the photographs. "Unnecessary suggestion" can be avoided:

1) by showing the photographs to each witness separately.
2) by showing photographs of several persons, not merely of the suspect, to the witness.
3) by not indicating in any way to the witness which pictured individual is the suspect.
4) by using photographic identification only when it is impossible or impractical to conduct a line-up.

Photographs which are shown to witnesses for identification may be subject during trial to discovery under Rule 16 of the Federal Rules of Criminal Procedure (Jencks Act) and should be numbered or labeled appropriately so as not to disclose the identity of the subject, and a complete record should be kept of which pictures were shown, and to whom they were shown.

45. WANTED PERSONS

45.1 REQUIREMENTS FOR A WARRANT

When a name can be associated with the description of the suspect, or when a suspect has been identified but not yet apprehended, it may be advisable to obtain a warrant for his arrest or to circulate wanted notices, or even to enter his name in the NCIC index. With respect to obtaining a warrant, the Fourth Amendment requirement for particularity of description has been interpreted by the Supreme Court in a negative way. In the leading case on this issue, the Court said:

"...The requirement (of particularity) applies both to arrest and search warrants. A description of a suspect merely as "Blackie Toy" operator of a laundry somewhere on Leavenworth Street, hardly is information particularly describing...the person...to be seized."

Clearly the Court has not said what sort of personal description would be adequate. However, judging by the Court's rulings regarding particularity as to places and things, it would be safe to say the description of a person must enable the officer with the warrant to identify the person intended with no chance of error. In point of fact, a person's name and address are often all that is set forth on a warrant, and it is not necessary to use a person's true name if he is known by another. Further, a
warrant can be issued for a person whose name is unknown if other descriptive information is available to insure positive identification of the person intended.

45.2 THE MOST USEFUL INFORMATION

Descriptions for wanted circulars and for entry in the NCIC index must contain more information than emergency thumbnail descriptions. The list below includes the items of information that have proved to be the most useful to enforcement officers in locating and apprehending wanted persons. The list developed by NCIC, is the result of a continuing analysis and evaluation of the needs of law enforcement officers at all levels of government who are tied into the NCIC system. This list constitutes the first truly national standard for interagency communication of information about wanted persons. It should be memorized and used by investigators as a mental checklist to insure that they obtain the most useful information about suspects. The list, however, is not all-inclusive; thus, when other information is useful it should be added. If a suspect's occupation, for example, is pertinent to a particular investigation, the appropriate information should be added to the list. Such additional information is entered in the NCIC index following the other items on the list.

1) Caution
2) Name
3) Sex
4) Race
5) Nationality
6) Date of Birth
7) Height
8) Weight
9) Color of Hair
10) Visible Scars, Marks, and Tattoos
11) Numbers
   a) Fingerprint classification
   b) Social Security Number
   c) FBI Number
12) Drivers License Information
a) Number
b) State
c) Expiration date

13) Vehicle Owned or Used
   a) License number, state, and year
   b) Identification number
   c) Year and make
   d) Model, style, and color

14) Administrative Information
   a) Offense or charge
   b) Date of warrant
   c) Agency holding warrant, case number

The "caution" element (1), when used, serves to warn officers to use caution in apprehending or detaining the subject of the wanted person record. In the NCIC system, the character "C" is added to the entry code and the reason for the caution is entered as the first item in the miscellaneous field. For example, ARMED AND DANGEROUS, SUICIDAL TENDENCIES, or PREVIOUSLY ESCAPED CUSTODY.

45.3 THE INFORMATION REQUIRED BY NCIC TO MAKE ENTRY IN THE NCIC INDEX

All wanted person entries must contain:

1) name and descriptive data (sex, race, height, weight, color of hair)

2) at least one numerical identifier (if date of birth is the only numerical identifier, it must be complete--month, day, and year, as inquiries cannot be made on a partial birthdate)

3) offense

4) date of warrant

5) originating agency identifier

6) originating agency case number

When an operator's license number is used, the state of issue and the expiration date must be included. When a vehicle identification number is used, the make of the car must be included, and if a license plate number is used, the state and year (and, where appropriate, type) must be included.

Duplicate entries concerning the same individual will be accepted providing the originating agencies are different. This would, of course, indicate that the individual is wanted by two
agencies. The agency making the second entry will receive as a positive response (hit) the record already in file at the time the second entry is acknowledged. Should the second wanted person entry contain data concerning a vehicle or license plate which has already been entered separately in the Vehicle or License Plate file (see Section 54), the agency making the second entry will also be furnished the record on the vehicle or license plate at the time the wanted person entry is acknowledged.

Ordinarily, only individuals for whom warrants are outstanding may be entered in the NCIC index. However, a "Temporary Felony Want" may be entered even though a warrant has not yet been issued when a law enforcement agency must take prompt action to apprehend a suspected felon who may seek refuge by fleeing across jurisdictional boundaries. A "Temporary Felony Want" must be specifically identified as such and must be verified and supported by a proper warrant within 48 hours following the initial entry in order to make it a permanent entry. If not made permanent, a "Temporary Felony Want" is automatically removed from file after 48 hours.

45.4 INFORMATION NEEDED TO MAKE AN INQUIRY IN THE NCIC SYSTEM

1) Inquiries of the Wanted Person file may be made by:
   a) name
   b) one or more of the following numerical identifiers:
      1) complete date of birth - month, date and year;
         FBI number, miscellaneous number
      2) Social Security Number
      3) Operator's license number
      4) Originating agency's case number

2) When making an inquiry using the date of birth as the only numerical identifier, sex and/or race should also be included, if known. In these instances, positive responses (hits) will be furnished only if all data included in the inquiry matches the information contained in the record on file. If special circumstances indicate the need for a search by name only, this can be done off-line. However, since an off-line search requires more time, requests for off-line searches must be kept to a minimum and should be made only where special circumstances warrant.

45.5 TREASURY ENFORCEMENT AND COMMUNICATIONS SYSTEM (TECS)

1) During the latter part of 1972 and early 1973, the New Treasury Law Enforcement Information and Communications System (TLEICS, later shortened to TECS) became operational. The system
is designed to provide terminals tied into a central computer for
the storage and dissemination of investigative information. This
system replaces the former Bureau of Customs Automatic Data
Processing Intelligence Network known as CADPIN. The computers
for TECS are located in the U.S. Customs Service at San Diego,
California. Customs personnel program and operate the computers
24 hours a day, seven days a week. The purpose of TECS is to make
available to law enforcement personnel of the Treasury Department,
intelligence information on suspected individuals, businesses,
vehicles, aircraft and vessels. Intelligence data is collected
centrally from all areas, placed in data banks, and made
immediately available to authorized personnel. In design and
operations, it cuts across traditional organizational lines and
brings local and regional parts of separate national structures
into closer and more frequent direct communication on intelligence
matters than ever before.

2) TECS users are the law enforcement agencies of the
Department of Treasury, namely, U.S. Customs Service, Bureau of
Alcohol, Tobacco and Firearms, IRS-Intelligence Division,

3) At present, there are approximately 500 terminals in
operation from coast to coast and border to border, the majority
of which are used by the Customs Service. The system has been
designed to allow for expansion and re-configuration as
requirements change and additional terminals can be added as
needed.

