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Remember 9/11/01; Support our Troops

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THIS EDITION'S WORDS OF WISDOM:

"*If a woman has to choose between catching a fly ball and saving an infant's life, she will inevitably choose to save the infant's life without even considering if there is a man on base.*" (Dave Barry)

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ADMINISTRATIVE NOTES:

***Legal Update E-Mail List*:** If you are not already getting the *Legal Update* as it is published and wish to be put on the e-mail list, you need only ask by e-mailing a request to me via either of the above listed e-mail addresses. Please include why you are interested; e.g., you're a cop, prosecutor, attorney, instructor, student, etc.

CASE LAW:

***Consent to Search, When a Co-Tenant Objects*:**

Georgia v. Randolph **(Mar. 22, 2006) __ U.S. __ [2006 DJDAR 3375]**

Rule: When two equally situated cotenants are asked for consent to enter and/or search a residence, both present at the scene, with one saying "*yes*" but the other saying "*no*," entry and/or search is illegal absent an exigent circumstance or a search warrant.

Facts: Scott (defendant) and Janet Randolph lived as husband and wife in Americus, Georgia. In May, 2001, the couple separated with Janet fleeing to her parents' house in Canada. She returned two weeks later, however, and the hostilities began anew. On July 6, Janet called police complaining that defendant had taken and hidden their child. Responding police found both Janet and defendant at the house. After the police retrieved the child from a neighbor, Janet further complained that defendant was a cocaine user and had evidence of that usage in the house. Defendant declined to give the officers permission to enter the house, but Janet did. She took the officers upstairs to defendant's bedroom and showed them some paraphernalia and a white power alleged to be cocaine. The police called the district attorney who advised them to get a search warrant. That was done and more evidence of drug usage was seized. Charged by indictment in state court with possession of cocaine, defendant's motion to suppress his cocaine was denied. A Georgia appellate court reversed, finding that even though the police had Janet's consent, the initial entry and search done over defendant's objection was illegal. The Georgia Supreme Court affirmed. The State petitioned to the United States Supreme Court.

Held: The United States Supreme Court, in a five-to-three decision, affirmed the Georgia Supreme Court, holding that under the circumstances, the entry and resulting search of defendant's home was illegal as to him. The issue in this case is whether law enforcement officers may make a warrantless entry into a residence based upon the consent of one cotenant when a second cotenant, present at the scene and with common authority over the premises, objects. The Court recognized that most lower courts (state and federal, including California) have ruled that officers may ignore the "no," and go with the "yes." But, per the Court majority, to do so is a violation of the objecting cotenant's Fourth Amendment rights. The issue of one's "*reasonable expectation of privacy*" under the Fourth Amendment must take into consideration "*widely shared social expectations*." For instance, when a person asks two equally situated cotenants for permission to enter their mutual residence, getting permission from only one of them while the other is saying "no," the "*social expectation*" is that the person seeking to make entry would not feel like he or she is welcome inside. Therefore, in such a situation, with one cotenant objecting, a law enforcement officer must be able to either articulate exigent circumstances justifying the entry or obtain a search warrant. Because the officers failed to do so in this case, the evidence retrieved from within the house should have been suppressed.

Note: The dissenting justices argue, in a long decision laced with any number of "what ifs," that the "*widely shared social expectation*" is not necessarily as described by the majority opinion. It depends upon the circumstances of the confrontation, including the inter-relationships of the persons involved. Also, the minority argues that social expectations are not what necessarily guide the determination of what constitutes a "*reasonable expectation of privacy*," as interpreted under the Fourth Amendment. Living with a cotenant necessarily involves the surrendering of one's privacy expectations, at least to some degree. By having a cotenant, a person "*assumes the risk*" that the cotenant may compromise his privacy; a factor that diminishes an otherwise reasonable expectation of privacy. It is *not* reasonable to expect that a cotenant with equal authority over a place (such as a home) will not grant others permission to enter that place and observe items not otherwise made public. But the majority rules, so we're now stuck with this: When two equally situated cotenants are at the residence and, in response to law enforcement's request to enter and/or search, where one cotenant says "*yes*," and the other says "*no*," *you may not make entry* absent exigent circumstances or a search warrant. Note also, however, what this case *does not* forbid, as specifically stated in the majority opinion:

- Where there is a "*recognized hierarchy*" (e.g., parent vs. child), objections from the one with the inferior status may be ignored.
- With a reasonable (articulable) fear for the safety of the person inviting officers inside, or the safety of anyone else inside (e.g., see *U.S. v. Russell*, below), entry may be made to check the victim's welfare and/or to stop pending violence.
- An objection from an *absent cotenant* (even if handcuffed and in a patrol car immediately out front) may be ignored, at least so long as he or she is not led away from the scene for the purpose of justifying an entry into the residence.
- It is not necessary to solicit possible objections from a cotenant, even if that person is inside and/or available, and even if it is expected that that person would object.
- Any other exigent circumstance (safety of the occupants, preservation of possible physical evidence, etc.) may justify an immediate entry, at least until the scene is secured and/or the suspects detained pending the obtaining of a search warrant.
- Entering with the victim of domestic violence, at her request, for the purpose of protecting her as she collects her belongings, is lawful.
- The consenting cotenant may retrieve evidence and bring it out to the police.
- With probable cause, a search warrant may be obtained for the search of the residence.

***Miranda*; *Ignoring a Defendant's Attempt to Invoke*:**

***People v. Jablonski* (Jan. 23, 2006) 38 Cal.4th 774**

Rule: Ignoring a defendant's attempt to invoke, even while telling him that his responses cannot be used against him (an untrue statement), is not a constitutional violation so long as it doesn't lead to statements usable for impeachment purposes.

Facts: Carol Spadoni lived with her mother, Eva Petersen, in Burlingame, California. In 1982, Carol responded to a personal ad placed in a newspaper by defendant from his San Quentin prison cell. Seeing some redeeming social value in this piece of garbage that somehow had escaped everyone else's notice, she married him. Defendant was paroled to Indio, in Southern California, in September, 1990. By then, however, Carol had had a change of heart and decided to end her relationship with defendant. Both Carol and Eva feared defendant, and told defendant's Indio parole officer of this fear. As a result, the parole officer refused defendant's request to travel to Burlingame. In January, 1991, defendant illegally purchased an R.G. revolver and bullets from a friend. On April 22 to 23, 1991, defendant drove to Burlingame and murdered both Carol and her mother. He also raped and sodomized Eva. He was arrested five days later in Kansas while still in possession of property belonging to both victims. A whole pile of other evidence connected defendant to the murders, including a tape recording in his own voice describing "in graphic and brutal detail" how he had killed them and sexually assaulted Eva. There was also other evidence (used at the penalty phase) tending to connect defendant with two other murders committed between April 22 and 27. Four days after his arrest, he was interviewed by detectives from the Riverside Sheriff's Department and the Burlingame Police Department. The two detectives decided ahead of time that should defendant attempt to invoke his *Miranda* rights, they would ignore him and continue the interrogation for the purpose of collecting impeachment evidence and to obtain investigative leads. Sure enough, defendant specifically invoked his right to the assistance of an attorney as soon as the interview began. In fact, he invoked four separate times in the first few minutes of the interview. The detectives, however, continued to press him to answer questions. Over the next four hours, defendant invoked his right to an attorney seven more times, all of which were ignored. At one point, while still trying to get him to talk, defendant was told; "You know that we can't use any of this stuff against you in a court of law. This tape will never be heard by anybody except us." Defendant was eventually convicted of two counts of murder with special circumstances, and sentenced to death. His appeal to the California Supreme Court was automatic.

Held: The California Supreme Court, in a unanimous decision, affirmed defendant's conviction. Among the other appellate issues, defendant argued that by ignoring his repeated attempts to invoke his *Miranda* rights, and then by telling him that anything he said at that point could not be used against him in court (an untrue statement), that his constitutional (i.e., "*due process*?") rights were violated. This attempt to gather impeachment evidence, according to the defendant, prevented him from testifying. Therefore, his conviction should be reversed. The Supreme Court disagreed. Simply ignoring an attempt to invoke one's *Miranda* rights does not make any resulting statements he might make "involuntary." Therefore, anything he might say after his *Miranda* invocation, while not available to the prosecution in its case-in-chief, may be used for purposes of impeachment should defendant testify and lie. And while telling him that anything he might say after an invocation cannot be used against him, as a false, misleading statement, will cause any resulting statements to be suppressed for all purposes including impeachment, this assumes that defendant made some statements that otherwise might be available for impeachment purposes. There must be a "link" between an improper inducement offered by law enforcement and some resulting statements. In

this case, "defendant supplied very little information to his interrogators that could have been used for impeachment." To the contrary, defendant, "a man of mature years with an extensive criminal history, (who) throughout the interrogation (showed that he was) perfectly capable of 'calculat[ing] his self-interest in choosing whether to disclose or withhold information,'" did little else other than invoke his rights despite the detective's repeated attempts to get him to talk. Thus, with nothing of any evidentiary value to "link" to the detective's improper inducement, defendant has no grounds to argue that his conviction should be reversed.

