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THIS EDITION'S WORDS OF WISDOM:

"In wine there is wisdom, in beer there is freedom, in water there is bacteria."
(Benjamin Franklin)

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CASE LAW:

Search Warrants: The “Emergency” Exception:

Search Warrants: The “Exigency” Exception:

Citizen’s Arrest Without Probable Cause; the Officer’s Civil Liability:

Arrests: Excessive Force and the Use of Firearms:

Hopkins v. Bonvicino (9th Cir. July 16, 2009) 573 F.3rd 752

Rule: (1) A warrantless entry into a home under the “*emergency*” exception requires that the officer has “‘*reasonable grounds*’ to believe an emergency is at hand and that the occupant is in need of immediate attention. (2) A warrantless entry into a home under the “*exigency*” exception requires that the officers have probable cause to believe the occupant has committed a felony and an exigency exists. (3) Allowing a citizen to make a citizen’s arrest for an offense for which there is insufficient probable cause subjects the officer to potential federal civil liability. (4) Arresting a non-dangerous, non-resisting suspect at gunpoint constitutes unreasonable force.

Facts: Bruce Hopkins, plaintiff in this federal civil suit, finished his shift at work and went to the local American Legion Hall in San Carlos to *tip a few*. He then attempted to drive home. On the way, however, he was involved in a minor traffic accident, bumping fenders with Ms. Waheeda Talib. According to Plaintiff in later depositions, “the two agreed that there was no damage,” so he continued on home. According to police reports, however, Ms. Talib claimed that Plaintiff denied responsibility for the incident and simply drove away. Ms. Talib followed Plaintiff to his home where she confronted him again and accused him of being under the influence of alcohol. She later reported to police that she could smell the odor of alcohol on his breath, that he seemed to be impaired, and that he had difficulty walking. Ms. Talib called police on her cell phone. Plaintiff figured she was either calling the police or her husband who might then come and “beat (him) up.” So he quickly entered his house and did what every innocent person does in such a situation; went to bed and turned on the television. San Carlos Police Officers Bonvicino, Nguyen, and Buelow, defendants in this civil suit, arrived in response to Ms. Talib’s call. After talking to Ms. Talib, Officer Bonvicino went to the front door, knocked loudly, and announced his presence, but got no response. As Officer Nguyen continued to talk to Ms. Talib and took pictures of the cars, Officers Bonvicino and Buelow decided to go to the side of the house in an attempt to get plaintiff’s attention. At the side of the house, they found a locked screen door. Again receiving no response, the Officers reportedly decided that it was possible that Plaintiff was on the brink of a diabetic coma. They’d apparently been trained that laypersons sometimes misinterpret the typically diabetic fruity smell on a person’s breath as being under the influence of alcohol. The officers therefore forced entry for the stated purpose of checking on Plaintiff’s welfare. With their “flashlights shining” and their guns drawn, the officers checked the house, eventually finding Plaintiff on the floor of his bedroom in the basement. Plaintiff later testified that he was so terrified when the officers entered his room, not having heard them knocking, that he “fell off the bed.” Officer Bonvicino handcuffed Plaintiff as Officer Buelow continued to point his firearm at him. Plaintiff

was brought outside for Ms. Talib to identify and make a citizen's arrest for hit and run. Charged in state court with misdemeanor hit and run and driving while under the influence (no blood alcohol level was ever indicated in the decision), the trial court granted Plaintiff's motion to suppress. The trial court held that the entry into the house violated the Fourth Amendment. The state criminal case was thereafter dismissed. Plaintiff subsequently filed this 42 U.S.C. § 1983 civil rights lawsuit in federal court, alleging that the officers had (1) made an unlawful entry into his house, (2) arrested him without probable cause, and (3) used excessive force. The officers filed a motion for summary judgment (i.e., dismissal before without a trial) which (except for the allegation that Officer Nguyen had used excessive force) was denied. The officers appealed.