4) Future plans provide for installation of terminals in
most District offices and perhaps even in some of the larger post
of duty locations.

5) The TECS will provide to the Treasury law enforcement
agencies:

   a) The Customs Automated Data Processing Intelligence
      Network (CADPIN) files which are of common interest
to the Treasury enforcement agencies.

   b) On-line access to the National Crime Information
      Center (NCIC) and its Computerized Criminal History
      (CCH) section. (In addition to the wanted persons
      and stolen article files contained in NCIC, there
      is also a computerized Criminal History file which
      contains a summary record of the criminal history
      on approximately 400,000 individuals.)

   c) Law enforcement officers from other Federal
      agencies having a valid need and upon presentation
      of proper credentials at any Treasury agency
      terminal location could have access to information
      from the NCIC and certain information contained in
      TECS files (such as fugitive warrants, etc.).
6) Each of the participating Treasury agencies will be able to obtain information which is not exempt from disclosure in accordance with individual agency regulations. However, each agency will also be able to store information which can be retrieved only by that particular agency.

46. THE LINE-UP

46.1 CRITICAL PHASE OF THE PROSECUTION

1) It may be desirable to conduct a line-up for witnesses if the suspect is available. The suspect's appearance in a line-up may constitute a critical phase of the prosecution and as such would be subject to stringent controls, including the notification of the suspect's attorney and the attorney's presence at the line-up. According to a Supreme Court decision, this critical stage occurs after the indictment stage of the prosecution.

2) Under certain circumstances, it may be more practical to conduct a photographic line-up of a suspect by using his photograph compared with photographs of several similar suspects. The Supreme Court has held that such displays do not violate the accused's Sixth Amendment rights even after indictment.

46.2 PROCEDURE

1) The suspect should be presented in a group with at least five other persons who fit the general description previously given by the witness. All persons should wear clothing similar to that reportedly worn by the suspect when he was first seen by the witness. All persons in the line-up must be unknown to the witness. A suspect should be allowed to select his own position in the line-up and to change his position between viewing if there is more than one showing. Persons in the line-up should stand side by side facing the witness. If necessary, they can be instructed to face left, or right, or turn around, and to take other positions to approximate the position in which the suspect was originally seen by the witness. There should be no conversations between persons in the line-up and the witness or investigator.

2) The investigator must be careful to avoid leading questions or behavior which might suggest the identity of the suspect. If at all possible, the line-up should not be made up of police officers. The courts have held that police officers have a tendency to turn their eyes in the direction of the suspect, thus influencing the identification.

3) If there is more than one witness, separate showings should be conducted for each one out of sight and hearing of the others. If the witness is female or a child, it may be preferable to arrange for viewing through a two-way mirror, or under lighting conditions which shade the witness and place a strong clear light
on the line-up. In some situations, it may be necessary to hold the line-up under conditions of lighting approximating those under which the suspect was first seen.

46.3 WHEN AN IDENTIFICATION IS MADE

When the witness indicates that he has recognized a suspect, he should be requested to point him out. The person in the line-up who was pointed out should then be required to step forward and the witness asked to confirm positively that this is the person he identifies. Photographs should be taken immediately showing all members of the group and the position of the suspect when the identification was made. The photographs should be appropriately labeled, dated, and marked with identifying data for possible use as evidence to support an in-court identification at a later date.
CHAPTER 5: THINGS

51. THE PARTICULARITY OF THINGS

1) Cases on the Fourth Amendment requirements for particularity of description of things to be seized hold that if the property is contraband, it doesn't have to be described in too much detail, but if it is goods or merchandise, it must be more carefully described. The requirement is not for a technical description but for sufficient detail to allow for positive identification. For purposes of positive identification the most useful descriptor is usually a serial number. Serial numbers, simply because they are numbers, have become of great value for another reason. Modern recordkeeping systems are becoming computerized and computers live on numbers. If an article has a number, or if it can be given a number, records concerning it can be stored and processed in a computer with tremendous advantages in speed of handling and accessibility.

2) The National Crime Information Center is predicated on this fact and NCIC descriptive formats all call for a serial number as part of the description. Generally, the description of goods or merchandise that appears on a commercial invoice, or on a document representing ownership of the property for business purposes, can be considered adequate.

52. GUNS

Most guns can be adequately described in these terms:

1) Serial Number
2) Make
3) Caliber
4) Type

In order to enter a stolen or missing gun in the NCIC file, the date of the loss or theft, the identity of the agency holding the report, and the case number must also be furnished. The NCIC gun file can be searched if the serial number and make are furnished. If a gun is recovered and a search of the file reveals no theft report, the weapon can still be entered as recovered. Then, if a theft report is later made, a search will reveal that the weapon has already been recovered.

53. SECURITIES

Securities include both real and counterfeit currency, stocks, bonds, warehouse receipts, traveler's checks, and money orders. Sometimes this category includes personal notes and checks, officer's checks, and certified checks, but these latter are not yet enterable in the NCIC file. Securities are described in terms of:
1) Type
2) Serial Number
3) Denomination
4) Issuer
5) Owner (Social Security Number)

In order to enter a stolen, embezzled, or missing security in the NCIC file, the date of loss or theft, the identity of the agency holding the report, and the case number must also be included. To search the file, it is necessary to furnish at least the type, serial number, and denomination of the security.

54. VEHICLES

Descriptions of vehicles should include the following information:

1) License number, state, year, and type, if pertinent
2) Identification number
3) Year
4) Make
5) Model
6) Style
7) Color

NCIC maintains a separate file for license plates, but the license plate file and the vehicle file are closely related. To search both files, all that is needed is the vehicle identification number or the license number and the state of registration. To enter a stolen plate or vehicle, it is necessary also to provide the date of theft, the identity of the agency holding the report, and the case number.

55. OTHER ARTICLES

Property not designated under one of the above classification must be described in accord with its peculiar characteristics. Any description should include the following information:

1) Type
2) Brand name
3) Serial number
4) Model

In addition, the date of theft, the identity of the agency holding the report, and the case number must be provided if the article is to be entered in the NCIC file. There is no bar to entering articles of small value if entry is justified for investigative purposes. Otherwise, only articles valued at $500 or more should be entered.
CHAPTER 6: BUILDINGS AND PLACES

61. THE PARTICULARITY OF PLACES

61.1 THE FOURTH AMENDMENT REQUIREMENT

The leading case on the Fourth Amendment requirement for particularity of description of the place to be searched was decided in 1925. The Court held that a warrant is sufficient if the description is such that the officer can with reasonable effort ascertain and identify the place intended. What this means is that the description must clearly and definitely identify the premises where the search is to be conducted with no chance of mistake. If the search is to take place in an apartment building the apartment must be named. If known, the name of the owner or the tenant should be included in the description. If necessary, a diagram locating the property should be drawn.