Note: That having been said, the California Supreme Court made some interesting comments about the detectives' plan to intentionally ignore defendant's attempt to invoke his *Miranda* rights:

> "Our conclusion that the officers' repeated refusal to honor defendant's invocation of his *Miranda* rights did not induce an involuntary statement should not be construed as condoning the officers' tactics. The [U.S.] Supreme Court has made clear that '*Miranda* is a constitutional decision' [Citation.] and articulates 'a constitutional rule' [Citation.], notwithstanding exceptions to the rule like the one at issue here. [Citations.] Thus, the deliberate, intentional and repeated violation of that rule may violate a defendant's constitutional rights. At a minimum, '[a]s we have emphasized on more than one occasion, [such] misconduct . . . is "unethical" and must be "strongly disapproved." [Citation.]' [Citation.] This type of police misconduct is not only nonproductive, as this case demonstrates, but can be counterproductive because in the appropriate case it would compel us to reverse a conviction. [Citation.] Surely, the possibility of reversal must outweigh whatever advantage police interrogators hope to gain by systematically ignoring a defendant's invocation of his or her *Miranda* rights. Moreover, respect for the rule of law is not advanced when the guardians of the law elect to deliberately violate it." (pg. 817.)

I know that there are smarter people than me on this planet who adamantly disagree when I advise law enforcement *not* to purposely violate the rules of *Miranda*. Their opinions on this issue are based upon good U.S. Supreme Court authority to the effect that a simple *Miranda* violation does not, by itself, constitute a violation of either the Fifth Amendment self incrimination protections, nor the "due process" clauses of either the Fifth or Fourteenth Amendments. (See *Chavez v. Martinez* (2003) 538 U.S. 760; and *United States v. Patane* (2004) 542 U.S. 630.) However, just because we are not running afoul of the Constitution does not necessarily mean that it is the professional, ethical thing to do. So long as we are California law enforcement officers and prosecutors, I am of the *strong* opinion that we *must* do our best to comply with the dictates of the California Supreme Court, at least until the United States Supreme Court specifically rules that such an interrogation tactic is ethical and professional. Until then, based upon periodic warnings from the California Supreme Court (see *People v. Peevy* (1998) 17 Cal.4th 1184; *People v. Neal* (2003) 31 Cal.4th 63; and now *People v. Jablonski*, *supra*.) we

are destined someday to have a new and broader Exclusionary Rule dumped in our collective laps, and with which we will then be forced to deal.

***Search of a Residence*; *The "Emergency Aid" Doctrine*:**

United States v. Russell **(9th Cir. Jan. 30, 2006) 436 F.3rd 1086**

Rule: With a reasonable basis "approximating probable cause" for believing that a gunshot victim, or a shooting suspect, might be within a residence, officers were justified in making a warrantless entry to look for such a victim or suspect.

