with its presentation and the decision must necessarily rest on other responsible parts of our system of justice. Nothing is any worse than to see an officer criticize a court for a decision, for to do so is to destroy the faith of our people in their system of justice.

Aside from these procedures which I have endeavored to discuss in these brief minutes, I would call your attention to section 5866.04 of the Mississippi Code of 1942, which deals with the seizure and confiscation of property used in illegal hunting as contraband. This section gives another powerful weapon to the officer in the enforcement of the law dealing with telephone fishing and head-lighting of deer. In this section, our law declares that any equipment, appliance or conveyance used directly or indirectly in these illegal activities is declared to be contraband property and shall be confiscated and forfeited to the State of Mississippi and shall be seized by any employee of the State Game and Fish Commission or other officer and, further, deprives the person of any property rights in such property. This, of course, means that you can take a man's boat, motor, automobile or any other personal property which is used directly or indirectly in the conduct of these illegal activities. This procedure, of course, is complicated and should only be invoked with the advice and consent of the prosecuting attorneys in that particular section. It is, however, a very formidable weapon in the enforcement of these particular game and fish laws and it has a deterrent effect upon others. A man who loses his automobile or truck because he had a deer being transported after having been illegally killed, is the best example to act as a deterrent to others that can possibly be used in the enforcement of the game and fish law. Sometimes we overlook the full force and impact of the use of this law.

Finally, may I say that in these words I have attempted only to cover generally fundamental problems in the administration of the game and fish law. I hope that out of this you may feel that we in the courts recognize your particular phase of the law as just as important a function of the over-all picture of a society of law as we do any other part. You will always find that the courts are ready, willing and able to help you in your great cause. May we join together in a devotion to the conservation of the wild life in America, for in a land where no turkeys gobble and no quail whistle and no bass jump—in that land we would not want to live.

Thank you gentlemen very much.

## ADDRESS OF PERCY V. RICHARDSON, SPECIAL AGENT, FBI

I would like to discuss briefly, the various phases of evidence, the collection, identification and preservation, and its admissibility into a court of law.

If the investigator of Crime is to achieve success he must possess a sound knowledge of the rules of evidence; the ability to recognize it, and proper training to gain its possession for legal entry into court. To determine when the Law of Evidence enters enforcement let us visualize several enforcement steps. The first step is to determine what person is responsible for the crime. This constitutes investigation. The second step is to bring the accused person before the court. This is done by certain legal processes, frequently involving the execution of warrants for arrest or search. The third step involves determination of the position the defendant will take concerning the criminal charge against him. This is partially ascertained at arraignment by his plea to the charge. The fourth step involves the government's attempt to demonstrate its charge against the subject when he pleads not guilty. This is the trial. In the fifth step the guilt or innocence is determined by the verdict of the jury. The sixth step is the execution of the court's judgment in the case.

Obviously, the Law of Evidence mainly enters the enforcement of criminal law in two of its most important stages—investigation and trial. The success of the first governs the outcome of the second of these two stages. The investigative responsibilities of the officer will frequently require many hours in gathering facts. He will interview witnesses, possibly conduct surveillances, collect physical objects for laboratory examination, and consult documentary sources of information.

The investigator is not a seeker of information merely for information sake. He deals in evidence which is the basis of justice. His information may seriously affect life, liberty and property. His evidence must be gathered diligently and completely, but must be within the law. He cannot do or say anything in the course of his investigation or inquiries which will taint the administration of justice. To do so would involve his own and the dignity of the agency by which he is employed.

There is a vast difference between ordinary information which might satisiy the man in the street and that which will stand up in court as evidence. Information which will serve as proof at a trial of the truth of the charge in an indictment.

The enforcement officer must learn to define evidence. In ordinary language the term "evidence" is used to describe anything which tends to make the truth of a disputed matter clear. It may be something that we observe ourselves when we witness an event or some sound we hear or object we see. It may be a document we read. It may be something another person tells us that he has observed. If such information tends to influence our belief concerning the truth of anything we call it "evidence".