61.2 EMBARRASSING MOMENTS

As simple as this may seem, the ability to describe buildings and places is usually the investigator's least developed descriptive skill. It may be that the investigator just isn't called upon to describe buildings as often as he is people and things, but lack of skill in this area can be just as dangerous and embarrassing as lack of skill in the other areas. For example, on the evening of November 7, 1968, in Oakland, California, narcotics agents raided a party in a private home. They fired two shots through a window, kicked in a door, and forced everybody to lie on the floor--before they discovered they were in the wrong place. They apologized and hurried to the next house down the road where they arrested Walter Pierce and 11 others, and seized 220 pounds of marijuana. Quoting from the newspaper account which appeared the following day:

"Police said the confusion stemmed from the fact that both houses looked very much alike and are in a heavily wooded area."

"Dr. John Derdivanis and his wife (victims of the mistake), (were) extremely irate over the intrusion (and) entertained still another guest after the wild affair--their attorney, William Parrish."

62. A FORMAT FOR BUILDINGS AND PLACES

The items of information listed below should be considered when putting together a description of a building. Format and sequence of information are not as important for the efficient description of buildings as they are for person, but the descriptors for buildings are more varied and complex. Some of the items are covered in more detail on following pages.
63. SIZE

63.1 RESIDENTIAL BUILDINGS

For residential buildings, size usually means the number of stories, the number of family units, or both. For example:

1) one-and-a-half story, single-family
2) three-story, seven-family

63.2 OTHER TYPES OF BUILDINGS

For other types of buildings, size can mean the number of stories, the floor area, the number of units, or rooms or the capacity of its functional purpose. For example:

1) Ten story hotel
2) Twenty-unit apartment building
3) Fifty-car drive-in
4) Thirty bed hospital
5) Ten lane bowling alley
6) Three hundred seat theater
7) Nine pump service station

64. FUNCTIONAL TYPE

64.1 RESIDENTIAL

Most buildings can be described in one of these single-family categories:

1) Residence
2) Cottage
3) Mobile home

64.2 OTHER CATEGORIES

Other buildings are grouped under four broad, overlapping categories: Agricultural, Commercial, Industrial, and Institutional. The variety of functional types within these categories is large and the proper designation should be used for the particular building being described. The following list includes practically every functional type that an investigator may be called upon to describe:
### 64.3 AGRICULTURAL

<table>
<thead>
<tr>
<th>No.</th>
<th>Building Type</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td>Barn</td>
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<td>2.</td>
<td>Barn with Loft</td>
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<tr>
<td>3.</td>
<td>Milk House or Parlor</td>
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<td>4.</td>
<td>Livestock Barn</td>
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<td>5.</td>
<td>Machinery Shed</td>
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<td>Cattle Feed Bunk</td>
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<td>Grain Bin</td>
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<td>11.</td>
<td>Hay Shed</td>
</tr>
<tr>
<td>12.</td>
<td>Swine Farrowing Barn</td>
</tr>
<tr>
<td>13.</td>
<td>Poultry House</td>
</tr>
<tr>
<td>14.</td>
<td>Corn Crib</td>
</tr>
<tr>
<td>15.</td>
<td>Potato Storage Building</td>
</tr>
<tr>
<td>16.</td>
<td>Tobacco Barn</td>
</tr>
<tr>
<td>17.</td>
<td>Farm Shop Building</td>
</tr>
<tr>
<td>18.</td>
<td>Greenhouse</td>
</tr>
</tbody>
</table>

### 64.4 COMMERCIAL

<table>
<thead>
<tr>
<th>No.</th>
<th>Building Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Apartment Building</td>
</tr>
<tr>
<td>2.</td>
<td>Bank</td>
</tr>
<tr>
<td>3.</td>
<td>Boiler House</td>
</tr>
<tr>
<td>4.</td>
<td>Bowling Alley</td>
</tr>
<tr>
<td>5.</td>
<td>Clinic</td>
</tr>
<tr>
<td>6.</td>
<td>Club Building</td>
</tr>
<tr>
<td>7.</td>
<td>Drive-in</td>
</tr>
<tr>
<td>8.</td>
<td>Parking Garage</td>
</tr>
<tr>
<td>9.</td>
<td>Service Garage</td>
</tr>
<tr>
<td>10.</td>
<td>Grain Elevator</td>
</tr>
<tr>
<td>11.</td>
<td>Hospital</td>
</tr>
<tr>
<td>12.</td>
<td>Hotel</td>
</tr>
<tr>
<td>13.</td>
<td>Laundry</td>
</tr>
<tr>
<td>14.</td>
<td>Lumber Storage Shed</td>
</tr>
<tr>
<td>15.</td>
<td>Motel</td>
</tr>
<tr>
<td>16.</td>
<td>Nurse's Residence</td>
</tr>
<tr>
<td>17.</td>
<td>Nursing Home</td>
</tr>
<tr>
<td>18.</td>
<td>Office Building</td>
</tr>
<tr>
<td>19.</td>
<td>Service Station</td>
</tr>
<tr>
<td>20.</td>
<td>Store or Shop</td>
</tr>
<tr>
<td>21.</td>
<td>Supermarket</td>
</tr>
<tr>
<td>22.</td>
<td>Theater</td>
</tr>
<tr>
<td>23.</td>
<td>Truck Terminal</td>
</tr>
<tr>
<td>24.</td>
<td>Warehouse</td>
</tr>
</tbody>
</table>

### 64.5 INDUSTRIAL

<table>
<thead>
<tr>
<th>No.</th>
<th>Building Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Bakery</td>
</tr>
<tr>
<td>2.</td>
<td>Bottling Plant</td>
</tr>
<tr>
<td>3.</td>
<td>Cannery</td>
</tr>
<tr>
<td>4.</td>
<td>Dairy</td>
</tr>
<tr>
<td>5.</td>
<td>Assembly Plant</td>
</tr>
<tr>
<td>6.</td>
<td>Heavy Warehouse</td>
</tr>
<tr>
<td>7.</td>
<td>Boiler House</td>
</tr>
<tr>
<td>8.</td>
<td>Cold Storage Building</td>
</tr>
<tr>
<td>9.</td>
<td>Textile Mill</td>
</tr>
<tr>
<td>10.</td>
<td>Manufacturing Plant</td>
</tr>
</tbody>
</table>

### 64.6 INSTITUTIONAL

<table>
<thead>
<tr>
<th>No.</th>
<th>Building Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Classroom Building - School</td>
</tr>
<tr>
<td>2.</td>
<td>Dormitory</td>
</tr>
<tr>
<td>3.</td>
<td>Gymnasium</td>
</tr>
<tr>
<td>4.</td>
<td>Library</td>
</tr>
<tr>
<td>5.</td>
<td>Church</td>
</tr>
<tr>
<td>6.</td>
<td>Convent</td>
</tr>
<tr>
<td>7.</td>
<td>Rectory</td>
</tr>
</tbody>
</table>

The size of a building and its functional type are probably the most useful descriptors in most instances. In residential areas, however, functional type is not so pertinent as other characteristics such as basic house type; kind of roof, windows, and exterior walls; or architectural style. This information, in addition to the location, is needed to insure that the officer with the warrant will find the right house with no chance of error.
EXHIBIT 8

Basic House Types

1) One-story
   With or without basement, most prevalent

2) One-and-one-half story
   With or without basement, allows for living area on second floor. Dormers can be added to provide a view.