Facts: The Sacramento Sheriff's Office received a 9-1-1 emergency call from a man who identified himself as Gregory Hines (although later determined to be defendant), and who indicated that "a gun went off" and that he had been shot in the foot. He asked the Sheriff's emergency operator to call an ambulance. Without ascertaining whether the subject had shot himself, or someone else had shot him, the call was "disconnected." A Fire Department's ambulance and Sheriff's deputies were dispatched to the scene with information on their vehicle's "Mobile Data Terminal" indicating that a "male stated gun went off and he shot [sic] in foot." While officers were en route, defendant called back a second time and talked to a different operator. This time he correctly identified himself (thus giving a different name than given in the first call) and said that he had accidentally dropped his gun and shot himself in the foot. When asked where the gun was now, he indicated that he did not know; that he had left the gun upstairs somewhere. While talking to the dispatcher, defendant mentioned that his girlfriend was going to kill him when she found out. Although he said that his girlfriend was not there at that time, the operator can hear what sounded like two female voices in the background asking about the gun and whether he intended to give it to the police. When asked again whether someone else was there with him, defendant did not answer. The responding deputies were under the impression based upon the conflicting information that defendant was either home alone, or that he was one of two males (i.e., Gregory Hinds or Willie Russell) in the house. Then, upon arrival, two females were observed helping defendant out of the house. Defendant became uncooperative with the deputies, declining to identify himself or tell them what had happened. So while one deputy assisted the paramedics with defendant, two other deputies, with guns drawn, did a sweep of the house to check for other victims and/or possible suspects. Defendant did not object when the officers entered his home. No one else was found in the house, but the gun was located in plain sight on defendant's upstairs bedroom floor. Defendant, having a felony record (surprise!), was later charged in federal court with being a felon in possession of a firearm. After his motion to suppress the gun was denied by the trial judge, defendant pled guilty and appealed.

Held: The Ninth Circuit Court of Appeal, in a split two-to-one decision, affirmed. Under the circumstances, the Court determined that the so-called "*emergency aid*" doctrine (a subcategory of law enforcement's "*community caretaking function*") applied, justifying an exception to the Fourth Amendment's search warrant requirement. The "*emergency aid doctrine*" requires a finding of three circumstances to be applicable: (1)

The police must have "*reasonable grounds*" to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; *and* (2) the search must *not* be primarily motivated by an intent to arrest and seize evidence; *and* (3) there must be some reasonable basis, "*approximating probable cause*," to associate the emergency with the area or place to be searched. In this case, as the deputies were arriving at the scene, the information was that there were either one or two men in the house and/or that defendant was either alone or in the company of two females. It was unclear whether either he or another man had been the victim of an assault, or whether he had simply shot himself. "Given the substantial confusion and conflicting information, the police were justified in searching the house in order to determine whether there were other injured persons, as their information indicated was the case." The other possibility was that someone else, who might still be in the house, had shot defendant. The Court further rejected defendant's argument that the officers should have first sought and obtained "independent verification or other information relating to the emergency before entering the house," saying that such an additional requirement would "dramatically slow emergency response time . . ." With every reason to believe that an emergency was "*at hand*," and knowing where the emergency situation, if any, was occurring, the officers had the right to enter defendant's residence to ascertain whether any more victims required their assistance, or whether there were any "lurking predators (therein) who might harm or harass emergency personnel." The warrantless entry of defendant's residence, during which the gun was observed in plain sight, was therefore lawful.

Note: The dissent argues that the officers knew enough to reasonably ascertain what had happened, and that they should have been able to figure out that there was no emergency requiring their immediate entry into the house. While its easy for me to point out how naive such a conclusion is—the dissenting justice obviously having no idea how impossible it is for a police officer responding to a potentially dangerous, rapidly evolving, fluid situation, with changing, conflicting information, to immediately put together all the pieces to the puzzle and correctly differentiate between a deadly and a non-deadly situation—but you all know that. The real value in the dissenting opinion is how it illustrates the lack of any appellate (not to mention trial) court consensus on what is, and what is not, an emergency situation. The cases, both state and federal, discussing the "*emergency aid*" doctrine, the "*community caretaking function*," and warrantless entries into a residence, are all over the place. Yet first responders are supposed to understand all this and make a correct call in every case, or suffer the suppression of evidence; an unrealistic expectation.

***Miranda*; *The "Two-Step" Interrogation*:**

United States v. Williams **(9th Cir. Jan. 30, 2006) 435 F.3rd 1148**

Rule: The confession-admonition-confession, two-step interrogation tactic, if done intentionally, and when it results in a suspect being left unaware of the legal implications of a *Miranda* wavier, will result in suppression of both confessions.