In the law evidence is defined as that which makes a fact clear to a judicial tribunal, or which tends to furnish or does furnish proof.

Facts are the subject matter of a trial. The principal question of fact in a criminal case is whether or not the accused person is guilty of the crime with which he is charged. There will be many secondary questions of fact involved. The answers to the secondary questions will lead us to the solution of the primary question in dispute. As a means of proof we present evidence of facts.

There are three major methods of presenting evidence in court to prove a fact. The most common method is through the oral statements of sworn living witnesses who have actual personal knowledge concerning the facts. This evidence is called testimony. The second method is the presentation of facts recorded in writing. This is called documentary evidence. The third method is by actual exhibition to the court of physical objects of evidential value. This is called real or physical evidence. It is the so-called silent, formidable evidence of things.

Evidence is generally thought of as falling into two general categories. Direct evidence and circumstantial evidence. Direct evidence is that which tends to prove the main fact in issue, i.e., the guilt or innocence of the subject in a criminal trial in an immediate way. It establishes fact without the need of inference. It establishes by itself the principal fact in dispute.

The most common example would be an eye witness who testifies to the precise fact in dispute. For example he testifies to the fact that he actually saw the defendant commit the offense with which he is charged. Another example of direct evidence would be a dying declaration. A further example is a confession of guilt by the subject. Such direct evidence may be documentary in character; for example, a written confession.

Circumstantial evidence, defined negatively, may be described as evidence which is not direct in its action. Defined in an affirmative manner, it is that evidence which first establishes a subsidiary fact from which the main fact in issue is then deduced by inference. Thus, from the subsidiary fact that the subject's fingerprints were found at a crime scene, the jury infers he was present there and therefore used his opportunity to commit the crime. An inference is the logical possibility of reasoning to the existence of one fact from its usual connection with another. Juries are entitled to make reasonable deductions from proven facts.

The rules of evidence, speaking practically, is a system followed by the trial judge and slowly developed over the years as a means of assisting in the discovery of the truth. They act as a filter through which the judge removes bad evidence from good. It is the yard stick by which the evidence is measured by the judge to determine its admissibility. The rules grew up as part and parcel of the system of trial by jury. The rules are not perfect by any means, but there is a reason for every rule of evidence.

The exclusionary function of the rules provides that if a particular item of evidence fails to meet standards set by the rules, the judge will not allow it to

be considered by the jury. The first test of facts brought before a jury is whether or not they are relevant to the case. Relevancy arises particularly when circumstantial evidence is involved. If a logical connection between the circumstances is absent the facts will not be considered. The second general test of admissibility is that relevant facts be also material. The third test is that the facts be competent, *i. e.,* they must not possess a dangerous tendency to mislead, or over-influence the jury. In some instances facts which may be logically relevant and material, are excluded because the law fears that more harm than good will result from a knowledge of these facts by the jurors. Any criminal case tried before a jury requires admissible facts sufficient to convince each juror of the subject's guilt beyond a reasonable doubt.

To briefly outline the investigative functions of an enforcement officer and particularly in an agency which is somewhat specialized, *i. e.,* which has specific or clear cut statutes to enforce, it might be more practical to review some of the basic police functions: Those with which contact is encountered with regularity. For example, an offense is committed which involves a crime scene search. The search must be a thorough one resolved in favor of collecting every object, item or thing of possible relevancy and materiality. Items collected must be identified in such manner as will enable the officer, or officers, discovering them to testify later concerning the identity and location of the items. The preservation of items of evidence will entail the showing of the chain of possession to offset any allegation as to identity or change.

Where preservation of the evidence is a problem appropriate steps must be taken to preserve against decay, to reproduce, or provide such other means as will affect proper portrayal of the evidence in court.

Searches generally will involve legal aspects. The legality of a terrain search of a crime scene is generally met through jurisdictional authority of the officer conducting the investigation. If a search is made of premises or privately owned conveyances, necessitating the issuance of a search warrant, particular attention must be paid to the preparation of the search warrant, and which may be handled through the official prosecutor.