3) Two-story
   With or without basement, provides maximum living area at least cost.

4) Bi-level
   With or without basement, used for hillside locations.

5) Split-level
   Provides distinct separation of living functions, often on three levels with an optional fourth level basement. Best for sloping lots.

6) Split-level Foyer
   Feature of this is the split-level foyer between two full living levels. May be used as sunken two-story house without basement or as raised one-story house with finished basement.
BASIC HOUSE TYPES

One Story

One and One-half Story

Two Story

Bi-Level

Split-Level

Split-Level Foyer
66. ROOFS

EXHIBIT 9

66.1 TYPES

1) Gable, Gambrel, Hip, and Mansard residential varieties

2) Monitor industrial variety

3) Saw-Tooth, Barrel or Arch, Dome, Lean-To, and Shed industrial and commercial varieties which are self-describing

4) Skylight glassed over opening in roof, usually fixed

5) Dormer box-like projection through roof for a window

6) Cupola small stand or tower on roof, usually topped with a weather vane

66.2 ROOFING MATERIALS

1) Shingles machine-formed of wood, asphalt, or asbestos

2) Shakes hand-split cedar wood shingles

3) Tile usually rounded, reddish, called Spanish Tile

4) Slate heavy gray split-rock shingles
ROOFS

Gable

Gambrel

Hip

Mansard

Monitor

Roof with Dormers
67. WINDOWS

1) Casement
   hinged at side, opens outward

2) Awning
   hinged at top, opens outward

3) Basement
   hinged at top, opens inward

4) Hopper
   hinged at bottom, opens inward

5) Double, Single-Hung
   sash slides up and down in frame

6) Sliding
   sash slides horizontally in frame

7) Jalousie
   also called Louver window, operates like venetian blinds to open and close

8) Picture
   any large fixed window

9) Bay
   built out from house wall for visibility to sides of house; called an Oriole if at second or higher floor level

10) French
    casement windows that go all the way to the floor, are really glass doors

68. EXTERIOR WALLS

1) Beveled Wood Sliding
   same as clapboard

2) Rough Cedar Board

3) Brick
   variety of Pattern Bonds (see Exhibit 10)

4) Native Stone

5) Stucco

6) Board and Batten
   vertical wood boards with narrow strips at seams
7) Aluminum Siding

69. OTHER FEATURES

1) Garage, attached, detached, or basement
2) Carport
3) Sun Deck
4) Porch, open, screened, or enclosed
5) Breezeway, open, roofed, or roofed and screened
6) Chimney, brick or stone
7) Driveways and Walks, concrete, asphalt, or gravel
8) Terrace or Patio, concrete block, brick, or flagstone
9) Fences, stockade, picket, rail, basketweave, redwood, or chain link
10) Swimming Pool, full or empty
<table>
<thead>
<tr>
<th>EXHIBIT 10 - PATTERN BONDS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Running Bond</strong></td>
</tr>
<tr>
<td>Each row of bricks is a</td>
</tr>
<tr>
<td>Course</td>
</tr>
<tr>
<td>Bricks are named</td>
</tr>
<tr>
<td>according to face exposed</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Stretcher</td>
</tr>
<tr>
<td>Header</td>
</tr>
<tr>
<td>No Headers</td>
</tr>
</tbody>
</table>

| **Common Bond**           |
| Every fifth course is     |
| Headers                   |

| **English Bond**          |
| Every other course is     |
| Headers                   |

| **Flemish Bond**          |
| Every course has          |
| alternate Stretcher and   |
| Headers                   |

| **Stack Bond**            |
|                          |
|                          |
Architectural style is an ambiguous phrase. It means different things to different people. Usually, it refers to the historical style of residential homes. Some people use the term to include modern innovations of style but still in connection with residential buildings. Perhaps 15 to 20 percent of all residences in the United States can be classified as belonging to an architectural style. The other 80 to 85 percent cannot be classified. (For example, the tri-level on page 57) Nevertheless, when it is obvious, the architectural style of a building should be made part of its description. The various styles and their chief distinguishing characteristics are listed:

1) Cape Cod Colonial (see page 56)
   very small, symmetrical, gable roof

2) Cape Ann Colonial
   very small, symmetrical, gambrel roof

3) Garrison House Colonial (see page 56)
   second story overhang in front, symmetrical

4) New England Colonial
   a two-story Cape Cod

5) Dutch Colonial
   small, symmetrical, low gambrel roof, stone walls, Dutch front door

6) Salt-box Colonial
   large, two-story, long rakish roof line descending to one-story at rear

7) Pennsylvania Dutch Colonial
   large, symmetrical, two-story, thick gray stone walls, steep gable roof

8) Georgian Colonial
   large, two-story, strictly symmetrical, formal, brick walls, small windows at entrance

9) Southern Colonial
   large, strictly symmetrical, two-story columns in front forming colonnade

10) Elizabethan, Tudor, and Jacobean (see page 54)
    one-and-one-half or two-and-one-half story, slate roof with dormers, stone walls, massive chimney, leaded casement windows

11) Elizabethan Half-Timber
    as above with protruding timber faces
12) Regency
low hipped roof, small octagonal window over front door, symmetrical, secondary roofs of copper

13) Cotswold Cottage
unsymmetrical, high steep roof, large chimney, leaded casement windows

14) Victorian
elaborate fretwork, scrollwork, bays, turrets, parapets, and so on; Mansard roof

15) French Farmhouse
large, very steep hip roof, large dormers front courtyard, balanced wings

16) French Provincial
large, very high roof, large French windows, dormers, grandiose effect

17) French Normandy
unsymmetrical, large chimney, turrets

18) Italian
large wall areas, red tiled roof, oval topped windows, formal

19) Spanish
red-tile roof, oval topped windows, stuccoed walls, wrought-iron exterior decoration

20) California Bungalow
low-pitched roof, many windows, no basement, one story

21) Ranch-House or Western
centered around a patio, flat roof, large windows, one story

22) Northwestern or Puget Sound
hip or gable roof with moderate pitch, partial stained or varnished wood exterior

23) Adobe or Pueblo
made of adobe bricks, roof beams protrude through walls

24) Functional
sheets of glass or glass bricks around steel frame, movable partition walls, flat roof, unsymmetrical

611. SAMPLE DESCRIPTIONS

See Page 54
612. LOCATION

For law enforcement purposes, the location of a building is as much a part of the description as the size and type of building itself. The identity of the premises must be established beyond any chance of error. A mistake in the address in an affidavit for a search warrant could nullify a search even if it was conducted in the premises intended. The purpose of describing buildings and places in search warrants is to define the area to be searched and to ensure that the wrong place will not be entered. Sometimes a street address is enough to accomplish this purpose. Generally, more than that is required. In addition to a description of the house with its address, it is usually necessary to say that it is, for example:

1) the third house from the corner on the south side of the street, or

2) one hundred yards north of the intersection of X Avenue and Y Street.