Facts: Defendant submitted a passport application to the United States Passport Office in Los Angeles, showing his own personal identification information but bearing the photograph of another; Hussein Iddrissu. The inconsistencies were detected by a "fraud manager" and the United States Diplomatic Security Service (DSS) was called. Four days later, when Iddrissu came to pick up the passport, he was met by two DDS special agents. They had him call defendant who came to the office later that day. Defendant was placed in an interrogation room under circumstances the trial court later ruled (and no one contested) to constitute "custody." Without a *Miranda* admonishment, defendant was asked to explain how Iddrissu's photograph got attached to an application with his (defendant's) personal identification information. Defendant eventually admitted to intentionally trying to help his friend get a passport. Immediately after this oral confession, defendant, for the first time, was advised of his *Miranda* rights. Defendant waived his rights and provided a written confession. Charged in federal court with submitting a fraudulent passport application, defendant's motion to suppress his pre-admonishment confession was granted. However, the trial court denied his motion to suppress his written confession, finding that this statement was admissible because (per *Oregon v. Elstad* (1985) 470 U.S. 298.) his pre-admonishment confession and his subsequent wavier did not involve any coercion. Defendant appealed from his conviction.

Held: The Ninth Circuit Court of Appeal reversed, remanding the case back to the trial court for reconsideration in light of the Supreme Court's decision in *Missouri v. Seibert* (2004) 542 U.S. 600. The trial court had relied upon *Oregon v. Elstad* to find that defendant's eventual *Miranda* waiver, and thus his written admission as well, was lawful. In *Elstad*, some 21 years ago, it was held that a pre-admonishment admission or confession, when that statement was not otherwise involuntarily obtained (i.e., not "*coerced*"), will *not* result in the suppression of a later, post *Miranda* wavier and confession. In *Elstad*, however the investigator asked no more than two questions ("Do you know why we're here? and "Do you know (the victim)?), and made one comment (telling the suspect that he [the detective] thought that he [Elstad] was involved), prompting Elstad's response; "*Yes, I was there*." This led to a later *Miranda* admonishment, waiver, and confession, all occurring after Elstad had been transported to the police station. The rule of *Elstad* since then has been interpreted as follow: Absent deliberately coercive or improper police tactics, an unadmonished questioning will *not* poison a post-*Miranda* waiver and confession. However, the Supreme Court recently, in *Missouri v. Seibert*, condemned this so-called "two-step," "two-stage," or "interrogation first," tactic. When done intentionally, a full interrogation that results in incriminating statements (as opposed to a limited admission), all accomplished before administering a *Miranda* advisal, creates a presumption that, when the suspect finally does waive his rights, he really does not understand what he is giving up. The Supreme Court in *Seibert* noted that this practice, in effect, made the *Miranda* warnings and wavier ineffective, "depriv(ing) (the suspect) of knowledge essential to his ability to understand the nature of his rights and the consequences of abandoning them." However, the Ninth Circuit interprets *Seibert* to require that such an interrogation tactic, to warrant suppression, must be intentional. Whether or not a *Miranda* warning is intentionally delayed is a question for the trial judge, evaluating the objective circumstances and any available subjective

evidence. Objective circumstances would include such things as the timing, setting, and completeness of the pre-warning interrogation, whether the same officers are involved in both interrogations, and the overlapping content of the pre- and post-warning statements. Subjective evidence is likely to come from the officer's own testimony (i.e., "I was trained to do it that way.") If not done intentionally, then the *Elstad* rule of presumptive admissibility of the later confession applies. But if the court finds that the *Miranda* advisal was intentionally delayed, then it must be determined whether delaying the admonition until after the suspect incriminates himself caused the suspect to not fully understand the legal implications of a wavier. The issue is then whether the suspect was "adequately and effectively appraised . . . that he had a 'genuine choice whether (or not) to follow up on [his] earlier admission," i.e., did he really understand what he was giving up by waiving? Determining this issue will again require an evaluation of the same objective factors listed above, with the addition of two more; i.e., the extent to which the interrogator's questions treated the second round of interrogation as continuous with the first, and whether any "*curative measures*" were taken. A "*curative measure*" would be something such as simply telling the suspect, as a part of the *Miranda* advisal, that his first statement might not be admissible in evidence. If, under the circumstances, the suspect reasonably understood the legal implications when deciding to waive or invoke (e.g., that invoking might have some benefit due to the inadmissibility of his first, un-*Mirandized* statement), then his second confession, after a wavier, will be admissible. Because *Seibert* was not decided until after the trial court made its ruling in this case, the Ninth Circuit remanded the case for an analysis by the trial court of these issues.

