Winter-Spring Edition 2010 Volume 2, Issue 1

THE FORENSIC DIGEST

ERODING THE INTENT OF THE EXCLUSIONARY RULE

SERIAL ARSON BASIC PATTERN RECOGNITION

JUNK SCIENCE REVISITED

THE MAGUINDANAO MASSACRE: JUSTICE ON TRIAL IN THE PHILIPPINES

Article IV

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

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Publisher's Notes

Dear Esteemed Colleagues:

It is with great joy that I welcome the members of the International Academy of Forensic Professionals (IAFP) to our growing organization, and it is with immense pride that I invite you to enjoy the second issue of The Forensic Digest (Winter-Spring Edition 2010).

My warmest thanks go to our editor-in-chief, the contributors and the editorial staff, all of whom have labored long hours to bring you a journal of the highest caliber. Every page communicates our desire to excellently contribute to the growing international treasure chest of knowledge in forensic science.

IAFP is a membership organization dedicated to sharing information and knowledge about forensic science around the world. Please consider joining our family if you have not done so already. Our newly designed website (www.tiafp.org) with a greatly enhanced *Member Center* is your portal to discounts on courses, webinars, workshops and conferences. Members with a forensic business will be given limited free advertising on our site. If you are a published author, please take advantage of just one more member benefit by allowing us to promote and sell your book in our *E-store*, again at no charge to you. In 2010, your investment in membership will offer you value as never before. Contact me today for more information.

As we look at 2010 and beyond, many events are emerging, some of which are highlighted in this publication. Please accept my personal invitation to join in our **Cutting Edge Forensic Science Conference April 14-16, 2011 in San Diego, CA.**

We want you to become excited about this unprecedented opportunity to ride the cutting edge of laboratory forensic sciences through personal insight delivered by the world's leading experts. We promise you several opportunities to meet and chat with the experts.

Special packages have been arranged for those who wish to bring the whole family and stay a few extra days in an amazing location at an astonishing rate. **"Come for the information; stay for the vacation" is our slogan.**

For now, welcome to the second issue of the Forensic Digest.

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THE EDITOR'S CORNER
Thoughts on Crime

It is with pleasure that Maria Ritualo Mills, the co-editor, and I bring you the second edition of the *Forensic Digest*. As you will see, the *Digest* once again offers the reader a wide variety of topics that are pertinent and educative in the world of forensics.

An important component of education is that of seizing the moment and we attempt to do just that in our selection of articles. It is our intent to offer the readership information that relates to important issues, deserving of thought and reflection.

That brings me to the concept of crime, the editor's topic for the current edition. It may be argued that part of the public's current fascination with all things CSI is related to the popular belief that in American society, we are beset by crime. As a culture, we wish to see the 'bad guys' caught and punished for their evil deeds. Because the popular press and media focus on the most dramatic of crimes/criminals, the perception of danger to law-abiding citizens is skewed.

It is well-recognized that we are influenced in our views on crime and punishment by crime mythology, perpetrated most commonly by the media and politicians of both major political parties (Scheingold, 1984). Our policing agencies, under the mandate for public safety, respond to the social and legislative directive to 'get tough' on various criminal activities because of fear generated by often inaccurate information. Such a knee-jerk response to perception of danger is expensive and harmful in a democratic society (Baer & Chambliss, 1997).

When the media (or politicians) focus us on a particular crime concern, there is a general acceptance that in fact, the problem exists. News programs reinforce perception through the tendency to present one crime after another, providing the impression that street-level offenses are frequent, frightening and common, particularly in urban areas (Yanich, 2005). Crime that is violent in nature generally leads news broadcasts, further reinforcing the idea that we are at risk for violence at all times, especially at the local, neighborhood level (Weitzer & Kubrin, 2004). However, sometimes public perception and awareness can lead to positive action relating to crime control, based on fact.

Two examples of policy that reflect social awareness for the public good are found in the Mother's Against Drunk Driving campaign and our Amber Alert system.

In the mid-1960's, our political process began to focus on certain public officials as 'soft on crime'. It is not without merit to recognize that this criticism occurred at the same time, historically, as the civil rights movement which swept across America. Since that era, crime has been a factor in presidential campaigns, local elections and anti-crime legislation (Marion, 1995). We shifted as a society from the concept of rehabilitation to help people better their opportunities to incarceration as the prime crime-solving approach.

Although the root causes of crime are complex and multi-faceted, the approaches to 'solving' the crime problem are often simplistic and lack scientific credibility. An excellent example is found in our country's self-described 'war on drugs' which, according to Banks (2004), was the result of political, media and community concerns about drug sales and use. One concrete result of the 'war' has been a tremendous increase in drug prosecutions and incarcerations, especially of minority offenders (Schmalleger, 2005).

During the Reagan administration penalties for drug users dramatically increased, the cabinet-level post of drug czar was created and Congress passed the Anti Drug Abuse Act of 1988. Schmalleger (2005) points out that the preamble to the Act stated, "It is the declared policy of the United States Government to create a Drug Free America by 1995." The general public, sick and tired of drugs and their association to crime, welcomed the rhetoric as fact. Now, in 2010, we are no closer to a 'drug-free America' than when the Act was passed in 1998.

We can agree that crime policies should reflect our values as a society, based upon principles of fairness, sound reasoning and ethical consideration. The dissemination of information about crime should be fact-based, not mythological, so that as a society, we make the best choices for our public good.

The Forensic Digest editorial board invites your comments on the Editor's Corner topic.

Dian L. Williams, PhD, RN

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The Official Journal of the Academy of Forensic Nursing Science
Volume 2, Issue 1 Spring 2010

The Forensic Digest is the official multidisciplinary publication of the International Academy of Forensic Professionals (IAFP), and the sister organization, the Academy of Forensic Nursing Sciences . The Digest provides practicing forensic clinicians with reports of research, case studies, current events, interview with forensic professionals, anecdotal and clinical analysis articles relating to forensic nursing and the forensic sciences, reports from forensic conferences and other educational gatherings. Discussions of contemporary trends and issues confronting assessment and intervention with victims and offenders will also be included in the Digest.

The Forensic Digest is published twice annually. Members receive the ejournal subscription as part of their membership benefits.

The Forensic Digest seeks contributions of articles that examine areas of interest to those involved in the forensic sciences. Our readership is wide and varied and to that end, we solicit manuscripts that may have either a broad or more specialized appeal under the concept of "forensic science". The journal welcomes first time authors as well as frequent contributors. Articles relating to forensics are welcome from around the world. To review the submission guidelines, refer to the next page or log on to www.tiafp.org.

This publication is designed to appeal to our wide and varied readership and reflects our recognition of the many disciplines, involved in forensic practice. We promise to bring you articles that reflect issues of interest and that are thought-provoking and informative. The editorial staffs are committed to the journalistic ideal of excellence. Please enjoy this second edition and make plans write for the *The Forensic Digest*.

CALL FOR PAPERS AND ARTICLES

The International Academy of Forensic Professionals (IAFP) has issued an open-call for manuscripts, research reports, and other material suitable for any of the forensic science disciplines. Your professional offering should be submitted for review by the Editorial Board who will then determine appropriateness for online publication in our E-journal, *Forensic Digest*.

All materials submitted must be original and not previously published in any other copyrighted works. Authors of accepted work are required to sign an exclusive copyright release for any manuscript submitted. The email address for requesting further information or to submit your work is: FD@tiafp.org

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The Forensic Digest welcomes first time writers as well as published authors. Writing is a valuable medium through which we share knowledge, opinion and research with others. Writing may be considered a professional obligation as it serves as a method of mentoring through the presentation of information that stimulates thoughts and ideas in the reader.

The editorial staff of The Forensic Digest is aware that submission guidelines may often prove a stumbling block that prohibit rather than encourage writers. To that end, we have tried to make the process of article submission as "user-friendly" as possible. Please review the guidelines below and start writing!

Manuscript submission guidelines:

1. Submit your work in MS Word (.doc; .docx) or Rich-text Format (.rtf) only
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3. Double space your work
4. Develop a page one that includes:
   a. The working title of the manuscript
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Additional points:

Conceptualize your finished manuscript as a minimum of four pages to no more than 12 pages in length, excluding page one (see above). Graphs, tables etc may be inserted in the manuscript or included at the end as appendices. All graphics must have a descriptive caption.

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If you are including any work not your own, you must have a statement of copyright permission from the copyright holder. Permission may be in the form of a formal letter or an email from the copyright holder. All citations and references must be formatted using the format found in the Publication Manual of the American Psychological Association (5th ed.), commonly referred to as APA guidelines.

Authors submitting to *The Forensic Digest* must certify in writing, at the time of their submission, that the article is not currently under review elsewhere for the possibility of publication and that it will not be submitted elsewhere prior to editorial decision at the *Digest.* Certification may be made easily through an email to the editor. The primary author may write on behalf of all contributing authors to the article.

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- If your manuscript has been approved for inclusion in *The Forensic Digest*, you will be notified via email. At that time, you will be asked to submit a photo and short biographical sketch.
- The editorial staff will select photos and graphics that best illustrate the intent and meaning of your article. We will send you the completed version of the manuscript before publication. It is your responsibility to address any concerns you might have at that time.
- Once your manuscript has been accepted for publication by *The Forensic Digest,* it becomes our property and we hold the copyright to it.
- All manuscripts should be submitted to :editorFD@tiafp.org

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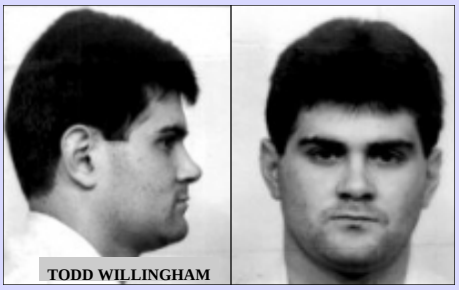
JUNK SCIENCE REVISITED

By Laura Billon, MFS, CFI


TODD WILLINGHAM

In the previous issue of the Forensic Digest, an article entitled, "The Refutation of Junk Science" included the story of Cameron Todd Willingham who was executed by the state of Texas on February 17th, 2004 for setting a fire to his home and killing his three little girls. Until his dying breath, Willingham claimed his innocence and refused an offer to change his plea to guilty in exchange for a life sentence behind bars. Willingham became the first person to be put to death in which fire was the murder weapon. Since the last issue, questions have abounded as the nation wonders if the state of Texas murdered an innocent man.

As articulated in the aforementioned article, fire investigation has been heavily scrutinized in the past decade and said investigators are being held to a higher scientific standard than previously with their investigations. The laws of physics and chemistry govern fire behavior and like all other types of physical sciences, must adhere to rules of scientific methodology in order to validate reached determinations and conclusions. Questions about the scientific evidence and resulting conclusions in the Willingham case had arisen months prior to his execution, and in fact, Texas Governor Rick Perry was notified days prior to the execution date by multiple experts that the findings in the case were invalid and that forensic knowledge that was available since the arrest disproved each theory presented resulting in a guilty verdict. Perry refused to stay said execution, "based on the facts of the case". Since then there has been much publicity about and analysis of, the evidence and testimony of the investigators on the stand. A thorough investigative review of the case, the forensic flaws and the ineptitude of the fire investigators basing their "theories" not on empirical data, knowledge or skills in chemistry, physics, or biology, but on what is referred to as "junk science" has been widely covered, including a long review in the Chicago Tribune in 2004.

In 2005, the state of Texas created a government commission which was made responsible for investigating allegations of forensic science errors and misconduct. Willingham's case was one of the first they were charged with reviewing. In August of 2009, a highly respected expert fire scientist named Craig Beyler, hired by the Commission to review the Willingham case, provided a vituperative written report condemning the investigation. The report excoriated the scientific findings upon which the Willingham conviction was based. It stated that the findings were not only invalid by today's standards, but were invalid by the scientific standards at the time that the investigation was conducted. Beyler was scheduled

This is the house where Cameron Todd Willingham's three children died in a December 1991 fire in Corsicana, Texas. Willingham always maintained he was innocent of setting the fire that killed his three small children two days before Christmas in 1991.

to answer questions pertaining to his report by the Commission the first week in October, 2009. He was one of nine world-renown experts within the field of fire science who has refuted every single scientific theory leading to the conviction and ultimate execution of Willingham, but was the only one hired by the Commission to review and report on the case.

On the eve of Beyler's testimony to answer questions in October of 2009, Governor Perry replaced four members of the Commission – the maximum number he could replace on a panel of nine – who were charged with identifying errors and misconduct within the fields of forensic science. The panel had been probing whether the state of Texas executed an innocent man as alleged by experts such as Beyler, and those mentioned in the previous article: John Lentini, Gerald Hurst, John DeHaan, and many others such as Douglas Carpenter, David Smith, Daniel Churchward and Michael McKensie.

At the center of the case against Willingham was the testimony from the Texas State Fire Marshal's Office. Manuel Vasquez was the lead expert on the case. His testimony that floor patterns found at the scene were a definitive indicator of incendiarism was not only disproven by the mentioned experts, but was widely refuted by testing that was conducted and made available to the field of fire investigation in the Fire Investigation Handbook, published by the National Bureau of Standards in 1980, over ten years before the Willingham case.