It is also necessary to identify the city, township, county, or district and state where the place to be searched is located.
DESCRIPTION AND IDENTIFICATION
Buildings and Places

**English Elizabethan**
Massive chimney, complicated roof, stone walls, leaded casement windows

**Ranch-house or Western**
Centered around a patio, flat roof, large windows, usually one story, now sometimes split-level
New England Colonial
Two story, simple, symmetrical, gable roof

English Regency
Usually brick, hip roof, symmetrical, octagonal window over door

English Victorian
Much scroll work, fussy detail, parapets, mansard roof
Garrison House Colonial
Second story protrudes in front, House is otherwise symmetrical

Cape Cod Colonial
Small, simple, symmetrical, gable roof
Tri-level residence facing south, second floor on east overhangs first floor approximately two feet, has two windows with shutters and small octagonal design or vent near apex of gable type roof. Garage is enclosed on first floor level. Mid level has large compound picture window on the front, chimney on west. Siding is light painted clapboard. There are six steps to front entrance with iron guard rails, very tall bush just west of the steps.

Two story residence, saltbox colonial style with long sloping roof to first floor in rear. Symmetrical front facing south, three cornice-cutting dormers at second floor level, four windows with shutters on first floor level. Shed type canopy over front door, a bay window on west side, chimney on east. Garage is detached on east side connected to house by roofed breezeway. Cupola on garage roof. Garage siding is board and batten, house siding is large wood shingles.

(Photos on this page courtesy of Boeckh Division, American Appraisal Company)
CHAPTER 7: INVESTIGATIVE TOOLS AVAILABLE TO ASSIST IN DESCRIPTION, IDENTIFICATION AND MEMORY

71. POLICE ARTIST

1) May be available in large departments

2) May work up composites in either black and white or color

3) Some may have the specialized training to develop a composite similar to a sculpture from plasticene materials. The composite will thus have depth and texture as well as specific facial features.

4) If the department cannot afford a full-time artist, part-time artist may be drawn from outside sources such as newspapers, magazines, etc.

5) It may take an artist up to six (6) hours or longer to develop a composite.

72. COMPOSITE KITS (An Overview)

1) A composite kit is an effective tool for departments who do not have access or money to employ a composite artist.

2) The various kits employ a system where the witness will attempt to assemble a subject's face by selecting from an array of facial features from various overlays or film strips.

3) In general, the composites are not designed to identify anyone, but rather to eliminate all those who do not look like the subject.

4) The kits are primarily used to identify the perpetrator of a crime. However, they also have practical application to the following situations:
   a) surveillance
   b) undercover situations
   c) with informants

5) Some of the more popular commercial composite kits that are available include the Identi-Kit, the Multiple Image Maker, Photo-Fit and Multiple Image Maker.

6) The kits will usually lack the flexibility, creativity, and perceptiveness that a composite artist might have.
73. IDENTI-KIT

73.1 PURPOSE OF IDENTI-KIT

1) To create a composite of an individual, not an exactness
2) To eliminate all others who do not resemble the composite
3) To help witnesses remember certain events and individuals

73.2 COMPONENTS OF THE IDENTI-KIT

The Identi-Kit is a portable box containing 594 component facial features divided into 12 categories and printed on transparent film. The twelve categories are:

1) age lines
2) beards and mustaches
3) eyes - contains 102 sets, ranging from pop to squinty
4) face colors
5) glasses
6) hair
7) chin lines
8) eyebrows
9) head gear
10) lips
11) noses
12) scar grid

The witness simply picks the open transparency from each of the six basic categories (eyes, lips, chins, noses, wrinkles, hairlines) that most closely resembles the suspect. Glasses, headgear, scars, and the like are added if appropriate. The transparencies are laid one on top of the other in a translucent white tray. The portrait emerges step by step, usually in less than 20 minutes. The likeness can then be reproduced for wanted notices and distribution to other departments and agencies. Transmission of the likeness is facilitated by an alphanumeric code which appears on the completed portrait. Each transparency has its own mark. For example, "E-3" would be the third transparency in the Eye series. These marks are offset for each
category so that the entire code appears in the finished portrait. The code can be transmitted and the portrait reassembled by any recipient who has an Identi-kit.


6. From Evidence to Proof, op. cit., p. 10.


11. R.C.M.P Gazette, March 1966 (Vol. 28, No. 3).


The following sections on "Hypnosis" are taken from the Bureau of Alcohol, Tobacco and Firearms (ATF) Advanced Explosive Investigative Techniques Course Book (Hypnosis Section).

It should be further noted that ATF's source for this section is Martin Reiser's book entitled Investigative Hypnosis.
74. HYPNOSIS SECTION

74.1 LEGAL ASPECTS OF HYPNOSIS

Hypnosis has had two main applications legally.\(^1\) One is its use as an analytical tool to determine the state of mind of a suspect or defendant at the time a crime was committed. This application of hypnosis is highly problematical because it involves issues such as the constitutional right against self-incrimination and the self-serving motivation of the subject with the possibility of creating a more convincing alibi under hypnosis.

The second main use of hypnosis legally is as an investigative tool for the refreshment of witness memory.\(^2\) In this application, hypnosis is used only with volunteer witnesses and/or victims of crimes where the issues of self-incrimination, questionable motivation and self-serving memories are not usually a problem. McCormick points out that the law already recognizes hypnosis as a useful investigative tool.

Many courts have liberally defined what may be used to refresh memory.\(^3\),\(^4\),\(^5\),\(^6\) A leader in this area has been the United States Court of Appeals for the Ninth Circuit which has stated, "It is quite immaterial by what means the memory is quickened; it may be a song, a face, or a newspaper article, or a writing of some character. It is sufficient that by some mental operation, however mysterious, the memory is stimulated to recall the event, for when set in motion it functions quite independently of the actuation cause." (Jewett v. United States, 15F. 2d 955, 956 (Ninth CIR. 1926)).

74.2 CASES INVOLVING HYPNOSIS AS AN ANALYTICAL TOOL

PEOPLE V. EBANKS, 117 CAL. 652 (8-23-1897)
Joseph Ebanks was convicted of murder. A defense expert witness, a hypnotist, said he had hypnotized the defendant who had denied his guilt under hypnosis. The court refused to allow the hypnotist to testify, stating, "The law of the United States does not recognize hypnotism. It would be an illegal defense and I cannot admit it." The California Supreme Court later affirmed the trial court's decision not to allow the witness' testimony.

CORNELL V. SUPERIOR COURT OF SAN DIEGO COUNTY, 52 CAL. 2d 99, 338 P. 2d 447 (5-5-59)
The attorney for a murder defendant petitioned the California Supreme Court for mandamus to require the trial court and the sheriff to allow his client to be examined by a hypnotist in order to aid in his recall of events on the night of the murder. While noting that the evidence developed under hypnosis might not be admissible at trial, the California Supreme Court reversed the trial court and held that the accused's right to counsel included the right to be examined under hypnosis to assist in preparing his
defense. The sheriff was ordered to provide appropriate quarters for the hypnosis session to be done.