Held: The Ninth Circuit Court of Appeal affirmed (except for finding that Officer Nguyen was entitled to "qualified immunity" on *all* the allegations and that all the officers were entitled to qualified immunity on the issue of allowing Ms. Talib to make a citizen's arrest for hit and run). On the issue of the officers' entry into plaintiff's home, the Court discussed two exceptions to the search warrant requirement; i.e., the "*emergency*" exception and the "*exigency*" exception. (1) The *emergency exception* stems from the police officers' "*community caretaking function*," and applies when they are responding to "emergency situations" that threaten life or limb." To be lawful, the officers must have "*reasonable grounds*" to believe that an emergency is at hand and that his immediate attention is required." In this case, the officers argued that they believed Plaintiff might have been injured in the traffic accident. An alternative theory was that Plaintiff, with an odor on his breath that Ms. Talib may have mistaken as that of an alcoholic beverage, might really have been an indication that Plaintiff was about to lapse into a diabetic coma. The Court rejected both arguments noting that, with no discernable damage to the cars, there was no indication that Plaintiff had been injured. Also, it was only speculation that Plaintiff had anything other than alcohol on his breath. If a citizen's report that there was someone in a home with the odor of alcohol on his breath was sufficient by itself to establish reasonable grounds to believe that the person might, instead, be on the brink of a diabetic coma, then officers could make warrantless entries almost at will. Therefore, the entry into Plaintiff's house was not supported by the necessary "*reasonable grounds*" to believe that there was anything physically wrong with him. (2) The Court also rejected the officers' arguments that the *exigency exception* applied. For this exception to apply, the Government must prove that the officer's had "probable cause" and that exigent circumstances justified the lack of a search warrant. "Exigent circumstances" may include the threatened destruction of evidence. The Government's argument here was that the officers had probable cause to believe that Plaintiff had violated California's V.C. § 23152; driving while under the influence, and that an immediate entry was necessary in order to obtain evidence of Plaintiff's blood alcohol level. (The Government waived any argument that there was probable cause to arrest Plaintiff for hit and run, apparently due to the lack of any damage to the car.) In this case, the alleged probable cause was based solely on what Ms. Talib had told them. But it is a rule of the Ninth Circuit that; "In establishing probable cause, officers may not solely rely on the claim of a citizen witness that [s]he was a victim of a crime, but must independently investigate the basis of the witness's knowledge or interview other witnesses." There was no evidence that any of the officers did anything to corroborate

what Ms. Talib had told them concerning Plaintiff's alleged intoxication. The officers, therefore, did not have probable cause to arrest him. But even if Ms. Talib's information was enough to establish probable cause, the Court found that the circumstances were insufficient to justify an exigency. Disagreeing with the California Supreme Court's decision in *People v. Thompson* (2006) 38 Cal.4th 811, the Ninth Circuit ruled that a warrantless entry into a residence in a misdemeanor case "will seldom, if ever, justify a warrantless entry into the home." One's privacy rights in his own home outweigh law enforcement's right to arrest misdemeanants "in all but the 'rarest' cases," even if it means losing evidence of the suspect's blood/alcohol level. The officers, therefore, shouldn't have entered into Plaintiff's home. Having entered Plaintiff's home illegally, the Court found that the warrantless arrest in his home was also illegal. (3) The Court further ruled (as noted above) that there was no probable cause to justify an arrest for hit and run, there being no damage to either of the vehicles. After the officers in this case arrested Plaintiff in his bedroom and brought him outside, they allowed Ms. Talib to make a citizen's arrest for hit and run (V.C. § 20002). Because there was insufficient probable cause allowing for such an arrest, the officers themselves are civilly liable in federal court for taking Plaintiff into custody for this offense as well. The fact that the officers are immune from liability in state court in this situation (See P.C. § 847) is irrelevant to their potential civil liability in federal court. However, this rule is not "well established." As such, the officers are entitled to qualified immunity on this allegation. (4) Lastly, Plaintiff argued that Officers Bonvicino and Buelow used excessive force in arresting him. The Court agreed. Under these circumstances, and as admitted by Officer Bonvicino in his deposition, Plaintiff did not constitute a danger to officer safety, at least at the point in time when he was found on the floor of his bedroom and handcuffed. Despite the lack of danger, Officer Buelow continued to point his gun at him throughout this procedure. Pointing a gun at an unarmed, unresisting suspect under these circumstances constitutes excessive force.