Vasquez stated that the fire burned "hot and fast", indicative that an accelerant was utilized in the fire – an inaccurate theory that had been passed down for decades within the field of fire investigation. Thermodynamic analysis techniques have proven this to be a myth through calculations of adiabatic flame temperatures of which the results have been available for over one hundred years.

What has been proven unequivocally is that ignitable liquids do not cause a fire to burn any hotter than a fire that is not accelerated. A wood burning fire will essentially burn at temperatures equal to those of a gasoline fueled fire.

Another misconception of Vasquez's, based upon years of an "old wife's tale" theory was that "crazed glass" or glass with spider-web like cracks was irrefutably the result of an accelerated fire whose temperatures exceeded that of an unaccelerated fire. While thermodynamic analysis addresses the inaccurate temperature determination, the phenomenon of sudden glass cracking, in actuality, is not the result of extremely hot temperatures, but rather just the opposite: through testing it has been proven that "crazed glass" is the result of a sudden cooling of the glass, as would be the case when water from a fire hose was applied to the glass' surface. Tests conducted at the National Fire Academy proving this theory and its results were published in 1980 by the National Bureau of Standards, as mentioned, ten years before the fire in Texas.

Finally, as referenced in the previous issue of the *Forensic Digest*, the Lime Street Fire that occurred in Florida was recreated to solidify evidence of an incendiary fire. What transpired, however, was nothing that any of the experts would have expected. After flashover was reached (the instant in which all combustible surfaces within a compartment reach their ignition temperature) and the room was consumed by fire, post extinguishment revealed patterns on the floor consistent with those that are often associated with ignitable liquids. These were formed naturally in a post flashover condition, in which the fire transitions from being fuel controlled to ventilation controlled and were not discernable to the naked eye from patterns left by an accelerant. Multiple areas of dropdown from the ceiling resembled multiple areas of origin. As the points and areas of origin were unable to be proven to be independent of each other, Vasquez's testimony that the patterns and multiple areas of origin were indisputably those of an accelerated fire were quickly proven to be false. The Lime Street fire occurred n 1990, over a year before the Willingham fire for which Willingham was executed.

The discrepancies and misconceptions surrounding the Willingham case have garnered much publicity: being a featured, ongoing story on CNN, the topic of an investigative article in *New Yorker Magazine* in September, 2009, and one of the featured cases taken up by the Innocence Project. As all this was going on, Governor Rick Perry was involved in a very heated reelection primary contest to keep his job. By replacing the four members of the Commission on the eve of Beyler's testimony regarding this case, and the eve of the primary election of the Governor, the Commission has postponed indefinitely hearing from Beyler or any others. They have been investigating the case and possible wrongdoing since 2008 to determine if in fact the state of Texas put an innocent man to death.

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About the Author

Laura Billon is a Certified Fire Investigator in California. She has over nineteen years in the fire service in various capacities and I currently working for the State of California. She has a Masters Degree in Forensic Science and a Bachelors Degree in Fire Protection Administration. She teaches in the Fire Technology Department at Miramar College in San Diego and is an instructor in the Arson Department at the National Fire Academy in Emmitsburg, Maryland. She is a regular contributor to NPR radio in Los Angeles regarding motives of fire setters and is an evaluator specialist for the Center for Arson Research. She serves on the Board of Directors to the Homeland Security Foundation of America. She speaks about fire investigation, motives of fire setters and interview and interrogation techniques around the country.

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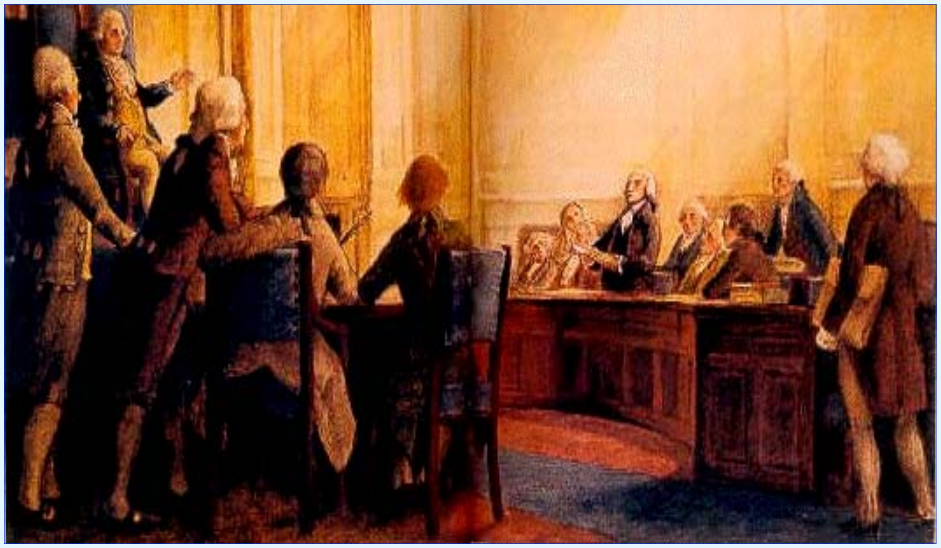


Handcuffing America's Fourth Amendment : Eroding the Intent of the Exclusionary Rule

By Jana Nestlerode, J.D.

"There is no war between the Constitution and common sense. Nothing can destroy a government more quickly than its failure to observe its own laws."
--Supreme Court, 1961

Handcuffing America's Fourth Amendment: Eroding the Intent of the Exclusionary Rule

By Jana Nestlerode, J.D.

INTRODUCTION

The United States is unique among most democratic nations. To enforce the constitutional protections against unreasonable searches and seizures, the U.S. Supreme Court created an exclusionary rule. In essence, the rule prohibits the prosecution from using evidence in a criminal trial against an accused, if that evidence has been seized unlawfully by the police. When first delineated, it applied only in federal prosecutions. Over time, and with much controversy, the rule was mandated in all state prosecutions as well.

There are legitimate and persuasive arguments by those who support and those who oppose the rule. Criticisms of the rule have resulted in several modifications over time, and they are continuing. In fact, some question whether the High Court is setting the stage to abolish the rule altogether.[1] In doing so, it would join a number of longstanding democracies that have never evoked such a rule: Australia, Canada, England, India and Scotland to name just a few.

HISTORY OF THE RULE

Federal Application

The framers of the U.S. Constitution concentrated on creating a central government of limited powers. The original Constitution did not contain a Bill of Rights. The colonists insisted on such a document and refused to ratify the proposed Constitution unless a Bill of Rights was added. James Madison objected to such a document. He argued that all rights originated with the people, and that only those powers designated by the people to the government could be exercised by that government. The colonists were not convinced. So Madison, with the help of others, wrote ten amendments to the U.S. Constitution which have become known as our Bill of Rights.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. [2]

While well-intended, the Amendment provided no means of enforcement, nor any remedies for one subjected to an "unreasonable search or seizure". The High Court finally crafted such a remedy in the 1914 case of Weeks v. United States.[3] Mr. Weeks had been subjected to a warrantless invasion of his home by federal authorities, and certain papers and documents were seized without his consent..

The prosecution used these unlawfully seized documents to obtain a conviction for using interstate mail for certain kinds of illegal gambling.

Justice Day, writing for a unanimous Court, stated that unlawful behavior by law enforcement officials "should find no sanction in the judgments of the courts, which are charged at all times with the support of the Constitution, and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights".[4] He continued, "To sanction such proceedings would be to affirm by judicial decision a manifest neglect, if not an open defiance of the prohibitions of the Constitution, intended for the protections of the people against such unauthorized action".[5] The Court concluded that evidence seized illegally could not be used in federal criminal trials against the accused.

The unanimous Court recognized that without the remedy of exclusion, the Fourth Amendment was essentially meaningless. Interestingly, the rationale for the Court's decision rested on the notion of judicial integrity. The Court did not want to sanction or appear to sanction lawless activity by federal law enforcement authorities. No mention of deterrence of police misconduct was made.

State Application

The Bill of Rights was a constraint upon the actions of the federal government. It held no authority in state courts. Shortly after the Civil War, Congress recognized that state governments were engaging in wholesale abuses of liberties protected from federal action by the Bill of Rights. To rein in the states, the Fourteenth Amendment was passed. This Amendment declared "nor can any state deprive a person of life, liberty or property without due process of law".[6] A nebulous phrase, "due process" has become synonymous with the notion of "fundamental fairness". So, as of 1868, states were now constrained in their treatment of citizens to some degree. Defendants in state trials were entitled to at least "fundamental fairness".

From the late 1800's to the present day, the U.S. Supreme Court has been rendering decisions on the various interpretations of the clauses and protections contained in the Bill of Rights, determining that many of these rights are essential to "fundamental fairness", and thus enforceable in the states through the Due Process Clause of the Fourteenth Amendment. In the 1949 case of Wolf v. Colorado,[7] the U.S. Supreme Court held that the Fourth Amendment was indeed so fundamental a right that it should be enforced in all of the states. However, the Court declined to force the states to use the remedy of exclusion of illegally seized evidence. The Court reasoned that states had other means of enforcing the right and punishing the offending law enforcement officers, and should be permitted to choose their own remedies. For the first time, the Court talked about the importance of deterring future police misconduct.

As it turned out, the disparity in the rules of evidence between the federal courts and the state courts proved disturbing. Federal law enforcement officers, fearing suppression of seized evidence in a federal court, would take their accumulated evidence to the state prosecutors. Most states did not enact their own exclusionary rules, so the illegally seized evidence could be used by the state prosecutors in state courts to obtain a conviction that could not be obtained in a federal court. That a rule of evidence had such dramatic impact on the outcome of criminal trials was unacceptable to the High Court. Whether a defendant was convicted or acquitted depended only on the venue of the trial.

In 1961, the Court seized upon the opportunity to review the ruling in Wolf, and granted certiorari in Mapp v. Ohio.[8] In this case, Cleveland police officers engaged in egregious misconduct, entering by force the home of Dollree Mapp, claiming they had a warrant when they didn't. They searched her house,

allegedly for a bombing suspect and seditious literature. They didn't find what they were looking for, but they claimed to have found "lewd and lascivious material", possessed in violation of Ohio laws. Dollree objected to the admission of the evidence at her criminal trial, but the trial judge denied her motion to suppress. The evidence was admitted. Dollree was convicted and sentenced to seven years in jail. Factually, it was the perfect case for the High Court to employ to reverse Wolf. That's exactly what the Court did. As of 1961, the remedy of exclusion from the criminal trial of illegally seized evidence was mandated in all of the states. The disparity between the state and federal court rules regarding exclusion of evidence was eliminated.

THE CONTROVERSIES

Since its inception in 1914, the exclusionary rule has generated much controversy among criminal trial lawyers and constitutional scholars. That controversy continues to this day, and is reflected in the subsequent Supreme Court cases which have clarified, modified, and weakened the application of the rule.

Proponents of the rule argue that the exclusion of illegally seized evidence is the only effective deterrence against police misconduct. The Mapp court recognized that the Wolf decision to permit states to formulate their own "remedies" for police misconduct had been a failure. Other remedies (internal police discipline, civil review boards, civil lawsuits, etc.) had proved ineffective. If the officers are deprived of the prize they obtained by breaking the rules, the incentive to break the rules is diminished. The fact that district justices throughout the states were swamped with requests for search warrant approvals in the aftermath of Mapp provides credible evidence of a change in police behavior. Prior to Mapp, state law enforcement officers rarely bothered to obtain judicial approval for a search, because there were no consequences for failing to do so.

Case Basics
Docket No.: 236
Appellee: Ohio
Appellant: Mapp

Decided By:
Warren Court (1958-1962)
Opinion:
367 U.S. 643 (1961)
Argued:
Wednesday, March 29, 1961
Decided:
Monday, June 19, 1961
Issues:
Criminal Procedure, Search and Seizure

Advocates also point out that the rule is important to ensure respect for the Courts. The exclusionary rule provides a voice with which the Court can express disapproval of the illegal police behavior. In this way, the Court separates itself from the offending officers, and demonstrates graphically that it does not condone police lawlessness. Justice Day's admonition in Weeks bears repeating. "To sanction such proceedings would be to affirm by judicial decision a manifest neglect, if not an open defiance of the prohibitions of the Constitution, intended for the protection of the people against such unauthorized action."[9] The Court now has a means to condemn lawlessness by those charged with upholding the law.

To the viewing public, the exclusionary rule gives the Court a more credible appearance of fairness. Extending the rule to all of the nation's courts means that those who break the law must suffer consequences, whether they are police officers or citizens. A citizen who is alleged to have broken the law is brought into court to answer the charges, and if convicted, will be penalized. By the same token, a police officer who violates an individual's rights must also be penalized. The evidence seized by the officer in violation of the Constitution will be inadmissible. Justice is meted out to all wrongdoers.

But perhaps the strongest argument in favor of the rule is that the Fourth Amendment is meaningless without it. If there is no way to enforce the promise against "unreasonable searches and seizures", then it is an empty one. Or as Justice Clark opined,

> *"without the Weeks rule, the assurance against unreasonable searches and seizures would be a 'form of words', valueless and undeserving of mention in a perpetual charter of inestimable human liberties..."* [10]

The exclusionary rule gives the Courts the only effective means of enforcing Fourth Amendment protections.