PEOPLE V. MARSH, 170 Ca, 2d 284 (5-8-59)

Marsh's defense against a conviction for escape from Chino State Prison was that his act was not voluntary, but caused by hypnotic suggestion given him by another inmate. A court-appointed expert witness, a psychiatrist, testified that a suggestion of the type claimed by the defendant would not cause him to escape. On appeal, the California Supreme Court held that "A person can testify as an expert in his field when, because of his profession, or special knowledge, skill or experience not common to men in general, he is able to form an opinion when men in general would be left in doubt." The conviction was affirmed.

PEOPLE V. BUSCH, 56 Ca, 2d 868 (11-22-61)

Convicted of three counts of murder and one count of assault with intent to commit murder, Busch was sentenced to death. On automatic appeal to the California Supreme Court, the trial court's decision was upheld, to exclude a doctor's testimony involving the use of hypnosis with Busch as an analytical tool. The Supreme Court said, "In laying a foundation for the introduction of opinion evidence of the state of mind of a person based upon the use of a technique not recognized by the Courts as sufficiently reliable to form the basis for such an opinion, at the very least, some showing of its successful use in the examination of others than the defendant for the same purpose, either by the witness or by other experts in the field, would appear to be required." Also, "A proper foundation was not established as to the reliability of an analytical tool still seeking recognition in the field of psychiatry, or as to the qualifications of this particular witness to give an opinion on the state of mind of the accused..."

STATE V. NEBB, NO. 39, 450, Ohio C.P., Franklin County, May 28, 1962 (unreported)

By stipulation, with the jury excused, the defendant in a homicide case, Nebb, testified while in a hypnotic trance in the courtroom. As a result of his testimony, the prosecution was persuaded that the defendant was telling the truth about the events surrounding the murder and subsequently reduced the charges against him. The court indicated that the testimony given under hypnosis would have to be excluded if it tended to incriminate the witness. (See Leyra V. Denno, 347 U.S. 556 (1954).

PEOPLE V. MODESTO, 59 CAL. 2d 722, 382 P.2d 33 (6-4-63)

Modesto was convicted of the murder of two sisters and sentenced to death. It was automatically appealed to the California Supreme Court which held the trial court erred in excluding a psychiatrist's explanation of using hypnotic techniques in a psychiatric examination to determine the defendant's intent. It said the trial court had not properly exercised its discretion regarding admission or exclusion of evidence when it excluded, outright, tape recordings made of the
hypnosis session, though the hypnotist was an expert psychiatrist and the defense had offered to prove that hypnosis was an accepted analytical tool. The court said the proper procedure would have been to weigh the probative value of the tapes against the risk that the jury might improperly consider them as independent proof of the facts contained therein.

REGINA V. PITT, D.L.R. 2d at 516.66W.W.R at 403 (1967, Canada)

The defendant, in an attempted murder case, had amnesia for the crime situation and was permitted to be hypnotized in court with the jury present. He was given a post-hypnotic suggestion by the hypnotist for hyperamnesia on awakening. No questioning was done during the hypnosis session proper. The defendant testified post-hypnotically with improved recall. The court said it would be unfair to deny the accused the right to accepted psychiatric procedures.

JONES V. STATE, 542 P. 2d 1316 (Okla, Crim App. 1975)

In the case, the appellate court held that hypnosis is inadmissible to establish the truth of an accused's assertions.

74.3 HYPNOSIS AS AN INVESTIGATIVE TOOL

The following cases involve the use of hypnosis as an investigative tool for the refreshment of memory:


A girl was shot and raped and couldn't recall the crime. She remembered under hypnosis and the trial court said the evidence was admissible. The Maryland Court of Special Appeals affirmed the conviction over the defendant's objections to the use of hypnosis to restore the victim's recall of the crime. The defense objected to the hypnotist's testimony on the basis of his qualifications because he did not graduate from any school of hypnotism. The appeals court said that the admission of expert testimony is primarily a matter for the trial judge to decide. It indicated that formal training is unnecessary as long as the record demonstrates that he is possessed "of any knowledge or information which would elevate his opinion above the level of conjecture or personal reaction." The court emphasized the professional expertise of the psychologist who had conducted the hypnosis session and who laid a solid foundation for the testimony. In addition, there was additional evidence to corroborate the witness' testimony. "Modern medical science recognizes that hypnosis can aid in recall, though fantasy may be mingled with fact."

STATE V. JORGENSEN, 49 Pac. 2d 312 (Oregon App., 1971)

In this murder case, a prosecution witness' poor memory was restored by the use of drugs and hypnosis. The court held that hypnosis is allowed as long as adequate cross examination is possible by the defense.
PEOPLE V. PETERS, 4 Crim. 5996, March 1974

In the unreported case, a police officer was ambushed by the newly-elected president of a motorcycle club. Hypnosis was used to enhance the officer's recall of the events. Though the court didn't directly answer on the question of hypnosis, it gave some pertinent dicta: (1) California law does not preclude hypnosis as to state of mind. (2) The evidence would have been admissible if a proper foundation had been laid. (3) The value of hypnosis as a tool of discovery was acknowledged by Cornell. (4) The possibility of misuse of hypnosis by the prosecution exists because of increased suggestibility. (5) It precluded blanket approval, indicating that cross examination was needed to overcome any objections.

WYLLER V. FAIRCHILD-HILLER CORPORATION, 503 F. 2d 506 (Ninth Circuit, 9-13-74)

In this civil case, four years after a helicopter crash at Ketchikan, Alaska, in which two persons were killed, hypnosis was used with Wyller, a surviving passenger, to improve his limited recall of the events surrounding the accident. Monetary awards were made by the trial court to the plaintiff, and the helicopter manufacturer appealed citing that, (1) Wyller's testimony was rendered inherently untrustworthy by his having undergone hypnosis, (2) that the district court erred in admitting testimony from Wyller and the hypnotist concerning the content of tape recordings made while Wyller was in a hypnotic state, (3) that the court should not have permitted the hypnotist's testimony as the reliability of statements made by the hypnotized Wyller, and (4) that the court erred in failing to give the jury a cautionary instruction regarding Wyller's testimony insofar as it consisted of information recalled by means of hypnosis.

The appellate court affirmed the trial court's finding. It stated, "We cannot accept Fairchild's argument that Wyller's testimony was rendered inherently untrustworthy by his having undergone hypnosis. Wyller testified from his present recollection, refreshed by the treatment. His credibility and the weight to be given such testimony were for the jury to determine. Fairchild was entitled to, and did, challenge the reliability of both the remembered facts and the hypnosis procedure itself by extensive and thorough cross examination of Wyller and the hypnotist. Under the circumstances we perceive no abusive discretion by the district court."