Note: This decision differs from California law on at least two important issues. First, in California, a report of a crime from a private citizen who is a witness to, or victim of, a crime, is generally (absent some reason to disbelieve him) considered sufficiently reliable to constitute probable cause all by itself. (See *People v. Ramey* (1976) 16 Cal.3rd 263, at p. 269.) But perhaps more importantly to most police officers (based upon the questions I've so far received) is whether you can make a warrantless entry into a DUI suspect's home for the purpose of arresting him and preserving the blood/alcohol evidence. The California Supreme Court, as noted above, specifically held that you can (*People v. Thompson, supra.*). The Ninth Circuit here specifically disagreed with *Thompson*. *So who do you believe?* The rule is that if you are a state law enforcement officer, you may follow *Thompson* and ignore the Ninth Circuit's opinion. (Not so for federal officers, obviously.) But two caveats: First, you should note that even the California Supreme Court in *Thompson* recognized that it is an issue of balancing law enforcement's right (or duty) to solve crime with a private citizen's right to privacy in his own home. The results of this balancing act may differ depending on the circumstances. The California Supremes specifically noted in *Thompson* that "we . . . do not hold that the police may enter a home without a warrant to effect an arrest of a DUI suspect in *every* case." (Pg. 827; italics in original.) Unfortunately, the Court gave us no hint at what type of

circumstances we need to look for in making this decision; i.e.: “*Do I go in or not?*” Secondly, while we may very well win this issue in state court, you are still subject to potential civil liability in federal court, as illustrated so forcefully by this case. So it’s your choice: “*You pay your money and take your chances.*”

Fourth Wavier Searches and Detention of Third Parties:

***Sanchez v. Canales* (9th Cir. July 30, 2009) 574 F.3rd 1169**

Rule: Third party occupants of a home searched under the conditions of a parolee’s or probationer’s Fourth wavier may lawfully be detained during the search.

Facts: Due to an increase in robberies, Los Angeles Police Department’s “Career Criminal Detail” (“CCD”) began conducting probation compliance checks, concentrating on probationers and parolees who had a history of committing robberies. One of the individuals on their target list was Oscar Sanchez. Although the officers had checked county jail records to avoid suspects who were incarcerated, they didn’t have access to prison records. So they didn’t know that Oscar was in prison at the time. CCD officers therefore hit Oscar’s home at about 6:00 a.m. on December 5, 2003, banging on the door and demanding that the occupants open up. Oscar’s parents, his grandmother, his sister, and a four-year old nephew were all home at the time. Oscar’s sister began to open the door, but slammed it shut when she saw the officers outside. When the officers threatened to break it down, she opened it and let them in. Despite being told that Oscar was in prison, the officers insisted that everyone (except grandma, who was suffering from cancer) move outside into the yard and wait in the cold while the house was searched. The family did as they were told for 10 to 45 minutes before being allowed back into the house. Upon being shown proof that Oscar was still in prison, the officers eventually left. The family members sued the officers in federal court alleging various civil rights violations including unlawful entry and search, using excessive force, and unlawful detention. The trial court granted the officers’ motion for summary judgment (dismissal prior to trial) on all the allegations except for the alleged unlawful detention. The trial court declined to grant the officers’ summary judgment motion as to the unlawful detention because, in the court’s opinion, case law did not allow for the detention of third parties during the execution of a “Fourth waiver” search. The officers appealed.

Held: The Ninth Circuit Court of Appeal reversed and remanded the case back to the trial court with instructions to grant the officers’ summary judgment motion on the sole remaining allegation of unlawful detention, thus dismissing the entire lawsuit. The Court first assumed for the sake of argument that the officers had probable cause to believe that Oscar was home at the time and that the Plaintiffs here (Oscar’s family) were in fact detained; two issues that were not contested on appeal. Getting over these issues, the Ninth Circuit ruled that the officers could lawfully detain third party occupants of a house when executing an otherwise lawful Fourth waiver search. In *Muehler v. Mena* (2005) 544 U.S. 93, the U.S. Supreme Court ruled that officers executing a search warrant in a residence could lawfully detain its occupants, whether or not they might be considered

dangerous. The justifications for allowing such a detention include; (1) the need to prevent flight in the event incriminating evidence is found, (2) minimizing the risk of harm to the officers, and (3) facilitating the orderly completion of the search while avoiding the use of force. Although *Muehler* was a search warrant case, the same justifications apply when searching a residence under authority of a Fourth waiver. In *Muehler*, it was held that probable cause and a search warrant was some evidence of the likelihood of finding contraband in one's home. Similarly, in a Fourth waiver search, the fact that a parolee or probationer is required to waive his rights against warrantless searches and seizures is an indication that the police are dealing with someone who is more likely than an ordinary citizen to commit future crimes. In either case, there's justification for temporarily imposing on the rights of third-party occupants of a suspect's home. So for the same reasons that allow third parties to be detained during the execution of a search warrant, detentions during a Fourth waiver search are also lawful.