Opponents of the rule claim that the High Court had no right to fashion a remedy when one is not written in the Amendment itself. They argue that the responsibility of the court is to interpret law, not to create law. Others argue that even if the Court had the authority to create the rule, it had no authority to mandate it in the individual states. States are considered independent jurisdictions, and should have the freedom to decide for themselves how rights should be enforced.

U.S. Supreme Court
Weeks v. United States, 232 U.S. 383 (1914)
Weeks v. **United States**
No. 461
Argued December 2, 3, 1913
Decided February 24,1914
232 U.S. 383

Other dissenters claim that the rule does not actually deter police misconduct, but may even encourage it. Rather than lose a case due to the suppression of essential evidence, an officer may lie on the stand to ensure its admissibility. The exclusionary rule is seen as a severe and unforgiving rule that results in a greater harm. To the officer, that greater wrong is to let the guilty go free. In addition, there are times when an officer is trying his or her best, but the law changes so quickly, and has become so complex that those entrusted to enforce the laws sometimes make honest mistakes. In such cases, there is no "misconduct" to deter, and the rule becomes unnecessarily punitive.

The rule is intended to enforce the Fourth Amendment, but its operative effect is to let the guilty go free. Defendants move to suppress incriminating evidence, not exculpatory evidence. It is essentially a guilty man's argument. If the defendant succeeds, the government's case may be so weakened as to preclude further prosecution. To many critics, this makes no sense. Society is punished twice. An offender is set free, and the police officer is free to continue his unconstitutional behavior. As then New York State Justice Benjamin Cardozo said: "The criminal goes free because the constable blundered."[11]

Perhaps the most persuasive criticism of the rule is that it undermines the very purpose of the criminal trial. If we think of criminal trials as an earnest search for the truth, then the exclusionary rule is anathema. Evidence suppressed under the rule is otherwise relevant and reliable evidence. It tells the truth. By withholding such valuable evidence from the trier of fact, we effectively diminish its ability to determine the facts of the case. The trial becomes a game, not a search for the truth.

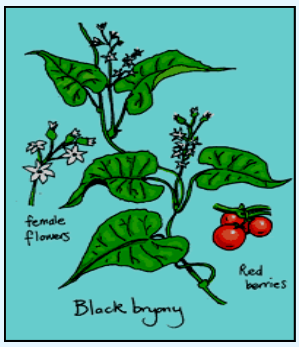
THE DEVOLUTION OF THE EXCLUSIONARY RULE

Doctrine of Attenuation

In response to the critics of the exclusionary rule, the High Court has rendered multiple decisions affecting its meaning and application. Early on the court clarified the rule in Wong Sun v. United States.[12] In that case, the Court held that where the causal connection between the police misconduct and the securing of the evidence is attenuated, the evidence will not be suppressed. Wong Sun was significant in that it established the "fruit of the poisonous tree " doctrine.

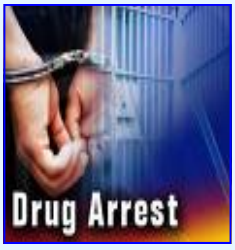
In this case, federal officers arrested the defendant without sufficient probable cause. The defendant was released on bond, but sought out the officers several days later and confessed to the crime. The defense attorney argued that "but for" the illegal arrest, his client would not have returned to confess. Thus the confession was the product of unlawful police behavior and should be suppressed. However, the prosecutor argued successfully that the link between the police misconduct and the securing of the confession had been attenuated by the following facts: the defendant had been free for several days; the police had not initiated any contact with the defendant during that time; the defendant had returned to speak to the police of his own free will. The Court agreed that the connection had been sufficiently weakened by the intervening time and events, and ruled that the evidence could be admitted at trial.

"fruit of the poisonous tree "

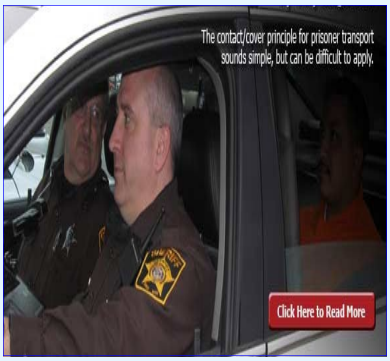


The Three "Exceptions" to the Exclusionary Rule

In 1984 the U.S. Supreme Court rendered three decisions which created "exceptions" to the exclusionary rule. That is, the Court recognized that there were times when the defendant's constitutional rights had been violated, but the evidence would be admitted anyway. In Segura & Colon v. United States,[13] police entered the defendants' apartment illegally. Upon entry they observed in open view, but did not touch, drugs and drug paraphernalia. The officers stayed at the apartment to make sure the evidence would be secure, and when the search warrant arrived approximately nineteen hours later, they executed a search of the entire premises. They seized the evidence in open view, and additional drugs and paraphernalia in other rooms of the apartment. The Court held that all of the evidence would be admissible in court, despite the officers' illegal entry. It found that there was a legal source or authorization for the seizure of the evidence "independent" of the officers' misconduct. The search warrant was a lawful one, predicated upon lawfully obtained facts and evidence, and was executed properly. The legal means of obtaining the evidence overrode the illegal police behavior, and the evidence was admitted. Thus, the Court created an exception to the exclusionary rule called "the independent source doctrine".



Similarly, the Court recognized an additional exception to the exclusionary rule when circumstances exist where the illegally seized evidence "would have inevitably been found in the normal course of events."[14] In this case, police officers transporting a murder suspect engaged in a conversation designed to elicit incriminating evidence from him. Although the officers had been told that this man was represented by counsel, they persuaded the suspect to lead them to the victim's body by engaging in a conversation in the front seat of the transport vehicle.



Interestingly, the officers never directed a question to the suspect. The Court held that the officers did indeed violate the defendant's rights by "interrogating" him in violation of his right to counsel. At that time they made clear that interrogation is any action by police intended to elicit incriminating evidence from the suspect. Under the circumstances, the victim's body, its condition and location would have been suppressed. However, the Court held that since there were teams of volunteers searching for the victim's body, and they were in the vicinity of the body's location, the volunteers would have found her body in short order. In this manner, the court delineated the "inevitable discovery" exception to the exclusionary rule.

These two exceptions are often used interchangeably by judges and lawyers alike. But the independent source doctrine is distinct from the inevitable discovery doctrine. The independent source doctrine involves two actual means of discovery by the police – one legal and one illegal. The inevitable discovery doctrine involves only one actual means of discovery, plus a hypothetical means of discovery. The rationale for both doctrines is the same, however. The Court has justified these exceptions by stating that the exclusionary rule should not put the police in a worse position than if the misconduct had not occurred. Suppression of the evidence under these circumstances would do just that.

The third exception to the exclusionary rule recognized by the High Court in 1984 was the "good faith" exception. The Court granted certiorari in two cases that raised the issue. In one case, officers executed a warrant that had been approved by a federal magistrate. The Court found that there was insufficient probable cause and that the magistrate should have denied the warrant. However, since the officers were acting in "good faith" reliance on the magistrate's judgment, there was essentially no misconduct to deter.[15] In the other case, state law enforcement officers executed a warrant that had been approved by a judge, but that had "technical" deficiencies that were overlooked by both the officers and the approving judge. Again, the High Court held that the police acted in "good faith" reliance on the judge's approval, and that there was no misconduct to deter.[16]

Thus, while Mapp spoke of the rule in the broadest terms possible, subsequent cases have eschewed this approach. Instead, the Courts have adopted a two-part inquiry. The first, of course, is whether the defendant's constitutional rights have been violated. But the second part asks whether, under the circumstances, the evidence should be suppressed at all. It is clear that a finding of a violation of the defendant's rights will not automatically result in exclusion of the unlawfully obtained evidence. Such a finding only triggers an obligation on the part of the prosecution to prove by a preponderance of the evidence that the circumstances fall under one of the acknowledged exceptions, or that the causal connection has been attenuated.

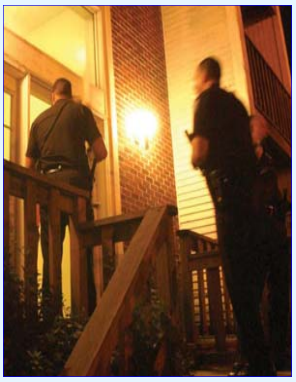
Holdings further weakening the rule

While many see wisdom in the creation of these exceptions, others see them as the beginning of the end of the exclusionary rule. The Court has ruled that evidence which has been suppressed may not be used in the prosecution's case-in-chief. However, it may very well be admissible under other circumstances. For instance, illegally seized evidence may be used in civil proceedings,[17] deportation proceedings,[18] probation and parole violation proceedings,[19] grand jury proceedings,[20] and habeas proceedings.[21] In addition, with the Court's approval, illegally seized evidence can be used to impeach a defendant who chooses to take the stand at his trial.[22]

Moreover, the Court has refused to suppress evidence gathered pursuant to an illegal arrest when an officer relied on an arrest warrant he did not know was rescinded. Court clerks had failed to enter the order of rescission into the database in a timely fashion. The High Court refused to punish the officer for the negligence of clerical staff.[23] Furthermore, under the theory that the rule was intended to deter police misconduct, and not private misconduct, the Court has held that evidenced seized illegally and independently by private citizens and turned over to the police is not subject to the rule.[24]

EXECUTION OF THE SEARCH WARRANT

Those who fear the demise of the exclusionary rule point to a recent Supreme Court case which appears to support those fears. The Fourth Amendment specifically requires that a search warrant contain "probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized". Requests for judicial approval of search warrants lacking any one of these four essential elements should be denied.



Concomitant with these requirements are the rules for executing an approved warrant. These rules are embedded in common law, and have been ratified in federal statutes.[25] The rules were affirmed by the Supreme Court in 1995 in Wilson v. Arkansas.[26] Officers serving an approved warrant are generally expected to approach the dwelling and to "knock and announce". That is, they are to knock on the door, or ring the doorbell as any visitor would, and then allow the occupant a reasonable amount of time to voluntarily surrender the premises. The purposes of these rules are twofold. The first is to respect the sanctity of the home and its occupants. Traditionally, the home has enjoyed a heightened protection against intrusions by government officials. The second is to protect the officer. Officers barging in unannounced can cause a terrified homeowner to believe that thugs have invaded his house, and cause him to engage in defensive acts that can end in tragedy – for the occupants and for the officers. Both police officers and homeowners have been injured or killed by actions taken in haste and by virtue of understandable misconceptions.[27] Thus, the Court in Wilson concluded that "the method of an officer's entry into a dwelling is among the factors to be considered in assessing the reasonableness of a search and seizure."[28]

Failure to abide by the rules for the proper execution of a warrant will result in suppression of the evidence seized as a result.[29] Officers can apply for a "no knock" warrant, when they have evidence they can present to the authorizing judge that to "knock and announce" would either endanger the officers or others, or would somehow impede the successful execution of the warrant. Even if the officers have not received prior judicial approval for a "no knock" execution, officers can forego the "knock and announce" if circumstances arise upon execution that would result in danger to the officers, others or the evidence if the rules of execution were followed. In supporting this action, the officers need only show a "reasonable suspicion" of such activity, one of the lowest levels of proof known in law.[30]

In 1997 the High Court refused to approve blanket "no knock" warrants in felony drug cases. State prosecutors argued that drug users are often violent, thus warrants authorizing a search for drugs should automatically include the "no knock" exception. The Court ruled that officers must have independent evidence that the defendant is dangerous, or that a traditional "knock and announce" execution would be dangerous to the officers or others. The Court rejected the proposed "drug exception" to the rules for the execution of warrants.[31]

THE EXCLUSIONARY RULE AT RISK

Most recently however, the Supreme Court appears to have backtracked on rules regarding the execution of judicially approved warrants. In the 2006 case of Hudson v. Michigan,[32] Justice Scalia writing for the majority held that the improper execution of an otherwise valid search warrant would no longer result in the suppression of the evidence subsequently seized. His reasoning does not bode well for the health of the exclusionary rule.

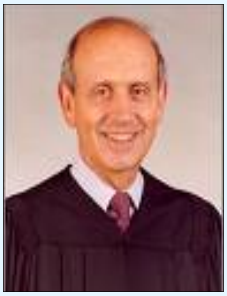
In Hudson, several Detroit police officers executed a judicially approved search warrant at the home of the defendant, Booker T. Hudson, Jr. The warrant authorized the seizure of drugs and weapons. Officer Jamal Good and his fellow officers approached the front door, but did not knock on it. He announced "Police, search warrant", waited three to five seconds and then quickly and forcibly entered the home. The defendant was seated in his living room, and was ordered to remain there while a search of the house was conducted. Officers found drugs in the home, and on the defendant. They also found a handgun beneath the cushion of the chair in which the defendant was seated.

At the suppression hearing, the state conceded that Officer Good and his compatriots had violated the "knock and announce" rule. They had not "knocked and announced" properly, nor had they given the defendant a reasonable amount of time to respond. Nor were there any assertions of "exigent circumstances" which would justify foregoing the rules of execution. In fact, testimony revealed that this practice of waiting only three to five seconds was commonplace among Detroit police, and was Officer Good's common practice.

Justice Scalia authored the majority opinion in Hudson, with which Chief Justice Roberts, and Justices Thomas, Alito and Kennedy concurred. Justices Breyer, Souter and Ginsberg dissented. In his opinion, Justice Scalia provides rationales and reasonings that signal a dramatic shift in the Court's approach to the issue of suppression.