A legal arrest may be followed by a search of the person arrested. A search may be made of premises under the control of the arrested person when the search is made incidental to the legal arrest of a subject.

Searches may be made of a subject's premises not incidental to arrest and without a search warrant by the execution of consent or waiver to search, by the subject or by the person in whose legal custody and control the premises or area is contained.

Interviews, constituting a vast percentage of investigative endeavors will involve the obtaining of oral or written statements from subjects and witnesses. Admissions of guilt may be introduced as evidence in court whether oral or written, provided the admissions are made voluntarily and without undue delay in arraignment of the accused before a Commissioner.

So-called signed statements, or confessions, probably constitute the largest single factor in the successful conclusion of cases handled in Federal court. A confession may be written or oral, or partly oral and partly written, or both. Where written, a confession may be written by hand or by typewriter. It may be made on one occasion or on different occasions.

A written confession may be in narrative form and the fact that it was not written out by the subject himself, but by another person who recorded his admission of guilt does not make it objectionable.

A confession or acknowledgment of guilt has no higher evidentary value when written than an oral one. There is a natural inclination, however, for a jury to regard it as more reliable. A written acknowledgment of guilt does not have to be signed to be admissible when properly supported by competent witnesses.

As a practical matter, however, written confessions or acknowledgments of guilt, should be prepared with the view toward obviating any possible successful attack by the defense. An accepted policy in this regard is to obtain a written and signed confession whenever possible. Further, the form of the statement should follow uniform policy. The date and location should be first shown, and the first paragraph constitute a preamble. The preamble should reflect—and truthfully so—the following:

That the subject made the statement voluntarily having been advised that he did not have to make a statement, that any statement he did make might be used against him in a court of law, and that he was advised of his right to legal counsel prior to making the statement. Too, the preamble should reflect the identity of the person to whom the statement is made and his official capacity.

The body of the statement should incorporate the admissions by the subject excluding any extraneous material and particularly excluding the admission of multiple offenses in one statement.

At the conclusion there should be a paragraph, which may be written by the subject himself, if able to read and write, reflecting he has read the statement consisting of a given number of pages and that it is true and correct to the best of his knowledge. If the subject is unable to read the statement should reflect it had been read to the subject, identifying the person who read it.

If the subject is unable to write he may sign by mark with the statement being appropriately witnessed. Within the statement any strike overs, corrections, additions or deletions should be initialed by the subject. Each page should be initialed as an added safeguard reflecting the subject has seen all pages of the statement.

The rules governing the admissibility of a statement or confession rests on whether or not it was voluntary. Additional precautions are taken as a matter of good policy. The same general rule will govern the handling of documentary evidence such as a signed statement which govern a piece of evidence with regard to identifying it in court or establishing the chain of possession. Confessions alone will not suffice in the preparation of a case for trial but must be supported by corroborating evidence. For example, statutes contain certain elements which must be proven and the elements of an offense should be well known to the investigator. For a Federal Agent to obtain a written and signed statement admitting the theft of an automobile in Dallas and its subseqquent interstate transportation from Dallas to Biloxi, Mississippi, knowing it to be stolen, would be an admission covering each of the elements of that particular offense in so far as the subject's admission is concerned. However, a guilty plea could not be accepted by the court on such a statement until corroboration was obtained verifying the theft of the vehicle in Dallas and its transportation by the subject to Biloxi. It is true that in many instances acceptable corroboration is obtained through circumstantial evidence.

The following individuals were given citations for outstanding activity in the field of wildlife conservation, together with a cash award:

Gordon Esslinger, Alabama
George Hatzakas, Arkansas
Elliott Lott, Florida
William L. Cline, Georgia
Roy Toon, Kentucky
Theodore Bonin, Louisiana
Charles J. Green, Maryland
Edward W. Sloan, Mississippi
Robert E. Evans, North Carolina
R. M. Gifford, South Carolina
E. O. Gammon, Tennessee
Gordon T. Preston, Virginia
U. S. Game Management Agent
Walter E. Price, Virginia

The awards were presented by Mr. Tom Kimball who is Executive Vice-President of the National Wildlife Federation.