Note: Leave it to the Ninth Circuit to make the rules as confusing and convoluted as possible. But we can't say now that we haven't been forewarned. And we can't say that the rules have not now been *painstakingly* established even though it may take a couple of readings to really understand what they're talking about. But if you get nothing else out of this case, just know that any time you attempt to play pre-admonishment mind games with a criminal suspect, done for the purpose of increasing the likelihood of an eventual *Miranda* wavier, you have created an *Elstad*/*Seibert* issue that we may very well lose. You cannot lawfully manipulate a suspect into waiving his rights and still call it a "free and voluntary" wavier. It's as simple as that.

***Smuggling Controlled Substances into a Prison* (*or Jail*):**

People v. Lee **(Feb. 7, 2006) 136 Cal.App.4th 522**

Rule: P.C. § 4573.9, smuggling drugs into a prison (or jail) by someone not himself an inmate, may be charged against an inmate as a conspiracy.

Facts: Defendant, an inmate in the "Substance Abuse Treatment Facility" (SATF) at Corcoran State Prison, was overheard in a monitored telephone conversation with another inmate talking about a plan to have his wife, Felicia Rush, smuggle drugs into the prison during a scheduled visit. A search warrant to search Rush was obtained and executed when she showed up for her visit. Marijuana, cocaine and cocaine base were recovered from her bra as a result. She eventually admitted to bringing drugs, tobacco and money

into defendant on a regular basis at defendant's behest, in a plan that involved a prison employee of the counseling program. (The employee, when later arrested, denied his involvement.) According to Rush, defendant had threatened her to gain her cooperation, and instructed her on what to bring in, how to package it, and how to get it to him during their visits. Defendant was charged and tried in state court on a count of conspiracy to furnish a controlled substance to a prison inmate, per P.C. §§ 182(a)(1) and 4573.9. After being convicted by jury trial, defendant appealed, arguing that because P.C. § 4573.9 is limited by its terms to a person "*other than a person held in custody*," he, as a prison inmate, cannot be charged with the conspiracy to commit such an offense.

Held: The Fifth District Court of Appeal affirmed. P.C. § 4573.9 subjects "any person, *other than a person held in custody*, who sells, furnishes, administers, or gives away, or offers to sell, furnish, administer, or give away to any person held in custody . . . any controlled substance . . ." listed in H&S §§ 11000 et seq. (which includes marijuana, cocaine and cocaine base) to felony (2, 4 or 6 years) punishment. (Italics added) Because defendant was "*a person held in custody*," he could not be charged with a violation of P.C. § 4573.9. But the law recognizes that a conspiracy to commit a crime, pursuant to P.C. § 182, is a separate crime, distinct from the intended target offense. "(W)rongful conduct . . . (in the form of a conspiracy) should be criminally punished even when the same acts would be excused or receive a lesser punishment when performed by an individual; group criminal conduct calls for enhanced punishment, and society has a justifiable right and obligation to intervene at an earlier stage. [Citation.]" Although there are exceptions to this rule (See Note, below), a conspiracy to commit the crime of smuggling drugs into a prison is not one of them. Section 4573.9, as the only section among the related offenses that deals with, and makes more serious, the liability of a non-inmate (see P.C. §§ 4573 et seq.), does not reflect a legislative intent to give a pass to an inmate who conspires with non-mates to smuggle drugs into a prison. "(N)othing in the legislative history of section 4573.9 or in the overall statutory scheme suggests the Legislature intended to exempt from (the) increased penalty (of this section) those inmates who actively join with non-inmates in a criminal conspiracy to introduce controlled substances into prison." Defendant, therefore, was properly charged with, and convicted of, conspiracy to commit the offense as described in section 4573.9.

Note: Although this is a prison case, the statute includes within its terms the smuggling of drugs into a city or county jail, as well as associated camps, farms, etc. An exception to the rule of this case, for which a conspiracy cannot be charged even though two people are involved, includes any criminal offense that cannot be physically committed without the participation of at least two people. Known as the "Wharton's Rule," some examples include adultery, incest, bigamy, gaming, dueling, abortion, and pimping and pandering (as these two offenses relate to the acts of the prostitute). Also, a conspiracy may not be charged against a person for whom a statute reflects a legislative policy that the conduct of one of the parties shall go unpunished. For instance, a minor female cannot be charged under a conspiracy theory with the burglary of a residence for having entered the residence with the intent to participate in her own statutory rape. But otherwise, conspiracies remain a great tool for prosecutors to use in circumstances where the culprit might otherwise escape a just punishment.