For the first time, the majority ruled that violations of the "knock and announce" rule did not trigger the remedy of exclusion of subsequently seized evidence. In so ruling, Justice Scalia reasoned that the better standard for determining the application of the exclusionary rule was not Mapp's broad and definitive edict requiring suppression of unlawfully seized evidence. Instead, Scalia opined, a "cost-benefit" analysis should be applied whereby the Court determines whether the deterrence effect of exclusion outweighs the societal costs of suppressing the evidence. This new test by which exclusion is to be determined gives judges broad discretion in deciding whether to apply the rule. This retreat from a bright line application of the rule has been criticized as it quite naturally leads to confusion among law enforcement officers and prosecutors as to the proper and lawful execution of a search warrant.

Justice Scalia invokes the doctrine of attenuation by saying that in order for the evidence to be suppressed, the seizure must be causally linked to the police misconduct. In so doing, Justice Scalia could justify admission of the evidence by asserting that the illegal manner of entry was not sufficiently causally related to the ultimate seizure of the evidence. That is, the warrant justified the seizure of the evidence, regardless of the legality or illegality of the entry. Justice Scalia further justified his conclusions by invoking the "inevitable discovery exception. He asserted that the evidence would have "inevitably been discovered" when the warrant was executed, and that the failure to properly "knock and announce" only delayed by seconds or minutes the inevitable seizure of the drugs and weapon. He also references the "independent source" doctrine as providing an exception to the exclusionary rule in this case. He reasoned that the lawful warrant was an "independent source" (separate from the illegal entry) that justified the subsequent seizures.



Justice Breyer takes issue with the majority's use of the inevitable discovery doctrine and the independent source doctrine as support for its position. He argues that neither doctrine applies here. Both doctrines require that the evidence be seized by lawful acts independent of the police misconduct. The independent source doctrine involves an actual lawful means of discovery, and the inevitable discovery doctrine involves a hypothetical lawful means of discovery. But in both cases, the seizure of the evidence must be distinct from and unrelated to the police misconduct. By contrast, the police misconduct in Hudson led directly to the seizure of the evidence in question.

Justice Breyer also challenges the majority's expansion of the doctrine of attenuation. At its origin, the doctrine spoke to the causal connection between the police misconduct and the seizure of the evidence. Justice Scalia, however, reformulates the doctrine of attenuation to address the balance of the right protected by the Constitution with the societal ramifications of excluding critical evidence. Never before has the Court used a "cost-benefit" analysis in this way to justify the admission of unlawfully seized evidence.

While Justice Scalia minimizes the harm done by a violent police invasion of the home, Justice Breyer points to a long line of cases which have emphasized the sanctity of the home. Indeed, the very essence of the Fourth Amendment was to protect the home from unlawful governmental intrusions. As early as 1886, the Supreme Court insisted that "it is not the breaking of his doors that is the essence of the offense, but the invasions of a man's home and the privacies of life."[33] Even more recently the Court stated "it is beyond dispute that the home is entitled to special protection as the center of the private lives of our people".[34] These privacy interests, in the minority's view, are not insignificant or unimportant rights. The sudden and violent breaking into one's home by law enforcement officers who are frequently armed and dressed in SWAT uniforms is a terrifying experience for the guilty and the innocent. Unless such an entry is justified by persuasive facts, it is an unwarranted and illegal invasion of the home.

Because no such exigent circumstances were alleged here, the majority had to rely on arguments that have stretched prior jurisprudence beyond recognition. After distorting the inevitable discovery doctrine, the independent source doctrine, the doctrine of attenuation, and the notion that other remedies are equally or more effective in deterring police misconduct, the majority belittles the right to the sanctity of one's home as if it is of no consequence.

In addition, the majority fails to address the "imperative of judicial integrity"[35] that was the hallmark of the origin of the exclusionary rule. It is an odd state of affairs given its recent refusal to permit no knock warrants in felony drug cases. The majority, by its decision, has now sanctioned no-knock warrants across the board. The Court then is not just complicit with, but invites Fourth Amendment violations.

Justice Scalia also disputed the findings by the majority in Mapp that other means of deterring police misconduct are ineffective. To the contrary, opined Justice Scalia, much has changed since Mapp, and police officers now face several deterrents that were not extant at the time of Mapp. Justice Scalia points to federal statutes which now permit civil lawsuits against police officers,[36] and later cases which permitted civil suits against municipalities,[37] and federal officers.[38] Justice Scalia even points out that Congress has authorized the reimbursement of attorneys' fees to the successful plaintiffs. Without further research or statistics in support of his assertions, Justice Scalia concludes that civil suits are effective remedies against police misconduct, simply because they are possible. Justice Scalia also points to internal police disciplinary procedures and civil review boards as effective deterrents of police misconduct. He does so without reference to any research or studies to support the assertions, and in direct contrast to the findings of prior cases.

Justice Breyer, writing the dissent, points out that the majority's reasoning is a significant departure from past Fourth Amendment decisions. He notes that knock and announce violations have become widespread.[39] He further contends that there is no new evidence indicating that any of the other mechanisms of deterring police misconduct have proven to be effective. He refers to Justice Scalia's assertions to the contrary as "support-free assumptions", and little more than "unvarnished judicial instinct".[40]

In fact, the Court has acknowledged that there is no more effective deterrent to police misconduct than exclusion of the unlawfully obtained evidence. In Hudson, the court has eliminated this deterrent with regard to the proper execution of search warrants. Officer Good could have executed the warrant properly, but he didn't. Officer Good, if he had evidence indicating that a lawful "knock and announce" would have endangered him or others, could have requested a "no knock" warrant. Even without an approved "no knock" warrant, Officer Good could have barged into the home if circumstances on the scene made him reasonably suspect that he or his officers were in danger. But Officer Good, according to his own testimony, had no exigent circumstances justifying a sudden and violent invasion of the defendant's home. He undertook this course of action because he had been doing it for years, apparently with no repercussions.

"There is no war between the Constitution and common sense. Nothing can destroy a government more quickly than its failure to observe its own laws."

--Supreme Court, 1961

CONCLUSION

The High Court has now ensured that more search warrants will be executed without the statutorily required "knock and announce", because there are virtually no consequences for disobeying the law. Police officers now have a judicially sanctioned "license to invade" that did not exist before. This should concern every citizen who values his privacy, and insists on a government that serves its citizens, rather than a government that tyrannizes them.

Beyond that, the majority's reasoning in Hudson should cause concern for the vitality of the exclusionary rule itself. If the rule is now to be applied by means of a new "cost-benefit" test, then we have severely weakened the rule and left its application to judicial discretion.

Indeed, Hudson has effectively set the stage for the eventual elimination of the rule altogether.[41] Justice Scalia's assertion that exclusion of evidence has "always been the last resort and not its first impulse" is a clear mischaracterization of both Weeks and Mapp. These cases and their progeny spoke specifically and emphatically to the imperative of the exclusionary rule - to preserve judicial integrity, to deter police misconduct, and to give force to the protections of the Bill of Rights. Justice Scalia's "last resort" rhetoric is essentially revisionism.

In addition, Justice Scalia refers to Mapp in disparaging terms, implying that its holdings are no longer applicable. He contends that the 1960's were "the early days of the exclusionary rule", despite its creation in Weeks nearly fifty years earlier. On the one hand he infers that Mapp was a product of another time and circumstance, and that the world has changed to such a degree that Mapp may no longer be binding. With the other he implies that the exclusionary rule is of recent and therefore suspect origin.

Justice Scalia also infers that Mapp's utility has been superseded by new laws and cases which make other avenues of deterrence more effective today. Yet he offers no evidence to support such a claim. Indeed, as stated earlier, it appears that violations of the knock and announce rule have become widespread.

Justice Breyer's conclusion is most appropriate.

> *There may be instances in law where text or history or tradition leaves room for a judicial decision that rests upon little more than an unvarnished judicial instinct. But this is not one of them. Rather, our Fourth Amendment traditions place high value upon protecting privacy in the home. They emphasize the need to assure that its constitutional protections are effective, lest the Amendment 'sound the world of promise to the ear, but break it to the hope.' ... That is why the Court should assure itself that any departure from that principle is firmly grounded in logic, in history, in precedent, and in empirical fact. It has not done so.* [42]

THE UNITED STATES SUPREME COURT

END NOTES

1. See Brown, Eric. *Exclusion of the exclusionary rule: Hudson v. Michigan*; Jones Law Review, Spring 2007.
2. U.S. Constitution, Amendment IV.
3. Weeks v. United States, 232. U.S. 383 (1914).
4. Id at 392.
5. Id at 394.
6. U.S. Constitution, Amendment XIV.
7. Wolf v. Colorado, 338 U.S. 24 (1949).
8. Mapp v. Ohio, 367 U.S. 643 (1961).
9. Weeks, supra at 394.
10. Mapp, supra, at 655, quoting Justice Holmes in Silverthorne Lumber Company v. United States, 251 U.S.385, 392(1920).
11. People v. Defore, 150 N.E. 585, 587-88 (N.Y. 1926).
12. Wong Sun v. United States, 371 U.S. 471 (1963).
13. Segura & Colon v. United States, 468 U.S. 796 (1984).
14. Nix. v. Williams, 467 U.S. 431, 444 (1984).
15. U.S. v. Leon, 468 U.S. 981 (1984).
16. Massachusetts v. Sheppard, 468 U.S. 897 (1984).
17. United States v. Janis, 428 U.S. 433 (1976).
18. INS v. Lopez-Mendoza, 468 U.S. 1032 (1984).
19. Pa. Bd. Of Prob. & Parole v. Scott, 524 U.S. 357 (1998).
20. United States v. Calandra, 414 U.S. 338 (1974).
21. Stone v. Powell, 428 U.S. 465 (1976).
22. United States v. Havens, 446 U.S. 620 (1980).
23. Herring v. U.S., 000 U.S. 07-513 (2009). See also Arizona v. Evans, 265 U.S. 465 (1921).
24. Burdeau v. McDowell, 265 U.S. 465 (1921).
25. 18 U.S.C. section 3109 (2000).
26. Wilson v. Arkansas, 514 U.S. 927 (1995).
27. See McDonald v. United States, 335 U.S. 451 (1948), Sabbath v. United States, 391 U.S. 585 (1968) and Miller v. United States, 357 U.S. 301 (1958).
28. Wilson, supra at 934.
29. Id.
30. See United States v. Banks, 540 U.S. 31 (2003) and Richards v. Wisconsin, 520 U.S. 385 (1997).
31. Richards, supra.
32. Hudson v. Michigan, 547 U.S. 586 (2006).
33. Boyd v. U.S. 116 U.S. 616, 630 (1886).
34. Georgia v. Randolph, 547 U.S. (2006) quoting Minnesota v. Carter, 525 U.S. 83, 89 (1998).
35. Weeks, supra.
36. 42 U.S. section 1983

37. Monell v. New York City Dept. of Social Servs., 436 U.S. 658 (1978).
38. Bivens v. Six Unknown Fed.Narcotics Agents, 403 U.S. 388 (1971).
39. 34 Geo. L. J. Ann. Rev. Crim. Proc. 31-35 (2005) (addressing appellate court cases), and 85 A.L.R. 5th 1 (2001) addressing state cases).
40. Hudson, supra, Breyer dissenting.
41. For a lengthy assessment of Hudson, see Tomkovicz, James. *Hudson v. Michigan and the Future of Fourth Amendment Exclusion*, 93 Iowa L.R. 1819 (2008).
42. Hudson, supra, Breyer dissenting

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About the Author

Jana Nestlerode graduated from Pennsylvania State University with a B.A. in Political Science. She earned her J.D from Widener University School of Law. After a brief stint in private law practice, she accepted a position as Assistant District Attorney for the Delaware County, Pennsylvania District Attorney's Office. She served in that position for several years, primarily as a trial lawyer and team leader. She is now a Professor of Criminal Justice at West Chester University and has been Chair of the Department since 1996. She has published in several journals, including the Cleveland State Law Review. Her areas of interest are the Fourth and Ninth Amendments, election fraud, and pharmaceutical battery."