Note: This has been the rule in California for some time (see *People v. Matelski* (2000) 82 Cal.App.4th 837.) as well as with the U.S. Supreme Court (*Muehler v. Mena, supra.*), but apparently one of first impression for the Ninth Circuit. The same rule applies to detaining occupants of a residence while serving an *arrest warrant*. (*People v. Hannah* (1997) 51 Cal.App.4th 1335.) Common sense dictates that you just can't let your suspect's friends and family wander around the house while you're trying to conduct a search. But it's always nice to have the Ninth Circuit on board via a published decision.

Fourth Waivers and Public Strip Searches:

***People v. Smith* (Apr. 9, 2009) 172 Cal.App.4th 1354**

Rule: A public strip search of a probationer or parolee may in fact be unreasonable. But lowering a parolee's pants and pulling back the elastic band of his underwear only to the extent necessary to see the crotch area, while shielding the suspect from public view, is neither a strip search nor unreasonable.

Facts: Officer Robert Greenberg and Corporal Brian Estudillo of the Vallejo Police Department were patrolling a high crime area known for its excessive drug activity at about 11:30 a.m. Driving up to a hotel, the officers noticed an individual attempting to open a ground floor window of the hotel. As the officers approached the person, Officer Greenberg noticed defendant sitting in the driver's seat of a vehicle that was parked directly in front of the same hotel room. As Corporal Estudillo contacted the man at the window, Officer Greenberg approached defendant, making contact with him as he got out of his car. After asking what he was doing at the hotel, Officer Greenberg also asked defendant whether he was on probation or parole and whether he could search him. Defendant responded that he was on parole and that yes, the officer could search him. After confirming via dispatch that defendant was in fact on parole, and that his prior conviction was for drug-related offenses, Officer Greenberg handcuffed defendant as was his usual practice when searching probationers and parolees. A patdown of defendant and a search of his car revealed nothing. Given the nature of the area and because of defendant's prior history with drugs, and his own feeling that defendant was hiding

something in his pants, Officer Greenberg told defendant that he was “gonna check his pants and see if he had anything in there.” At this point, defendant became uncooperative and had to be placed in a control hold. Walking defendant over to the crook of the open back door of the patrol car, with two other officers standing around him to protect his privacy, Officer Greenberg removed defendant’s belt, unzipped his pants, and pulled them down “a foot or so.” This all occurred at the back of the hotel parking lot, facing away from the street and towards a fence. Although the officer could not remember if anyone else was around at the time, he testified that “there aren’t that many people around most of the time.” After pulling defendant’s pants down, Officer Greenberg pulled the elastic waistband of his underwear “out away from his body,” providing the officer with a view of defendant’s crotch area. In so doing, the officer could see a bag the size of a baseball “sitting on top of his penis.” Retrieving the bag, it was found to contain smaller baggies of heroin, cocaine, and methamphetamine. Arrested for possession of these controlled substances, defendant was charged with six felony counts in state court. Defendant’s motion to suppress the evidence, arguing that the search of his underwear was an unreasonable public strip search, was denied by the trial court. Defendant pled guilty and appealed.

Held: The First District Court of Appeal (Div. 5) affirmed. A defendant may move to suppress evidence recovered as a result of a search or seizure that is deemed to be “unreasonable.” As a parolee, defendant did not dispute that he was subject to warrantless searches without probable cause or even a reasonable suspicion. (*Samson v. California* (2006) 547 U.S. 843; see also P.C. § 3067(a).) Defendant’s argument, however, was that a search of his underwear, as a strip search done in a public place, was unreasonable because it was arbitrary, capricious, and/or harassing. In determining whether Officer Greenberg’s search of defendant’s underwear was reasonable, the Court must balance the intrusion of the search upon the defendant’s privacy rights with the need for such an intrusion in order to promote legitimate government interests. This balancing test includes a consideration of the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place where it is done. Another factor to consider is that parolees, who remain in the legal custody of the Department of Corrections, and being subject to search and seizure without probable cause or a reasonable suspicion, have a “severely diminished” expectation of privacy. In this case, defendant did not question Officer Greenberg’s motives, but rather the manner in which the search was conducted. Although defendant cited some authority to the effect that a public strip search may in fact be constitutionally unreasonable, the Court here found that no such strip search occurred. Defendant was placed in a location where the likelihood that any member of the general public could see what was going on was minimal. His pants were removed, and his underwear was pulled back, only to that degree that was necessary to get a view of the crotch area. There was no evidence that Officer Greenberg physically touched defendant’s private areas. A full strip search was not conducted until after his arrest and removal to the privacy of a police station. As such, defendant’s privacy and dignity were respected to the degree that was possible under the circumstances. Such a search was not unreasonable. Defendant’s motion to suppress the evidence was properly denied by the trial court.