KLINE V. FORD MOTOR COMPANY, 523 2d 1067 (9-22-75)

Because of severe head injuries and amnesia following a one-car accident, the witness remembered nothing about the event. Her memory was then revived under hypnosis, resulting in full recall of events leading to the accident. The trial court excluded the witness' testimony to events recalled after hypnosis and sustained Ford's objection that she was not competent as a witness to testify to facts recalled under hypnosis. The appellate court found the ruling erroneous.
"Competence refers to the condition of the witness at the time he or she is called to testify. Jacqueline (witness) was fully capable of expressing herself and understanding her duty as a witness to tell the truth (e.g. CAL. EVID. CODE Sections 405, 701 and annexed comment [West, 1966]; B. Witkin Cal. Evidence [2d ed. 1966] Section 768 at 716). She was present and personally saw and heard the occurrences at the time of the accident. She was testifying about her present recollection of events that she had witnessed. That her present memory depends on refreshment claimed to have been induced under hypnosis goes to the credibility of her testimony not to her competence as a witness. Although the evidence by which recollection was refreshed is unusual, in legal effect her situation is not different from that of a witness who claims that his recollection of an event that he could not earlier remember was revived when he thereafter read a particular document. (Wyller V. Fairchild-Hiller Corp.). Here, as in Wyller, we cannot accept defendant's argument that plaintiff's testimony was rendered inherently untrustworthy by her recollection, refreshed by the treatment. Her credibility and the weight to be given to such testimony were for the jury to determine."

PEOPLE V. JOHN QUAGLINO, 109524 (Superior Court, Santa Barbara County, 1976). QUAGLINO V. CALIFORNIA, 77-1288 (October 30, 1978)

The Ford car that struck and killed Dyanna Quaglino had been registered to a Richard W. Bellmore. It was found shortly after the accident behind the apartment complex where Quaglino lived. Quaglino told authorities he had been in bed with his girlfriend at the time of his wife's death. The car had been sold to "Bellmore" by a car dealer named Jensen. When Jensen was first shown a picture of Quaglino, he said it "Struck a bell" but he could not be more specific. After being hypnotized, a week later, by a Santa Barbara psychiatrist, Jensen picked Quaglino's picture from a stack of seven photographs as being the "Richard Bellmore" to whom he sold the car.

Jensen subsequently picked Quaglino out of a line-up and identified him in a preliminary hearing. Psychiatrists testified on both sides. Defense psychiatrists did not disapprove of the concept of memory enhancement by hypnosis, but did object to its use in this case because of prior police contact coupled with undue suggestions on their part as to the killer's identity. The first two trials resulted in hung juries, the third resulted in a conviction. The hypnosis evidence remained the same in all three cases.

On appeal, the California Court of Appeals concluded that hypnosis was "a valid and reliable technique for improving recollection." The California Supreme Court and the U.S. Supreme Court refused to hear the case and let the conviction stand.

STATE V. MCQUEEN, 244 S.E. 2d 414 (June 6, 1978)

The defendant, McQueen, was convicted in Superior Court of two first degree murder offenses and he appealed. The North
Carolina Supreme Court affirmed, holding that the fact that a state witness had been hypnotized prior to trial did not render her testimony inadmissible.

"The witness testified that, following the events in question, she endeavored to block them from her memory and her recollection of them became uncertain, but, thereafter, prior to the trial, she was hypnotized at her request, and, as a result, as of the time of her testimony, she clearly remembered what she had seen and heard at the time of the events to which her testimony relates. According to her testimony, her memory of these events was refreshed by the hypnotic procedure which she underwent sometime prior to the trial. The fact that the memory of a witness concerning events, distant in time, has been refreshed, prior to trial, as by the reading of documents or by conversation with another, does not render the witness incompetent to testify concerning his or her present recollection. The credibility of such testimony, in view of prior uncertainty on the part of the witness, is a matter for the jury's consideration. So it is when the witness has, in the meantime, undergone some psychiatric or other medical treatment by which memory is said to have been refreshed or restored. So it is when the intervening experience has been hypnosis."

UNITED STATES V. ADAMS, 581 F. 2d 183 (June 14, 1978)

The Ninth Circuit Court of Appeals affirmed the conviction of two defendants on charges of conspiracy to assault with intent to rob, robbery, and murder in a post office robbery situation. For the first time in a criminal case, the Court admitted eyewitness testimony refreshed under hypnosis, in spite of the fact that there were questions about the hypnosis methods used in this case. These questions involved an uncertified hypnotist conducting the session, and no record being made of the identity of those present, the questions asked, or the responses given.

The Court said, "Although we do not approve of the hypnosis methods used here, Adams did not object to the adequacy of the foundation laid for the receipt of the testimony. Rather he attempted to exclude all in-court testimony of Morin on the grounds that no testimony from witnesses who had been hypnotized could be reliable, and that the use of testimony of a witness who has been hypnotized would deny the defendant his Sixth Amendment right to confrontation and his right to call witnesses on his own behalf. The predicate for both constitutional arguments is that the in-court testimony of a witness who had earlier been subject to hypnosis is unreliable as a matter of law rendering the witness legally incompetent to testify. We rejected that premise in Kline V. Ford Motor Company, Inc., supra, and we see no reason for a different result in the context of a criminal case."

Teitlebaum also recommends that the test of general reliability in regard to hypnosis be discarded and that the courts concern themselves on a case-by-case basis as to whether in each particular case a proper foundation is established for its
admission and that proper procedures be used in the courtroom to insure that the jury has all the facts and can make up its own mind.
74.4 REFERENCES


75. RESULTS TO DATE - SOME STATISTICS AND CASES

75.1 PILOT PROJECT

Evaluation of the Los Angeles Police Department's one-year research demonstration project in investigative hypnosis, from June of 1975 until June of 1976, revealed some interesting data. During the year, a total of 67 hypnosis sessions were conducted in criminal investigations. Forty of the cases were homicides, seven were robberies, one was a burglary, ten were sex crimes, one was a grand theft, one was a bombing, and one was a misdemeanor vandalism.

Most hypnosis sessions were conducted at police facilities; however, some were conducted at the subject's private residence or place of business. Examination of the 67 hypnosis sessions indicated that neither the location of the hypnosis session nor the type of crime involved significantly affected the results. Approximately half of the hypnosis subjects were male and half female. Subjects' ages ranged from seven to seventy-five years of age with a mean age of 28.7 years. The sex, age, race, or occupation of the subject appeared to have no significant effect on the outcomes.

Results for these 67 sessions revealed that new investigative leads were obtained in 77.6% of these cases and that the solution of 16.4% were attributed directly to the hypnosis information. The researcher, an experienced criminal investigator, estimated that less than 5% of these cases would ever have been solved without hypnosis.

75.2 LONG-TERM RESULTS

Recent follow-up data covering some 350 cases of investigative hypnosis done by hypno-investigators at the Los Angeles Police Department between June of 1975 and December of 1978 remain fairly consistent with the original pilot study findings. Of 348 investigative hypnosis sessions surveyed, 79.3% yielded additional information not previously available. Of this elicited information, 66.4% was considered to be valuable to the case investigator.

In attempting to corroborate the information from 295 cases, accuracy was unable to be determined in 48.8% of these cases at the time of the survey. However, the 151 cases where follow-up information was then available yielded a 90.1% verification of the information elicited under hypnosis.

Of 354 cases sampled at the time of the survey, 31.9% were solved and 68.1% still unsolved. Of 113 solved cases, the case investigators attributed value to the hypnosis-elicited information in 65.5% of them.
Of 354 cases sampled, the hypno-investigators estimated that 33.4% of the subjects achieved a deep state, 39.1% a medium state, 19.7% a light state, and 7.8% were likely not hypnotized at all.