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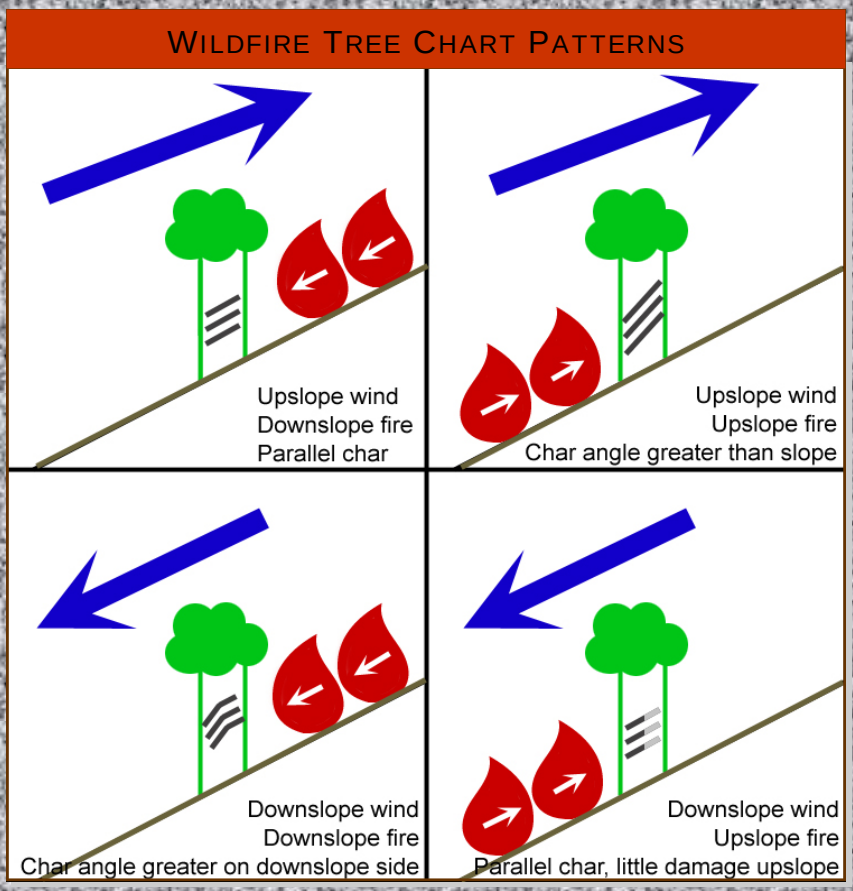
WILDFIRE TREE CHART PATTERNS
Upslope wind
Downslope fire
Parallel char
Upslope wind
Upslope fire
Char angle greater than slope
Downslope wind
Downslope fire
Char angle greater on downslope side
Downslope wind
Upslope fire
Parallel char, little damage upslope

SERIAL ARSON BASIC PATTERN RECOGNITION

By Doug Allen

(The following is based upon the author's personal investigation and/or supervision of investigations of over 100 serial arsonists. The opinions and conclusions contained herein are those of the author unless otherwise referenced.)

"Serial arson is an offense committed by fire setters who set three or more fires with a significant cooling off period between the fires[1]"

from *A Report Of Essential Findings From A Study Of Serial Arsonists,* (1994, by Sapp, A.; Huff, T.; Gary, G.; Icove, D.; and Horbert, P.) males represent 94% of serial arsonists. They generally begin their activities by setting small nuisance fires which include trash and refuse containers, vacant lots, roadside fires, or abandoned vehicles. Given enough time, their fire setting activity will escalate, becoming more daring and destructive, until they finally ignite a major loss fire in the community. The analysis of a series of fires can reveal a geographic pattern and provide probabilities of where and when the next fire will be set. Additionally, in the experience of the writer, this analysis may provide insight into where the arsonist lives.

The basic fire setting patterns may give an indicator of where the arsonist lives or the area where the next fire may be ignited. It is important that investigators plot the fires on "spot maps" personally in order to observe any developing patterns. A computer query of incidents that leads to a computer generated map of the occurrences may result in a misinterpretation of the pattern. Individual entry of each fire on a map as it occurred will give a more accurate analysis of the pattern. The recognition and identification of fire setting patterns is an on-going process.

Basic Geographic Fire Patterns of the Serial Arsonist

These patterns were observed by the author in over 100 serial arson investigations:

Imploding Fire Pattern

The Imploding Pattern will begin a distance from the arsonist's residence or employment. As the fires continue, they will move inward toward the center of the circle, closer to the arsonist's residence. It is not uncommon for fires to ultimately occur adjacent to or actually on the arsonist's property. The Imploding Pattern is one that is most often encountered. It is theorized by the author that as the fire setting activity continues, the arsonist becomes more confident and secure when setting fires, thus he does not feel the need to travel as far from home to set fires. **(See Fig. 1)**

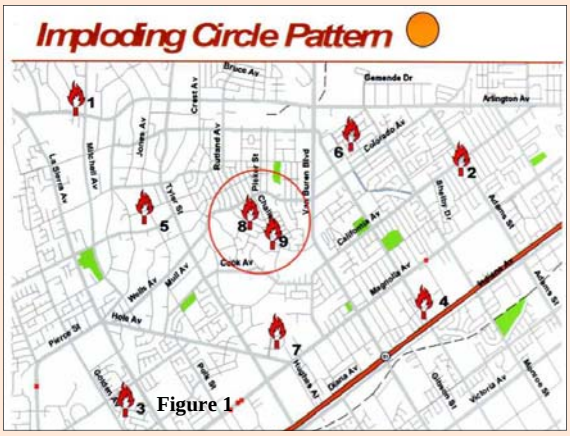

Figure 1

The key to this pattern is the closing in, or imploding, of the fires from several directions. The more the fires close the circle, the easier it is to determine a location where the arsonist lives or works. Also, it becomes easier to identify the area where the next fires are going to be set and where investigative resources should to be allocated. Review of evidence collected by the writer indicates that ninety percent of the time the arsonist's residence will be at the center of the imploding pattern. The rest of the time it may be a work location, or some other location frequented by the subject.

Occasionally, a ***"Double" Imploding Circle Pattern*** develops in two separate geographic areas. An analysis of the ignition devices may indicate the same person is responsible for both series of fires. Two reasons have been noted by the author for this to occur. First, the arsonist has moved from one residence to another and began setting fires in the new location. Secondly, the arsonist has changed job locations and the fire activity is centered in approximation to the place of new employment.

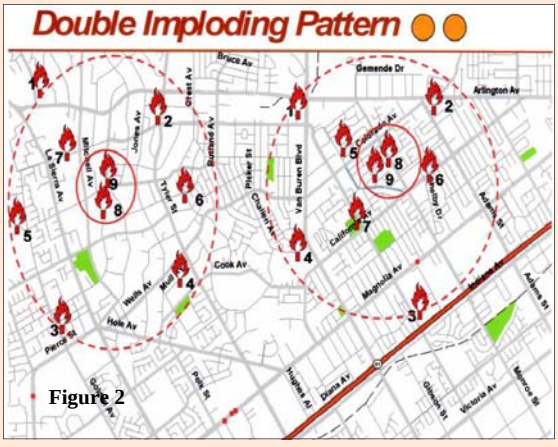

Figure 2

An important factor used to determine if one person is responsible for both patterns is the identification of the incendiary devices used in each series. Also, analysis of other factors such as time of day, days of month, fire origin evidence and uniqueness of the target can help determine if a single arsonist is responsible for both series. Keep in mind that if employment is changed or if the unemployed arsonist gets a job, the hours and days of the fire occurrence may change drastically. Additionally, if the fire setter has been consistently burning vacant fields, roadsides, or trash containers, method of operation may change when he escalates to buildings or other targets. **(See Fig. 2)**

Linear Fire Pattern

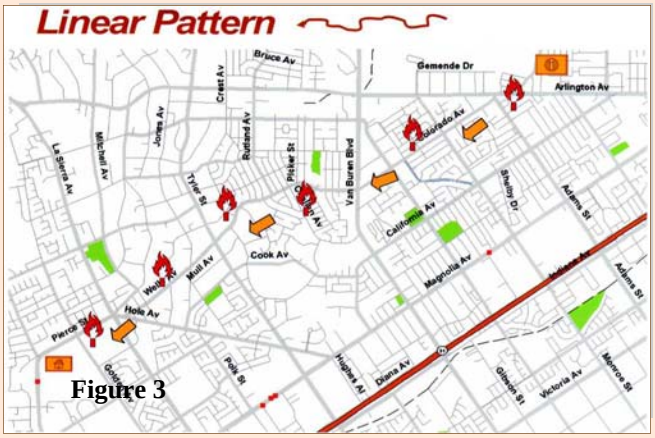

Figure 3

The ***Linear Pattern*** generally develops in a procession with the first fires being farthest from the arsonist's home. The fires will then occur in a direction toward where the arsonist lives. The fires may not be located along the same road, but when looked at in totality, they will form a linear pattern that will indicate the direction of where the next fires will occur and the possible residence area of the arsonist. **(See Fig. 3)**

Speculation, based upon the writer's past experience, leads him to believe the arsonist begins setting fires in an area that is a safe distance from home or work, as in the case of the Imploding-Circle Pattern. After one or more "successful fires" it appears the arsonist become more confident in his ability to start fires without being caught. Thus, the author speculates that the arsonist does not need to travel as far to set fires, the fires occur closer to home or work. Again, this is presumptive, however this pattern is very common with serial fire setters. Also, the Linear Pattern may be a link between an arsonist's other activities and home. This activity can be a place of employment, (a fire station-training night), a meeting, recreation, returning from a movie, an evening of drinking, or some other activity.

Route Fire Pattern

The ***Route Pattern*** is a variation of the Linear Pattern in that the suspect has reason to travel a particular route during the fire setting activity. This may be a delivery route or some other natural travel pattern for the individual. The route pattern may change depending on the delivery activities of the person. However, the beginning/ending point will usually be at the same area.

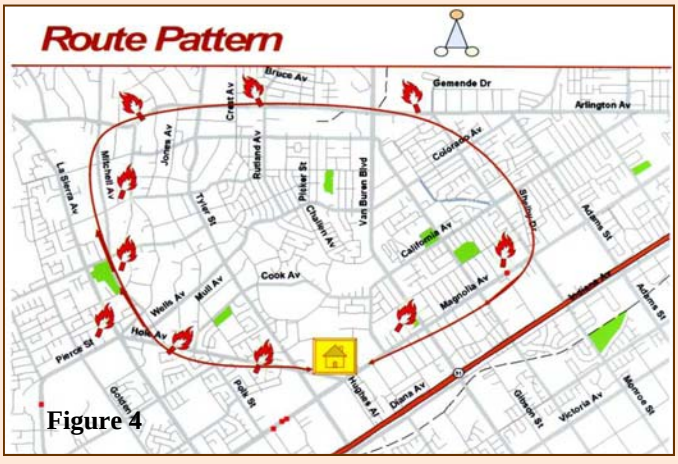

Figure 4

The subject will start out on the route and begin to set a series of fires. This may occur all in one day or over a period of time. If the delivery route changes, the series will occur on different roads, but will usually lead back to the area where the subject is employed. This pattern is developed based upon the subjects assigned work route. Noted in **Fig. 4,** the subject leaves work and sets the fires throughout the route with the last fires occurring as the subject returns for the day.

Dispersed (Shotgun or Scatter) Fire Pattern

The Dispersed Pattern or sometimes referred to as a "Shotgun Pattern" or "Scatter Pattern" is distinguished by a series of fires set over a geographic area. This may be in a community, county or multiple counties. The locations of the fires make it difficult or impossible to determine a specific travel route. The fire incidents may indicate the arsonist has a delivery route or some other reason to travel throughout the area.

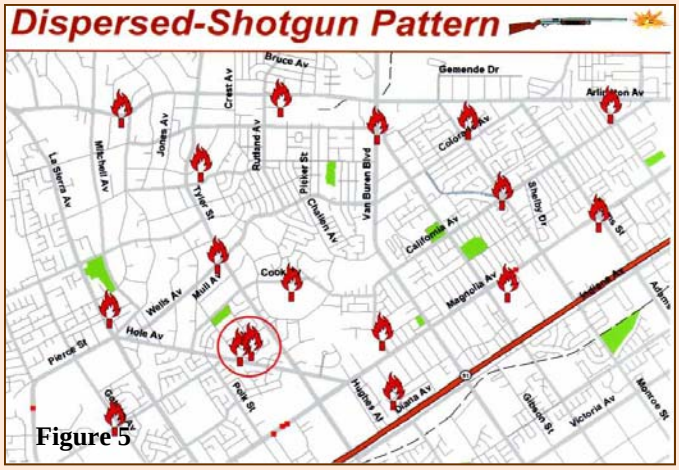

Figure 5

Often within the Dispersed Pattern, two or more fires occur at the same location or very close together. This is called the **Dispersed - Recurring Pattern.** It is distinguished by a cluster or group of fires, among the Dispersed Pattern, in a specific location **(See Fig. 5)**. If the analysis shows the arsonist is responsible for a number of fires dispersed over a large geographic area, the investigator should look for two or more fires close together on the Fire Incident Spot Map. The arsonist may travel frequently through the cluster area while performing other activities or the arsonists may feel that this target area will result in a major fire. Something about this location has attracted the subject to it. If his first attempt has failed, he will try again until he is successful. Whatever the reason, the targeted area is the only one that is identified as a cluster or group of fires and presents with a reoccurring pattern. The arsonist has chosen this location to return to at least twice. The probability is that additional fires will be set at this location in the future. In an FBI study of 66 Serial Arsonists, 22.6% returned to set two or more fires at the same location (Sapp,et al, 1994). Investigators should concentrate their efforts at the cluster location. Actual surveillance or "Stop Action" video cameras may be set up to provide evidence and/or suspect information when the next fire occurs.

In one arson investigation, covering a span of sixteen (16) years, the suspect was careful to avoid developing any identifiable patterns. He set fires throughout a county, equivalent in size to Connecticut, without repeating his target selection over the years. Then, in 1995, he developed a recurring pattern and set several fires along the same stretch of highway. Of the fourteen fires in that series, investigators were able to place him at three of the fires and video taped him setting a fourth fire.

