

1957

## Police Science Book Reviews

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### Recommended Citation

Police Science Book Reviews, 48 J. Crim. L. Criminology & Police Sci. 124 (1957-1958)

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## POLICE SCIENCE BOOK REVIEWS

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Edited by  
Richard L. Holcomb\*

SCIENTIFIC EXAMINATION OF DOCUMENTS. By  
*Ordway Hilton*, Callaghan & Co., Chicago,  
1956. Pp. 333, \$15.00

This publication contains the author's accumulated experiences in police and governmental investigations as well as those in private practice. Because his experience is extensive and the quality of his workmanship known, the name of Ordway Hilton will always be ranked among the authorities in the field. Talented and capable, though he is, the author portrays himself very modestly to his readers. He presents his material very clearly and logically and in a manner that may be easily understood. As a matter of fact, the author points out in the preface (page V) that "the purpose of this book is to discuss all aspects of a questioned document problem in such a way as to be of greatest value to attorneys and investigators." He achieves his objective in a very systematic and methodical manner. All examiners will agree that there has been a crying need for a book such as this which they could recommend to attorneys and investigators.

This book is divided into five (5) parts and preceding each section, a short explanation is given. It is my intention to discuss briefly the five categories separately.

Part I, "Introduction and Basic Definition." The entire field of document examination is explained in a language that any layman can understand. In such a style, a detailed explanation of the functions of an examiner, such as his problems, the instruments and the basis of effective court presentation is given. To add to its capabilities as a reference book for attorneys and investigators, a chapter is devoted to the definition of terms.

Part II, "What Examination of a Document

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May Reveal." The materials and instruments utilized in the preparation of a document and the marks identifying them are expounded. It goes on to warn investigators of the changes, alterations, accidental markings and ideas surrounding the handling of a document case. At this point, the reviewer felt that a thorough discussion of latent fingerprints would have been extremely beneficial.

Part III, "Discovery of Facts by Comparison with Known Material." This section ties the full text together for the author shows what can be learned from a complete study and a detailed comparison between the questioned material and adequate, accurate standards. The identity and non-identity of handwriting and handprinting are discussed as well as the identification of signatures and the detection of forgeries. Finally, typewriters and other mechanical reproducing instruments are identified.

Part IV, "The Attorney-Investigator's Part in a Questioned Document Problem." Here we are made aware of the quantity and quality of standards, the manner in which they are procured, and the necessity for assembling accurate representative samples. To quote the author, "Inadequate and improperly prepared standards more frequently limit the findings than any other single factor." The manner of obtaining the desired results as well as the proper care and handling of documents is explained. The chapter on "Reproduction of Documents," brings out the methods whereby a document may be reproduced, the degree of their effectiveness, and the reasons why some methods are absolutely useless in an examination.

Part V, "The Document Problem Goes to Court." To prepare a document case properly and adequately for trial involves an exhaustive

investigation on the part of the examiner as well as the attorney. Moreover, a "pretrial conference" is recommended wherein they may review any aspects in the case which would interest them mutually. We are likewise cautioned that the correct presentation is not necessarily the witness's responsibility alone.

The flaw that stands out so vividly throughout the book is the poor half-tones. This is unfortunate because those of us who are familiar with Mr. Hilton's photographic ability know it to be of the finest. From this we can conclude then, that the responsibility for this rests with the publisher.

This book is heartily endorsed and, as stated previously, should be listed as recommended reading for investigators and attorneys. It is also worthy of serious study by those engaged in police science and document examination.

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RIGHT OF WAY IN TRAFFIC LAW ENFORCEMENT. By *Edward C. Fisher*, Thomas Law Company, St. Louis, 1956. Pp. 265, \$7.50

*Right of Way in Traffic Law Enforcement*, Edward C. Fisher, Associate Counsel, Northwestern University Traffic Institute and formerly Judge of the Municipal Court, Lincoln Nebraska, is, in the opinion of this reviewer the most practical and valuable literary contribution to the cause of traffic safety and traffic law enforcement of recent years. It is the pioneer textbook on a subject which has confused lawyers, traffic courts, and motor vehicle drivers for many years. Uniform understanding and more knowledge of this subject should be of inestimable value in improving traffic safety.

Judge Fisher's practical experience covers the entire field of traffic law enforcement, lawyer and trial judge for many years, active worker and leader in the nationwide traffic safety cause, and now classroom and academic expert in the nation's leading traffic school. All this, coupled with his literary ability, ably demonstrated in "People's Court", has made

his latest book both interesting and authoritative.