Note: While we don't need probable cause or even a reasonable suspicion to search parolees, or probationers who are subject to a Fourth waiver, we can still lose it by conducting such a search in a manner that that is "*arbitrary, capricious or harassing.*" A search may be arbitrary, capricious or harassing if conducted *too often*, at an *unreasonable time*, when it is *unreasonably prolonged*, or for any other reason establishing *arbitrary or oppressive conduct* by the searching officers. A Fourth wavier search may also be arbitrary or oppressive when the motivation for the search is *unrelated to a rehabilitative, reformatory or legitimate law enforcement purpose*, or when the search is *motivated by personal animosity* toward the parolee or probationer. Purposely exposing a Fourth wavier subject to the humiliation of a public strip search certainly falls into this category. While I'm not so sure I agree that this wasn't a strip search (getting right down to his private parts, for goodness sakes), the officers did take steps to protect his modesty (assuming defendant was worried about it). And, under the circumstances, it can be argued that it was necessary, although the only reason given for the search was the officer's "feeling" that he was hiding something. This case really could have gone either way. So don't get in the habit of pulling everyone's pants down absent something more than just a "feeling."

Warrantless Entries into Private Areas Based on a Perceived Emergency:

People v. Rogers (July 6, 2009) 46 Cal.4th 1136

Rule: With a missing victim, and sufficient suspicious circumstances causing an officer to reasonably believe that the victim may still be alive, a warrantless entry into a private area is lawful.

Facts: Defendant was tried for three murders, all three victims having been one-time acquaintances of his and each of whom disappeared under suspicious circumstances. Ron Stadt, defendant's long-time friend and former roommate, disappeared in June, 1993, after the two of them had a falling out over Stadt's ex-wife. His remains were never found. Rose Albano, who was pregnant with defendant's child but who refused to get an abortion, disappeared in December, 1993. Eleven days later, her partial remains were found in a trash bag in a rural mountainous area about a mile from defendant's sister's house. Beatrice Toronczak, who bore a son by defendant, the custody of whom the two of them shared, lived with defendant until she disappeared around February 18, 1996. Sixteen days later, on March 6, a friend of Toronczak's, Barbara Slimak, reported her missing to the San Diego Police Department. She reported that Toronczak's mother, living in Germany, complained to her that she hadn't heard from Toronczak for three or four weeks even though she normally had contact with her every week. Toronczak's mother told Slimak that she'd been told by defendant that Toronczak "just took off," and that he refused to report her missing. Toronczak's mother also told Slimak that defendant had threatened at one time to lock Toronczak in the basement, cellar, or storage area of his apartment. She insisted that Slimak tell police to check defendant's basement storage area. Detective Richard Carlson eventually received the case on the morning of March 11. When defendant was contacted via telephone, he told Carlson that Toronczak had been gone for about a week to a week and a half. Defendant then abruptly told Carlson