Cluster Grouping Fire Pattern

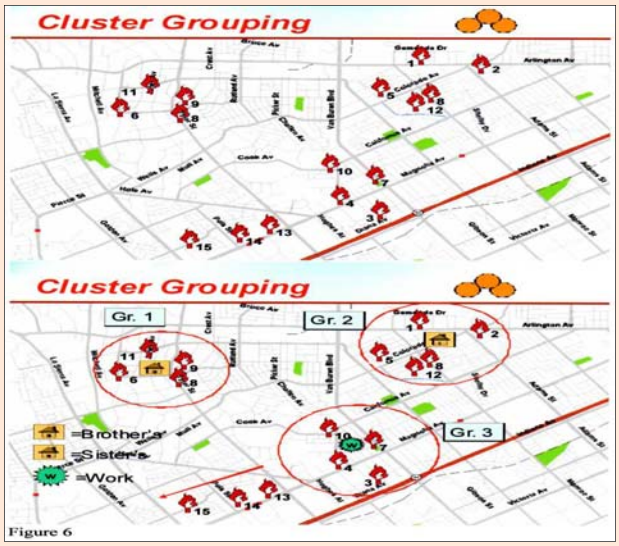

Figure 6

The *Cluster Grouping Patterns* will readily show up on your Fire Incident Spot maps after a series of fires have occurred. Fires will concentrate in geographic areas. These areas will have some significance to the arsonist. They may be his work, residence, the homes of relatives or other places the subject frequents. Once the investigator recognizes that fires are occurring in groups, the investigator can analyze these areas to determine any activities. When a suspect is identified, investigators should determine if the subject has some tie to the area within each group of fires. In **Figure 6,** you will note three groups of fires. Each set of fires occurs adjacent to a location the subject frequents: the homes of a brother, sister, and the subject's work location.

Target Specific Fire Pattern

The *Target Specific Pattern* is just what it indicates. The fire setter has identified a target to burn and will return several times until he accomplishes the desired destruction. These fires often occur in vacant buildings or abandoned structures. The motive may be to get rid of a neighborhood eye sore, or an owner believes it is cheaper to burn the property than to have it demolished. These types of fires, particularly in vacant buildings, are often misidentified as being caused by vandals or vagrants. When two fires occur in the same target, a proactive approach should be used to investigate the occurrence. Initiating an immediate surveillance of the property would be justified. This pattern is similar to the *Dispersed-Reoccurring* discussed earlier.

Incident Scene/Transportation

The means of transportation used by the arsonist should be determined. Reviewing Fire Incident reports, interviewing the fire fighters, and visiting the fire scenes can reveal how the arsonist arrived at the scene. Once it is determined if the suspect is walking, on a bicycle or motorcycle, using an auto, truck or Off Road Vehicle (ORV), the investigators will be better prepared to provide the needed information for analysis.

Fire Scene Location

The fire scene location can provide some insight into the method of operation of the arsonist. Investigators should visit the fire origins of the series in order to evaluate the relationship of the fire scene to the immediate geographic area. It may be helpful to visit the fire scene during the same time frame when the subject set the fires. In analyzing roadside fires, consider whether the suspect always uses a turnout or if there is a turnout across from the fire origin. Are the fires set on the uphill or downhill side of the road? The fire may be set on a curve in the road so the arsonist can see anyone approaching from both directions. Try to establish if the ignition devices are thrown from moving vehicles. Does the arsonist stop to set the fire?

How far off the roadway is the fire origin located? Are the devices too far to be thrown from a moving vehicle on the roadway?

It is important in analyzing vegetation fires to divide the point-of-origin into two categories: the first category lists all fires starting over 15 feet from the travel part of the road's edge. The second category includes all fires starting within 15 feet from the traveled part of the road. Generally, even a weighted device will not travel more than 15 feet from a moving vehicle. This will help to determine if the suspect throws the device from a moving vehicle or if the vehicle stops before setting the fire. You can also identify any overlapping arson problems. Some arsonists have been known to use "flaming arrows" or burning briquettes with a slingshot to get greater distance with their device.

The serial arsonist may make several attempts in the same area to set a fire. Time-delayed incendiary devices can fail or they may not land in a spot conducive to starting a fire. There can be many reasons why the device did not ignite. In experiments conducted by the author, using college students to construct time-delay incendiary devices, it was noted the devices failed to ignite over 50 percent of the time. This might indicate that an arsonist would also experience the same failure rate, at least until he practices enough to be successful. Once the investigator determines the typical origin locations of the fire series (more or less than 15 feet from the traveled roadway) a search can be concentrated in these areas on each side of the actual fire origin.

Investigators should search the roadside in both directions from the fire origin to determine if other failed devices can be located.

Failed devices will also provide the best chance of obtaining a latent finger print and DNA evidence.

When analyzing fires in buildings consider the following:

Determine how the offender gained entry to the building:

- Forced doors or windows
- Buildings unlocked or open to the public
- Roof or balcony entry
- Alley
- Open garages, carports, hallways

In the *Report of Essential Findings,* (Sapp, FBI) it states *"The most commonly reported method of entry into a target structure was through open entryways, a method reported by 37.8 percent of the serial arsonists interviewed."*

Entry shielded from view

- Large Hedge
- Trees or bushes
- Fences
- Illumination

A thorough analysis of a series of arson incidents will provide the investigator with a significant probability of where the next fire might occur and/or where the arsonist resides. Identifying the known patterns discussed in this article, along with additional analysis of incendiary time-delayed devices, mode of transportation, and the targets themselves will provide important information about the offender.

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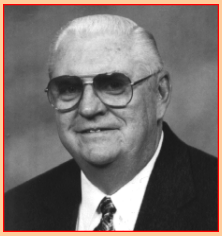
1. A Report of Essential Findings From A Study Of Serial Arsonists, Sapp, Huff, Gary, Icove, & Horbert, circa 1992,

About the Author

Douglas H. Allen-Teacher/Consultant
Fire-Arson-Law Enforcement



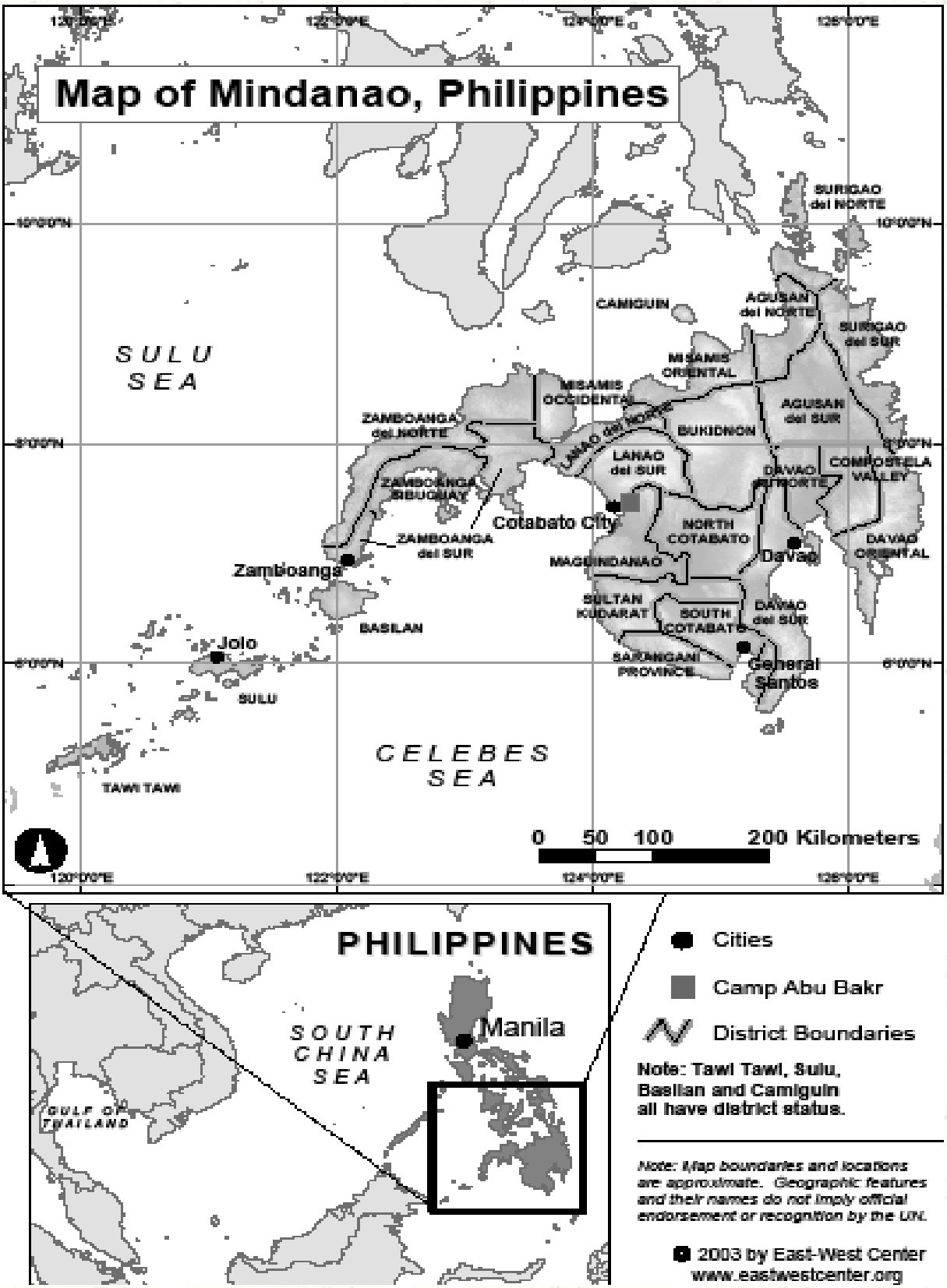
Doug Allen has over 45 years of fire and law enforcement experience. He retired as a Division Chief with 32 years of service to the California Department of Forestry and Fire Protection Upon retirement, he was the Southern California Law Enforcement Coordinator for CalFire. Chief Allen specializes in the analysis and profiling of serial arsonists. He is a post certified instructor of fire and arson investigation and teaches police and fire science at California's community colleges. Chief Allen is a certified fire investigator and past president of the CA chapter of the International Association of Arson Investigators. Doug Allen most recently was an expert witness and consultant for the prosecution of *Raymond Lee Oyler* who was convicted of 20 counts of arson, 17 counts of incendiary devices and the murder of five Fire Fighters.

Maguindanao Massacre: Justice on Trial in the Philippines

By Kenneth Mills, Ph.D.

The Supreme Court of the Philippines

The declaration and subsequent repeal of a state of martial law in a limited area of the island of Mindanao sets a most dangerous precedent for the Philippine nation and for democracy in Asia. Not since September 21, 1972 has there been a declaration of martial law, not even during the years of tumult under the Aquino, Estrada and, prior to this, the Arroyo regime. For the first time since 1972, the writ of *habeas corpus* was suspended in a province in the Philippines, and justice is on trial as a result.


Map of Mindanao, Philippines
SULU SEA
CELEBES SEA
SURIGAO del NORTE
CAMIGUIN
AGUSAN del NORTE
SURIGAO del SUR
MISAMIS ORIENTAL
MISAMIS OCCIDENTAL
AGUSAN del SUR
ZAMBOANGA del NORTE
BUKIDNON
LANAO del NORTE
LANAO del SUR
DAVAO del NORTE
COMPOSTELA VALLEY
ZAMBOANGA SIBUGUAY
Cotabato City
NORTH COTABATO
DAVAO ORIENTAL
ZAMBOANGA del SUR
Zamboanga
Davao
MAGUINDANAO
SULTAN KUDARAT
SOUTH COTABATO
DAVAO del SUR
BASILAN
Jolo
SARANGANI PROVINCE
General Santos
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THE MAGUINDANAO MASSACRE

The Maguindanao Massacre

On November 23, 2009 in Ampatuan Town, Maguindanao Province on the island of Mindanao in the Philippines, about one hundred armed men blocked a convoy, led by Genalyn Mangudadatu, the wife of nearby Buluan Town vice-mayor, Ismael Mangudadatu. Genalyn was traveling to Shariff Aguak Town to file a certificate of candidacy for the gubernatorial post of the Maguindanao Province on behalf of her husband.

This purpose of the exercise in democratic process was to initiate the first-ever political challenge to the Ampatuan clan, pitting Andal Ampatuan Jr. against Ismael Mangudadatu in the upcoming May 2010 national election. Andal Ampatuan Sr., the present governor of Maguindanao, has ruled the province with an iron fist and a well equipped private army since 2001.

The armed men abducted the Mangudadatu convoy of women, their companions and thirty journalists traveling with them. Representatives from the press were enlisted and brought along for safety and to cover the event, considered major news on Mindanao. Vice-mayor Mangudadatu sent his wife Genalyn and several of his female relatives in the mistaken belief that his political rivals would adhere to an Islamic tradition to respect women. He could not have made a more serious error in judgment.


ANDAL SR.


ANDAL JR.

A brutal bloodbath ensued on a remote hill a few miles from the highway. Most of the women were raped before they were shot, chopped into pieces and/or beheaded. At least fifty seven civilians were unceremoniously dumped in a mass grave, dug in advance with heavy equipment owned by Andal Jr., in which all the evidence of the massacre was buried including the cars and trucks.

Four victims somehow survived.

When news of the massacre reached Manila, President Arroyo was silent on the matter for two days. Then, as public outcry began in earnest, she instructed the Philippine Army, Philippine National Police (Criminal Investigation and Detection Group), the Commission on Human Rights, and the National Bureau of Investigation to jointly investigate the massacre. To many, inviting the military to participate was like asking 100 wolves to join a couple of designated sheep to guard the flock.