The types of crimes represented by hypnosis sessions from June of 1975 through December 1978 were as follows: homicides, 59.9%; robberies, 11.7%; rapes, 13.4%; burglaries, 3.5%; others, 11.5%.

75.3 SOME TYPICAL CASES

On January 19, 1976 at 9:30 p.m., a 64-year-old motion picture publicist was discovered murdered in his Van Nuys, California home, shot once in the neck. No witnesses or motive for the crime could be established. A systematic door-to-door check of the neighborhood located a witness who saw a suspicious vehicle in the neighborhood with its lights out shortly before the crime. The witness described the vehicle as a 1973 or 1974 white Datsun pickup truck with a heavy-duty bumper. The vehicle contained three juveniles. The witness had looked at the license plate at the time, but could recall only that it started with a "7," had another "7" in it somewhere, and perhaps a "4." The witness was not able to recall any additional information, but agreed to a hypnosis session.

Under hypnosis the following additional information was obtained: The heavy-duty bumper was silver in color and had a red and blue "safe-tee" emblem on it; there were no dents or scratches observed on the vehicle; the word "Datsun" was written in large black letters on the tailgate; there was a small mirror on the left side; the vehicle had small chrome hubcaps; there were black rubber mud flaps behind the rear wheels and the vehicle had a "Datsun" license plate frame. There appeared to be beads or some object hanging from the rearview mirror inside the vehicle. The complete license number was recalled as 70774W.

A Department of Motor Vehicles check confirmed that the license number was registered to a 1974 Datsun pickup truck at a local address. A stake-out on the vehicle led to a subsequent arrest of three juveniles who confessed to the crime. All of the information obtained under hypnosis was corroborated with the exception of two points. First, there was not a "Datsun" license plate frame, and second, nothing was hanging from the rearview mirror. However, it is possible that a crack in the front windshield directly in front of the mirror could have been mistaken for something hanging from the mirror when viewed from the rear. The solution of this case was attributed essentially to the hypnosis.

On January 8, 1975, a man returned to his south Los Angeles apartment at 11:20 p.m. and found his wife dead in the bathroom, nude and bound. He untied her and carried her to a bedroom, placing her on a bed and covering her with a blanket. In shock, he waited a considerable time before calling the police. During
the interval, he wandered from room to room picking up and putting away things found lying around.

When questioned by the police, he was unable to accurately describe the position of his wife's body, or what he had done before calling them. Autopsy disclosed that death was caused by asphyxiation due to strangulation with a minimum of damage to the victim's neck. There was no forced entry of the apartment nor any unusual noises heard by neighbors. Though the husband was an initial suspect, it was established that he was working at the time the death occurred. Investigators, at a deadend, decided some ten months later to use hypnosis to get additional information the husband might have forgotten.

Under hypnosis, he was able to accurately recall the position of his wife's body and how she was tied. He described moving specific objects from around the body and putting them away. This information and subsequent consultation with experts at the coroner's office enabled detectives to determine that this death was a sexual suicide, either accidental or intentional. Without hypnosis, the case would likely be in the unsolved file.

On June 23, 1974, just after midnight, the sheriff of Polk County, Georgia answered a burglar alarm with one of his deputies. They spotted a suspected truck and forced it to the side of the road. The sheriff got out to investigate, but as he approached the truck, the driver pulled a gun and started firing. The sheriff was killed outright, the deputy wounded in the leg and the truck disappeared. The wounded deputy could give only a vague description of the suspect and the truck. At a deadend, the chief of police decided to try hypnosis. Utilizing the TV technique, the hypnotist asked the deputy to describe everything that he saw. He was able to describe the suspect, including dress, appearance and description of vehicle.

In 1976, in Chowchilla, California, the largest mass kidnaping occurred with the abduction of 26 children in a school bus by three masked gunmen. They were driven to a gravel quarry a hundred miles away and put into an abandoned trailer truck buried six feet underground. Fortunately, some 16 hours later, the captives were able to dig themselves out and were rescued. Questioned by the FBI, they could not provide identifying information about the suspects. Hypnosis was utilized with the bus driver, who, with the zoom lens approach during the TV technique, was able to recall all but one digit of the license plate on the kidnapers's white van. This information was helpful in apprehending the three suspects.

A recent Texas case involved the "traveling rapist." This suspect would go from door to door from about 3:00 a.m. to 9:30 a.m. looking for access. When an open door was found, he would go in, rape and assault his victim if she were a small female. One victim in Hereford was stabbed 13 times and left for dead. After the assault, she could not remember anything about the suspect.
However, under hypnosis, she was able to assist an artist to make a composite drawing and recall everything that the suspect had said and done during the crime event. When the suspect was later apprehended, the information elicited under hypnosis was compared with other facts and essentially corroborated. Subsequently, the suspect confessed to a number of murders and 65 rapes.

On June 26, 1977, at a Los Angeles Airport area hotel, four men and two women, Continental Airlines flight attendants, were found pistol-whipped and battered with exercise barbells by a suspect who also raped one of the stewardesses, who suffered a skull fracture. Descriptive information about the suspect was very limited when the victims were questioned initially. Under hypnosis, a composite drawing was done with the aid of the police artist. Subsequently, additional victims were flown into Los Angeles from around the nation for a line-up, where the suspect was identified.

On September 29, 1978, a 15-year-old girl was hitchhiking from the San Francisco Bay Area toward Corona, California to visit her grandfather. She was picked up by a man in a van who raped and sexually abused her after tying her up. He then chopped off both of her forearms with an axe and stuffed her body into a drainage tunnel. The victim played dead and was finally able to crawl out, stop a vehicle, and was taken to a hospital. When questioned by detectives, she could recall only sketchy information about the traumatic event.

Under hypnosis, the victim was able to recall the suspect's name, other useful conversation and assist in the making of a composite drawing. Much of the information elicited under hypnosis was later corroborated by other witnesses. The suspect was subsequently convicted of two counts of rape, two of oral copulation, sodomy, kidnapping, and attempted murder.

In this case, the Stanislaus County detectives performing the hypnosis with the victim had completed their basic investigative hypnosis training only several weeks prior to the occurrence of the crime.

In the first criminal court case involving hypnosis with witnesses in Maricopa County, Arizona, the rape suspect was described in detail under hypnosis, including two tattoos. The information was later corroborated and the suspect convicted.

The Biehler case in Los Angeles involved four homicides, two of which were 10 years in the past. Memory enhancement of witnesses using hypnosis led to a conviction on all four murders. This case is interesting in that, in spite of the long time interval after the first crimes were committed, witness recall with hypnosis was successful. It appears that the factors of time and intoxication do not preclude the possibility of successful information retrieval with investigative hypnosis techniques.
A recent landmark case for state district courts in Texas involved a homicide and the use of hypnosis with a surviving witness. A psychiatrist hypnotist, but without specific investigative experience, testified that the use of hypnosis ruined the credibility of the witness. A psychologist testified to the correctness of the session conducted by a local sheriff. The suspect was given a 50-year sentence.