that he had to go, and hung up. Carlson thought defendant seemed short with him. Leaving his office, Detective Carlson went to defendant's apartment after following up on another case. Feeling uneasy about this case, Carlson called for some uniformed assistance. The officers got no response when they knocked on defendant's door. Talking to neighbors, they verified that Toronczak had been staying with defendant, but hadn't been seen for several weeks. Carlson found out from the neighbors that defendant, as the apartment manager, had control of the storage rooms under his apartment. At that point, defendant arrived home. Contacting defendant, he repeated his claim that Toronczak had left a week to a week and a half ago, although Carlson already knew that she'd been missing for almost three weeks. Carlson told defendant that he had information that he'd threatened to lock Toronczak in a storage room under his apartment and told him that he wanted to see if she was in fact being held there against her will. Without denying that he'd threatened her or that she was in one of the storage rooms, defendant told Carlson that he couldn't let him do that. During this discussion, Carlson could see the veins in the flat portion of defendant's neck begin to throb. After repeated requests for permission to look in the locked storage rooms, all of which were denied, and then checking with a supervisor, Detective Carlson told defendant to either open the storage rooms or give him the keys. Defendant again refused. Feeling very concerned about Toronczak's whereabouts, and feeling more and more convinced that she was possibly locked in the storage area and that he had to look for her, and after one more unsuccessful attempt to secure defendant's cooperation, Carlson directed the uniformed officers to break open the door to the first storage room. In that room, the officers found a black nylon rope that appeared to have been tied in a loop, as if to bind someone's wrists and ankles, and then cut with a sharp instrument. A unisex-type purse was found with defendant's business cards and some drugs in it. The dirt floor also looked as if it had been dug up at one time. When permission was again refused to open up the other two storage rooms, the officers forced open the second room. In this room they found a suitcase containing toiletries and with Toronczak's name on the tag. They then broke open the third storage room where they found a hammer, a saw, a butcher knife, and blood stains. Believing that they were viewing a crime scene, the homicide unit was called and a search warrant was obtained. Upon executing the search warrant, some of Toronczak's personal items were recovered along with a bucket containing what was later determined to be Toronczak's ten severed fingers, parts of her jaw and some teeth. The blood stains noted above, and others, were later determined to be of Toronczak's blood. Charged with three counts of murder, defendant's motion to suppress the evidence tying him to Toronczak's murder was denied. Defendant was convicted of two counts of first degree murder (Rose Albano and Beatrice Toronczak) and one count of second degree murder (Ron Stadt), along with the special circumstance of having committed multiple murders, and sentenced to death. Appeal to the California Supreme Court is automatic.

Held: The California Supreme Court unanimously affirmed. After describing the standard rules concerning the presumptive unreasonableness of warrantless entries into residences, the Court noted that there are exceptions. The exception applicable to this case is "when an emergency situation requires swift action to prevent imminent danger to life." Citing the United States Supreme Court decision of *Mincey v. Arizona* (1978) 437

U.S. 385, the Court noted that: “The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency.” “(I)f the facts available to the officer at the moment of the entry would cause a person of reasonable caution to believe that the action taken was appropriate,” the officer may lawfully make a warrantless entry into a residence or other private area. The Court then cited a number of prior cases, similar to the instant case, involving missing persons where “the totality of the particular circumstances known to the searching officer” reasonably indicated that the victim was in a residence. The lack of certain noises, smells, gunshots, or fire in this case (present in other cases) did not defeat the finding of an emergency. Also, the length of time between when Toronczak was first reported missing to when the entries at issue were made did not mean that it was no longer an emergency. It was also found to be irrelevant that Detective Carlson could have acted even quicker. The circumstances of this case, along with the lack of any evidence that Toronczak was in fact already dead, supported the trial court’s finding that Detective Carlson acted reasonably in determining that an emergency existed, allowing for an immediate warrantless entry into defendant’s storage rooms. Defendant’s motion to suppress was properly denied.

Note: This exception is often referred to as the “*emergency exception*” to the search warrant requirement. (See *Hopkins v. Bonvicino*, above.) Also, per *Hopkins*, the legal standard is that there must be “*reasonable grounds*” for believing that an emergency did in fact exist, whatever that means. The California Supreme Court, however, avoided using any labels or imposing any specific legal standard of proof except to say that “*the facts available to the officer at the moment of the entry would cause a person of reasonable caution to believe that the action taken was appropriate.*” I have to believe this is because the Court really wants you to just use your common sense. It is apparent that Detective Carlson didn’t go into this situation planning to do a warrantless search. But rather, as things developed, with Detective Carlson using his innate intelligence, common sense, and training and experience, he just instinctively knew that this whole situation stunk. If there is any chance that a life hangs in the balance (e.g., a missing victim under suspicious circumstances, but with little or nothing to indicate that it was too late to save her) and, using your common sense, it just doesn’t feel right to walk away from it, then my advice is to take a chance and go for it. When in doubt, call your supervisor or someone else with more experience, as Detective Carlson did. It’s always better, in my opinion, to act and be criticized for being wrong, than to have done nothing while someone is dying.