In an interview, vice-mayor Mangudadatu recalled his last cell-phone conversation with his wife and emissary, Genalyn. She described the event unfolding before them. She identified Andal Jr. as the leader of the men who had waylaid them.

When Andal Jr. slapped her cell-phone away, Ishmael continued to listen as the massacre came to a bloody end.

A group of journalists from Cotabato City who were supposed to cover the event decided to head straight to Shariff Aguak that same morning, but were detained at a military checkpoint before they could reach their destination. This seems suspicious by those who wonder how the military could be so abreast of the situation taking place

Ampatuan's SNR's

at that moment in one of the most remote places on earth. Ten days later, on December third, police raids on the mansions of four members of the Ampatuan family yielded a cache of high-powered firearms and ammunition, enough to arm a battalion of security forces, including a 60mm mortar, which (according to PNP Director General Jesus Versoza) is only issued to special police and military units. More guns were found buried nearby. Money was taken. Records were removed.

The next day Arroyo placed Maguindanao under a state of martial law, effective December fourth, 2009. Lt. Gen. Raymundo Ferrer, Armed Forces Philippines (AFP) Eastern Mindanao commander, assumed command as the provincial military governor.

Campaign Violence

Violence during any political campaign before an election is common in the Philippines. The cultural value of smooth interpersonal relationships (SIR) is a prime directive and value in society, but all prime directives are suspended when it comes to a political campaign.

What has come to be known as the Maguindanao Massacre, however, is the worst politically motivated violence in recent Philippine history. Moreover, with thirty journalists murdered in the incident, it made the Philippines the most dangerous place on earth for the press in 2009.

The Role of the United States in the Philippines

The U.S. has long played a part, often an unwelcomed one, in self-determination issues in the Philippines. Through the mid-1980s, the U.S. was the largest source of foreign aid for the Philippines. By the late 1990s, the U.S. was number five after Japan, the World Bank, the Asian Development Bank, and Australia.

In 2010, the U.S. has both a military alliance with the Philippines based on the 1951 Mutual Defense Treaty and a foreign aid program. The participants of the global war on terrorism have an active interest in the al-Qaeda linked Abu Sayyaf, an official terrorist organization headquartered on Mindanao. The U.S. State Department's annual Human Rights Report on the Philippines confirms human rights violations by the government, the MILF, and the Abu Sayyaf. It has also raised issues of discrimination against Muslims who comprise five percent of the total population.

U.S. ties to the Philippines cooled in recent years when an agreement leasing land for two major U.S. military bases was not renewed in 1992. U.S. military assistance resumed without the presence of troops when a Visiting Forces Agreement was ratified seven years later. In early 2000, the U.S. and the Philippines engaged in their first large-scale joint military exercise since 1992. Military assistance in the form of strategic funds, training, parts and weapons has increased every year since that time.

U.S. military assistance is linked to concerns that the Philippines are a base of training and operations for Islamic terrorist organizations, including those with ties to Osama bin Laden's al-Qaeda network. Two years after the bombing of the World Trade Center, Ramzi Yousef and some accomplices planned to target twenty U.S. commercial airliners for mid-air explosions. They tested a bomb on a Philippines Airlines flight from Manila to Tokyo in December 1994, killing a Japanese businessman (under whose seat Yousef had placed the explosives) and injuring 10 others. A month later, Yousef made an error while mixing various chemicals, causing a fire to break out in his Manila apartment. He fled to Pakistan, where he was later arrested.

The Massacre of Justice in 2009

In 2009, the Philippines ranked 139th out of 180 countries in the Transparency International corruption perceptions index (CPI), up from 2008 by two positions, but slipping dramatically in the past two years. Survey results that will take into consideration the Maguindanao Massacre will not be available until the results are out for 2010, but it is safe to assume the Philippines will slip again. A culture of corruption is pervasive and long-standing; enforcement of anti-corruption laws remains inconsistent.

Eleven long days transpired between the Maguindanao Massacre and the declaration of martial law, (November 23 to December 4).

The official delayed explanation for the delayed declaration of martial law by the President was that government offices in Maguindanao, including the courts, were not able to open to provide basic government services. The government, therefore, could not conduct its business and therefore a state of rebellion existed. What President Gloria Arroyo conveniently omitted is the local military commander closed all government offices on her orders.

The entire Ampatuan clan under the direction of Andal Sr. are the chief allies of President Gloria Arroyo in Mindanao. There are billboards everywhere in Maguindanao Province celebrating the alliance and all the positive results it has brought to the province, more particularly to the family.

The communist New People's Army (NPA), the MNLF, the MILF, the Abu Sayyaf among others have all engaged in actual and proclaimed rebellion, which never resulted in the imposition of martial law. So what goal do most observers believe the proclamation of martial law was designed to achieve? That has to do with power and the cover-up of another scandal from 2004 involving President Arroyo and the Ampatuans.

President Arroyo has perceived allegiance to the Ampatuans. But in the days following the levying of charges, the Ampatuan family lawyer, Philip Pantojan, came out with a scripted accusation against the President. Philip Pantojan said that Malacañang should be ashamed for wrongly treating the Ampatuans by authorizing the filing of rebellion charges against them despite a lack of evidence. Pantojan further accused the President of forgetting that the influence of the clan led by Andal Sr. helped make her the President in 2004.

Philippine Pres. Arroyo with Ampatuan Jr., suspect leader of the massacre

Arroyo is very sensitive about that 2004 election. She was caught on tape, in what became known as the *Garci scandal*, instructing her election commissioner, Virgilio Garcillano, to find the necessary million-vote surplus on Mindanao to insure her national reelection. If systematic evidence becomes available to explain exactly how those million votes appeared out of thin air, it might be the end of her.

Filipinos tolerate much, but organized national vote fraud, even if only suspected, is taboo since dictator Ferdinand Marcos won in a ridiculous landslide against Cory Aquino, staged to impress American president Ronald Reagan in 1985. Marcos was ousted while Aquino was thrust into the presidency in a *people power revolution* that reigns as proof that democracy works in Asia, and is the greatest modern moment of shining pride for all Filipinos.

The Garci scandal was verbally resurrected in a eulogy recently at the funeral of beloved presidential cabinet member Cerge Reymondo who died at age 51 from complications due to illness. His widow, spoke of her memories of 2004, a few weeks after the Garci scandal broke. There was great public outrage from charges that President Gloria Arroyo had phoned her election commissioner to rig results of the 2004 presidential elections in her favor. A crisis swirled, with 10 Cabinet officials quitting their posts and several sectors calling for President Arroyo's resignation. Mrs. Remondo recounted with sorrow and anger that her husband told her the experience of the scandal left him fully disillusions with the Arroyo administration. Her words were spoken in the packed Heroes' Hall in Malacañang Palace with President Arroyo and the National Press Corps in attendance.

Philippine President Arroyo with the Ampatuans

It is assumed by most knowledgeable insiders that the Ampatuan family has records of everything they did for Arroyo, and that she owes them an *utang ng loob* (debt of gratitude) which is the ampatuan's insurance policy. The result of the Garci scandal was that the Ampatuan family delivered the province of Maguindanao with an unbelievable 100% of the vote for President Arroyo and a zero vote for the extremely popular Fernando Poe Jr., the opposition standard-bearer, in that year's presidential election. She needed one million votes, and she got them.

At first in the present national scandal, only Andal Jr. was charged with murder, to which he entered a plea of not guilty. It is widely assumed that he will get off with little or no punishment, even if found guilty. The rest of the family was first charged with rebellion, not murder. This distinction was very important because rebellion is a lesser charge than murder. If rebellion was proven, then the Ampatuans' horrendous crimes could conceivably be forgiven in a commonly used *presidential rebellion amnesty*. But in recent days, indictments for murder were handed down to 196 people, including all the main players.

Responsible people agree that with constitutional rights suspended, including search and seizure protection and *habeas corpus*, eight short days of martial law were just enough to deploy forces to find and secure those troublesome records related to the Garci scandal. A Philippine National Police (PNP) raid with the goal of confiscating those incriminating records led to an ambush by an Armed Forces Philippines (AFP) whose objective was to get those records first.

Ampatuan Jr. during his capture

After the raids on the Ampatuan compounds, murder charges were filed against 190 people. Prosecutors revealed they have credible witnesses who will positively identify Andal Ampatuan Jr. as the person who led more than 100 militiamen and police officers in the slaughter. The four survivors are among those who are scheduled to testify, if they and their families live long enough to talk. Prosecutors say they have an airtight case, but defense attorneys are undaunted. Their first act was to file a petition for bail on the first day of the trial, noting that there was no strong evidence against their client.

Justice Is On Trial in the Philippines

It would seem that criminal charges arising from forensic investigations followed by a proper trial of all the cohorts of the Ampatuan family where all the evidence is presented would be the acid test for the justice system of the Philippines. But this may simply not be the case.

The trial puts a spotlight on the way justice is dispensed in the Philippines, where there is no trial-by-jury and where the judiciary is widely perceived to be corrupt in favor of the *tong* (bribe). If the perpetrators are not held accountable for their acts, this will only mean that those who have power, money and influential friends will literally get away with murder. It is not as though the Philippines lack legal structure. A justice system is in place; there are rules and laws that guide the process of legal conduct and the punishments of those who do not comply. Justice is on trial. The world is watching.

Arroyo has publicly disowned the Ampatuans, but some observers still believe she willnot likely abandon loyal allies, even those charged with rebellion and murder. If murder is not proven, charges of rebellion remain.

A conviction of rebellion is almost a guarantee that the accused will escape punishment. A conviction of murder could permanently silence the Ampatuan clan.

Corruption is Not Limited to the Philippines

Political corruption is common throughout the world. Nearly half a billion dollars in tsunami aid for Sri Lanka is unaccounted for and over 600 million dollars has been spent on projects unrelated to the tsunami that hit the island on December 26, 2004, killing 31,000 people. Out of 2.2 billion dollars received for relief, 603.4 million dollars was spent on projects unrelated to the disaster, and another half a billion dollars was missing.[1]

On the surface, Mexico has much to offer the world with beautiful beaches, abundant resources and a rich colorful culture. In reality, Mexico is a chronic problem that makes a mockery of any notion of justice. Criminals regularly cross into the United States to commit violent crimes and then return to Mexico where they remain protected and safe because Mexico refuses to extradite them in any significant numbers. No active major Mexican drug trafficker has ever been extradited to the United States. Their politicians allow drug and human trafficking to overburden our law enforcement in the United States as a result.

Overt and covert corruption is rampant in a staggering number of other countries whose names are in the news for something disgraceful almost every day of the week; Somalia, Sudan, Afghanistan, Iraq, Chad – the list is long and the abdication of justice is deep and deplorable. Corruption anywhere touches people everywhere. The unfolding world financial crisis has only served to reinforce the idea of an integrated world government, which in turn only serves to remind us how accountability against corruption must be guaranteed across all borders.

To paraphrase John Donne,

"If a clod be washed away, Europe is the less for it. Each person's death diminishes me, for I am involved in mankind."

If justice does not prevail for the victims of the Maguindanao Massacre, if those responsible get away with murder because they are politically connected and therefore above the law, then we will all be the less for it.

END NOTES

[I]http://www.dailymirror.ph/Nov/headlines11242009&01.html
[2] http://newsinfo.inquirer.net/breakingnews/nation/view/20100104-245450/Probe-P400M-looted-from-AmpatuansPimentel
[3] http://www.rsf.org/No-let-up-in-violence-against.html
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About the Author

Kenneth E. Mills is founder and President of Alliance for Philippine Missions, and is a missionary to The Philippines where he has served since 1982. In 2004, he founded the Manila Counseling Center, a private-practice Psychological Counseling Service where he serves as the Executive Director and cognitive-behavioral therapist. His cross-cultural experience with urban stress and workplace violence makes him a sought-after motivational speaker. He is also the Executive Director of Starshine Management & Consultancy and Safe Place Manila, an advocacy organization for the rescue and betterment of indigent street children. He holds advanced degrees from Southeastern Baptist Theological Seminary in Wake Forest, North Carolina, Southern in Louisville, Kentucky and The University of North Carolina in Chapel Hill, North Carolina.

The American Institute of Forensic Education, Inc. (AIFE) presents online professional development and continuing education for forensic scientists and other forensic professionals.

Our courses are developed and delivered by internationally recognized experts in the field. Many practicing forensic professionals are not often able to attend regional or national meetings for training, but are required to stay current with best practices in their field. These online forensic science courses are designed to provide information for various levels of knowledge and practice in order to provide training to a wide variety of forensic professionals.

The rich content of each course is delivered in a virtual setting, in addition to on demand, self-paced instruction. Upon completion, attendees will receive a certificate of completion and, where appropriate, seek accreditation for the courses.

AIFE COURSE CATALOG
SELF PACED STUDY

(Download from Website)

CLS LICENSEES, CLINICAL LABORATORY SCIENTISTS (PHLEBOTOMY) ACCREDITED CONTINUING EDUCATION COURSES

American Institute of Forensic Education, Inc brings accredited professional-level continuing education courses of study for certified phlebotomy technicians (CPT). Our courses are especially designed to meet the continuing education requirements of clinical laboratory scientists (medical technologists, medical laboratory technicians, phlebotomists, certified phlebotomy technicians (CPT), students, and other CLS personnel). Meeting federal, state, and institutional requirements for continuing education is essential for all certified phlebotomy technicians (CPT). The State of California requires all clinical laboratory scientists to complete continuing education each time a license is renewed.