The writer's seventeen years experience as a trial judge in many thousands of traffic collision cases has convinced him that right of way is the most important ultimate factor in urban traffic safety. Of course, many preliminary factors such as excessive speed, inattention, and the like, and even worse violations of a more criminal nature as driving while under the influence of liquor, frequently precede the ultimate tragic right of way error. Many collisions, however, are caused by right of way violations of just ordinary and average drivers who do not know the right of way rules, even of the most elementary type, or who knowing them fail to realize that the right of way requirements are absolute at all times and not a matter of individual choice or determination.

As Judge Fisher repeatedly emphasizes the right of way rules must be simple, clear, and definite for all situations so that both the "favored" and the "disfavored" driver will know under all circumstances which should yield when of necessity one must yield in time to avoid collision.

Of great importance to traffic law enforcement is the essential requirement pointed out by Judge Fisher that, while civil liability may be assessed without positive law, there can be no valid criminal or traffic law or ordinance prosecution without the violation of a legal obligation required by a positive law or ordinance. Thus, it is imperative that right of way obligations be spelled out specifically in traffic laws and ordinances to constitute offense subject to prosecution.

Judge Fisher has competently and thoroughly explained and analyzed all right of way situations with comprehensive footnotes of reported appellate cases in point. Right of way situations included are:

(a) *Intersections*. The old rule of "first-in-the-intersection" is impractical and causes collisions. The "approaching or entering at approximately the same time" qualification is more important than the subject it qualifies and realistically applied places the real and greater burden on the driver to the left under

the modern rule of "reasonable danger of collision".

(b) *Stop Streets*. Again to serve the objective of preventing collisions, the burden on the driver required to stop should be a continuing one against the "reasonable danger of collision" rather than a change of burden under the "immediate hazard" rule.

(c) *Left Turns*. It is even more necessary, if possible, under this situation to apply the continuing burden on the left turn driver under the "reasonable danger of collision" rule. The "immediate hazard" rule invites disaster to the driver who proceeds on such basis, considering general driving habits and customs.

(d) *Pedestrians*. While the danger potentiality is heavily weighed against the pedestrian, both the pedestrian and the motorist are chargeable with right of way obligations as to each other when there is "reasonable danger of collision". The rules clearly indicate the "favored" party under the numerous and varied situations when a pedestrian is crossing a street or highway.

(e) *Emerging from alley or private driveway*. Such driver must yield to street traffic as long as there is "reasonable danger of collision" as well as make preliminary stop when required.

(f) *Emergency vehicles*. An absolute rule of practical necessity when reasonable warning given.

(g) *Miscellaneous*. Includes funeral processions, traffic control signals, direction of traffic officers, vehicles moving into flow of traffic, yield right of way signs, mountain roads and traffic circles.

Other subjects discussed are:

(a) *Loss of right of way through forfeiture, waiver, and abandonment*. The basis of forfeiture of right of way is that the normally "favored" driver is not proceeding in a lawful manner. As Judge Fisher says "it seems far simpler to hold that one committing a violation himself does not thereby secure statutory preference over another" and "one could not forfeit that which he never acquired". Waiver

or abandonment of right of way may be the result of well intended courtesy or the instinct for self preservation when the actions of the other driver are uncertain or all too certain.

(b) *Extent of yielding*. The obligation is absolute to do whatever is necessary to yield the right of way and continues as long as danger of collision exists.

(c) *Duty to look and see; listen and hear*. A driver must look where the looking will be effective, must see the obvious, and be alert and hear all reasonable warning sounds.

(d) *Prosecution of right of way cases*. Issues in such cases are simple but must be based on positive laws or ordinances and legally adequate pleadings. Judicial notice and presumptions in certain instances are available to the prosecution as well as scientific evidence normally present in collision cases. Civil liability contributory negligence is not available as a defense nor the lack of intent to commit the offense.

All traffic law enforcement officers and judges would benefit by reading and having available this text on right of way. Uniformity in court decisions is a prime requisite to securing compliance behind the wheel.

While all civil liability law as to right of way is not applicable to criminal prosecution cases, conversely the violation of most right of way obligations, adequate for criminal prosecution, are a sufficient basis for civil liability. Accordingly the book should be of substantial value to attorneys handling civil liability claims arising out of traffic collisions.

Judge Fisher's views as to right of way rules are reasonable and practical and stated succinctly and to the point. This review might well be subject to the criticism implied in Ambrose Bierce's historic shortest book review on record—"the covers of this book are too far apart"—but Judge Fisher's book could not possibly so qualify.

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