The Continuing Education Accrediting Agency for Clinical Laboratory Science in California (California Department of Public Health, Laboratory Field Services) has approved the American Institute of Forensic Education, Inc., as a continuing education provider. Current training requirements for phlebotomists may vary widely from state to state and certification is not always required. Some states do not require clinical laboratory personnel to be licensed or do not require continuing education as part of the licensing, certification, or renewal process. However, certified phlebotomy technicians (CPT) of all states may still need to complete continuing education for employer requirements and re-certifications, as more and more employers are requesting that their phlebotomy staff is certified.

SS-2001: IDENTIFICATION OF PATTERNED INJURIES

Introduces blunt and sharp force injuries in terms of the bio-mechanics of injury and unique characteristics. The course materials illustrate classic wounds and other traumatic injuries associated with violence and human abuse. The forensic value of precise terminology and photographic documentation are emphasized.

Course Fee: $99 Prerequisite: None Contact Hours: 4 CE Hours

SS-2002: CHILD MALTREATMENT: AN INTRODUCTORY COURSE

Introduces child maltreatment and its underlying causes. Content is designed for nurses who are assessing or managing pediatric patients in a variety of settings. Emphasis will be on understanding the various types of child abuse and how it can be detected. The characteristic patterned injuries of child maltreatment is discussed. Assessment, documentation and reporting requirements are outlined.

Course Fee: $69 (or US equivalent) Prerequisite: None Contact Hours: 3 CE Hours

SS-2003: ELDER MISTREATMENT: AN INTRODUCTORY COURSE

Introduces elder mistreatment and its underlying causes. Content is designed for nurses who are assessing or managing elderly patients in a variety of settings. Emphasis is based on understanding the various types of elder mistreatment and how it can be detected. The characteristic patterned injuries of elder mistreatment are discussed. Assessment, documentation and reporting requirements are outlined.

Course Fee: $69 (or US equivalent) Prerequisite: None Contact Hours: 3 CE Hours

SS-2004: FORENSIC EVIDENCE COLLECTION IN THE EMERGENCY DEPARTMENT

This course is designed to meet the Texas Board of Nurse Examiner's requirement (Sec. 301.306) for a minimum of a 2-contact hour continuing education course on the subject Forensic Evidence Collection in the Emergency Department. Content includes types of evidence, methods of documentation and procedures for collection. Chain of custody and other basic legal requirements for handling and safeguarding of evidentiary items are considered.

Course Fee: $69 (or US equivalent) Prerequisite: None Contact Hours: 2 CE Hours

SS-2005: FORENSIC EVIDENCE COLLECTION IN THE CLINICAL SETTING

Principles and techniques of evidence collection and documentation in the hospital or other clinical setting are presented. Emphasis is given to various types of evidence related to traumatic injuries, including those associated with abuse and neglect of children and elders. Step-by-step procedures for collecting and packaging of biological specimens, preserving the chain-of-custody and safeguarding against spoliation or tampering with evidence re-emphasized. Photo-documentation of evidentiary items and legal requirements for admissible evidence are also considered.

Course Fee: $99 (or US equivalent) Prerequisite: None Contact Hours: 4 CE Hours

SS-2006: DOCUMENTATION AND COMMUNICATION

Forensic Issues for Healthcare in the Digital Era

This course is designed to assist nurses in understanding recent changes in nursing documentation effected by revised practice standards, new regulatory guidance and emerging technology. The widespread use of computer charting, the increase of automated retrievals and downloads of patient information to the hospital information system, tracking technology and the use of personal communication devices have revolutionized patient record-keeping. The technological advances have streamlined many types of routine documentation, but nurse generat- ed, written documentation must be more precise than ever before to ensure that it coincides with computer-generated and time-stamped information that is continuously being recorded and transmitted. This course will prepare nurses for the challenges and opportunities associated with the "new age" of digital recording, and will illustrate important forensic (legal) implications inherent in clinical documentation.

Course Fee: $89 (or US equivalent) Prerequisite: None Contact Hours: 10 CE Hours

SS-2007: COLLECTION AND HANDLING OF FORENSIC BLOOD SPECIMENS

This program is designed for health care professionals in clinical and non-clinical settings involved in forensic blood specimen collection. This course gives the student a basic understanding of forensic blood specimen collection and teaches the importance of handling specimens according to state laws and following a standard operating procedure. Content includes the collection and handling of forensic blood specimens, maintaining chain-of-custody, packaging of specimens and labeling of evidence containers, documentation, storage of forensic blood specimens, transportation of specimens, forensic urine examinations, breath alcohol analysis and collection of post mortem samples.

Course Fee: $59 (or US equivalent) Prerequisite: None Contact Hours: 3 CE Hours

SS-2008: PHLEBOTOMY: LEGAL ISSUES

This very informative self paced online course is designed to teach individuals the importance of understanding the legal issues associated with the profession of phlebotomy such as poor documentation, accidental needle stick injuries, specimen labeling errors, improper vein selection, contamination issues, loss of blood specimens, infection, hematoma and needle reuse. Other topics include quality assurance, risk management, related terminology, standard of care, and legal considerations related to forensic blood specimen collection i.e., failure to use a non alcohol based antiseptic, using vials that do not comply with state regulations, failure to follow chain of custody and not observing expiration dates on vials.

Course Fee: $59 (or US equivalent) Prerequisite: None Contact Hours: 3 CE Hours

SS-2009: FORENSIC NURSE DEATH INVESTIGATORS (FNDI)

This course is designed to introduce the learner to the basic concepts and foundations of forensic nursing and integration of those concepts into the role of the forensic nurse death investigator. Principles of death investigation and application of nursing knowledge and skills into the role will be discussed. The learner will analyze the relationship between the nursing process and death investigation to discover links between the two roles and how to best integrate the concepts of both roles into an effective process. As a conclusion to this course, the components of the death investigation process with be described and discussed.

Course Fee: $159 (or US equivalent) Prerequisite: None Contact Hours: 10 CE Hours

SS-2012: AN INTRODUCTION TO FORENSIC PHOTOSHOP

This course prepares the student how to use Adobe's Photoshop in any workplace where pictures are used for visual documentation such as law enforcement, criminal justice, nursing, insurance adjusting, and etc., where the original images of photographs must remain true. Not all photos develop perfectly; images are often out of focus, dim, or discolored and can not be utilized for their desired purpose. This course teaches the logical progression of steps necessary toward accomplishing clarified and balanced images that remain true to their original content and context. No previous Photoshop knowledge is necessary. This course serves as the pre-requisite to Advanced Forensic Photoshop.

Course Fee: $285 (or US equivalent) **Prerequisite: None** **Contact Hours: 16 CE Hours**

SS-2014: CHAIN OF CUSTODY

This study is a practical introduction to one of the most important topics in Forensic Science; maintaining an unbroken chain of custody in a variety of situations. It explores proper procedures for documentation and possession of samples and for recognizing the positive consequence of properly establishing the correct chain of custody procedures when handling forensic specimens, data and evidence. It explains why a chain of custody procedure is necessary, distinguishes between proper and improper chain of custody procedures, and offers an understanding of laboratory chain of custody procedures including transfer, storage and disposal of samples/specimens. This course is for any Forensic Professional or team of Professionals seeking to strengthen the chains of custody in your work environment.

This study is a practical introduction to one of the most important topics in Forensic Science; maintaining an unbroken chain of custody in a variety of situations. It explores proper procedures for documentation and possession of samples and for recognizing the positive consequence of properly establishing the correct chain of custody procedures when handling forensic specimens.

Course Fee: $59 (or US equivalent) **Prerequisite: None** **Contact Hours: 3 CE Hours**

SS-3000: FORENSIC BLOOD SPECIMEN COLLECTION AND HANDLING

This program is designed for health care professionals in clinical and non-clinical settings involved in forensic blood specimen collection. This course gives the student a basic understanding of forensic blood specimen collection and teaches the importance of handling specimens according to state laws and following a standard operating procedure. Content includes the collection and handling of forensic blood specimens, maintaining chain-of-custody, packaging of specimens, labeling of evidence containers, documentation, transportation of specimens, storage of forensic blood specimens, forensic urine examinations, and collection of post mortem samples.

Course Fee: $69 (or US equivalent) **Prerequisite: None** **Contact Hours: 6 CE Hours**

SS-3001: LEGAL ISSUES ASSOCIATED WITH PHLEBOTOMY

This course is designed to teach individuals the importance of understanding the legal issues associated with the profession of phlebotomy. Topics include quality assurance, risk management, legal considerations related to forensic blood specimen collection, documentation guidelines and related terminology.

Course Fee: $29.95 (or US equivalent) **Prerequisite: None** **Contact Hours: 6 CE Hours**

SS-3002: AN INTRODUCTION TO CHAIN OF CUSTODY

The program was created to educate those individuals involved in specimen and product integrity within the law enforcement and corporate environments with a better understanding of Chain of Custody (CoC) and its requirements. Topics include: correctly performing proper chain of custody procedures, glossary of related terms, description of legal, evidentiary, and routine chain of custody, documentation, electronic evidence chain of custody procedures, laboratory internal chain of custody, sample security, sample labeling, transfer and shipping of samples, sample disposal, and associated forms.

Course Fee: $29.95 (or US equivalent) **Prerequisite: None** **Contact Hours: 6 CE Hours**

AIFE COURSE CATALOG

VIRTUAL CLASSROOM EDUCATION

(Download from Website)

VC-1001-A: THE SEXUAL ASSAULT EXAMINATION: ADULT AND ADOLESCENT
(For the Healthcare Professional)

Provides registered nurses, qualified health care professionals and those associated with administration of justice, with the knowledge and skills related to forensic evaluations of sexual assault victims and suspects. Content designed to meet the required academic and clinical preparation for health care professionals who desire certification (SANE-A) or other credentials as a forensic sexual assault examiner.

VC-1001-B: THE SEXUAL ASSAULT EXAMINATION: ADULT AND ADOLESCENT
(For the Non-Healthcare Professional)

Provides registered nurses, qualified health care professionals and those associated with administration of justice, with the knowledge and skills related to forensic evaluations of sexual assault victims and suspects. Content designed to meet the required academic and clinical preparation for health care professionals who desire certification (SANE-A) or other credentials as a forensic sexual assault examiner.

VC-1003: WORKPLACE VIOLENCE: AWARENESS AND PREVENTION

This course is intended to assist those who wish to better understand the complexities of workplace violence as well as individuals and groups of people who are responsible for or who wish to establish workplace violence prevention initiatives at their work or agencies. This is much more than a planning course, although planning is certainly a part of what is being taught here. Many of the selections provide information that can be helpful for rank and file employees as well as managers and specialists as you deal with issues ahead of time with the hope of preventing workplace violence. This course reflects research and contributions from many professions.

VC-1004: ETHICS FOR FORENSIC NURSING

Introductory ethics course. Participants explore ethical problems in nursing, through the study and analyses of forensic, case-based discussions. Content includes ethical theory and principles, values clarification, values development and ethical decision-making processes.

VC-1006: FORENSIC SCIENCES IN HEALTHCARE: ORIENTATION FOR NURSES

This is an introductory course for nurses who wish to explore nursing's newest specialty-forensic nursing. The history of forensic science and the evolving role in healthcare is discussed. Emphasis is placed on nursing roles and responsibilities associated with both victims and perpetrators of violent acts.

This course is designed to help the participant to acquire forensic nursing intuition, what is known in forensic nursing as a "Forensic Antenna". Students are encouraged to explore the ever-widening array of career sub-specialties within the forensic nursing discipline, including death investigation, correctional nursing, forensic psychiatry, forensic photography, accident reconstruction, clinical forensic nursing and more. Forensic organizations and resources are also introduced as they relate to career orientation and development.

VC-1008: ADVANCED FORENSIC PHOTOSHOP

This course is an easy to follow, easy to understand workflow for clarifying images. Course content includes setting up Photoshop and Bridge, getting images into Photoshop, fixing focus problems, correcting global light and color issues, fixing light and color locally, sharpening, noise reduction techniques, preparing for output, interpolation, printing, and archival issues and much more.

VC 1013: PEDIATRIC SEXUAL ASSAULT FORENSIC NURSE EXAMINER-A TRAINING PROGRAM

This comprehensive training program provides registered nurses, qualified health care professionals and those associated with administration of justice, with the knowledge and skills related to forensic pediatric sexual assault.

The Forensic Digest

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An Invitation to Submit an Article

This is an open-call for all subscribers and readers of Forensic Digest to submit your article of interest for approval and possible inclusion in Forensic Digest Fall 2010.

Manuscripts, research reports, and other material suitable for any of the forensic science disciplines will be reviewed by the IAFP Editorial Board and other forensic scientists who will determine suitability for publication.

All materials submitted must be original and not previously published in any other copyrighted works. Authors will be required to sign an exclusive copyright release for any manuscript submitted for publication in the Forensic Digest.

To submit your work by email send to: info@tiafp.org or FDeditor@tiafp.org. For further information please visit www.theforensicdigest.com or call 760.322.9925.

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