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Remember 9/11/01; Support Our Troops

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THIS EDITION'S WORDS OF WISDOM:

"*A woman knows all about her children. She knows about dentist appointments, soccer games, romances, best friends, location of friend's houses, favorite foods, secret fears and hopes and dreams. A man, on the other hand, is vaguely aware of some short people living in the house*." (Unknown author)

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***ADMINISTRATIVE NOTES*:**

Trespass*: *"I told you so:" I've gotten more feedback (not to mention "*flack*") on my blurb on "*P.C. § 602 Trespass Cases*" in *Legal Update*, Vol. 12, No. 8, pg. 2, discussing the inadequacies of California's trespass statutes, than on any other single issue I've written about in some time. Well, for whatever its worth, the Ninth Circuit Court of Appeal agrees with me. Just decided is the civil case of *Edgerly v. City and County of San Francisco* (9th Cir. July 17, 2007) 2007 DJDAR 10888, where it was held that loitering on the grounds in the gated area of a "housing cooperative," complete with "no trespassing" signs at the entrances, did not violate any of California's trespass statutes. Arresting, searching, and citing Erris Edgerly for trespass when caught "chilling" on the property accomplished nothing more than making a suspected dope dealer and gang member a little richer and San Francisco a little broker. The Court specifically discussed P.C. §§ 602(m), 647(h), 602.5 and 602.8(a), holding that neither these, nor any other California trespass statute, covers what Edgerly was doing. Moral to this story: There is a *BIG* difference between a *civil* (*Common Law*) *trespass* and a *criminal* (*statutory*) *trespass*. Don't make the mistake of confusing a property owner's right to civilly enjoin someone from going onto his property with your right to arrest the "trespasser," absent a specific statute the elements of which are all covered by whatever it is your arrestee is doing. There is no such thing as the offense of "P.C. § 602, Trespass." It has to be "P.C. § 602, '*subdivision something*'" (or some similar statute) to be a criminal trespass.

From Bell Gardens Police Department: "We told you so:" Back in December, 2006, I briefed the case of *People v. Rodriguez* (2006) 143 Cal.App.4th 1137, where the Second District Court of Appeal sent a traffic-stop case back to the trial court for a determination whether the arresting officers lied when they testified to stopping defendant's car for a defective brake light. (*Legal Update*, Vol. 11, No. 17, pg. 6.) The gist of the decision was that the existence of an arrest warrant for the driver of the car did not necessarily validate the discovery of dope in his pocket, found incident to his arrest on the warrant, when it is alleged that the officers had fabricated the cause for the initial stop. The matter was remanded to the trial court for a determination as to whether the officers lied, and if so, the "flagrancy of the officers' action in fabricating the cause for the stop." Well, that determination has now been made, per one of the involved Bell Gardens cops who called me to let me know what happened with that case. In the mandated evidentiary hearing on this matter, it was proved that a friend of the defendant had fixed the defective brake light immediately after defendant's arrest, and that it was the defendant and his acquaintances who had perjured themselves; not the officers. So while I thought I had made it clear in my brief on that case that it was not me who suspected the officers of lying ("*Anyone who's been in this business for any length of time knows that 99% of the time, it's the defendant and the defendant's lying buddies who are perjuring themselves.*"), if anyone got that inference from what I wrote, let it be forever known that, as is typically the case,

the two Bell Gardens Police Officers (who were not named in the decision) testified honestly and professionally.

***Necessity of a Search Warrant to Inspect the Contents of a Container*:** I have for some time been an advocate of the need for a search warrant to search the contents of any "high tech" electronic container, such as a cell phone, camera, PDA, computer or similar device. (See *Legal Update*, Vol. 10, No. 10, pg. 1; 8/12/05, or ask me for my updated blurb on this topic.) Getting such a warrant, I've always believed, was necessary even though the container had been seized under the authority of an already-obtained warrant, but where this first warrant failed to authorize a forensic examination of the seized device. However, in an obscure footnote to *People v. Superior Court* [*Nasmeh*], *infra*, at page 98, fn. 4 (briefed at page 8, below), a California District Court of Appeal suggests that such a second search warrant is not necessary. Citing a somewhat antiquated California case that is not really on point, and an out-of-state case (*State v. Petrone* (Wis. 1991) 161 Wis.2nd 530.) which *is* on point, the Court notes that when a container (e.g., a roll of film in *Petrone*) is seized under the authority of a search warrant, it is not necessary to obtain a second warrant to develop and inspect the contents of that roll even where the officer forgot to ask for that authority in the first warrant. The Wisconsin court reaches this conclusion by comparing this situation to the lack of a need for a search warrant to do a laboratory analysis on blood stains seized under a search warrant, or to use a magnifying glass to inspect lawfully seized documents, or to scientifically enlarge lawfully seized photographs. Based upon this reasoning, you can add to the exceptions to the search warrant requirement a search of the contents of a container, high tech or not, which itself was lawfully seized pursuant to a search warrant. It's still better to ask for that authorization in your warrant, but should you forget to do so, seizing a container pursuant to a search warrant should automatically allow you to get into the container to examine its contents without the necessity of a second warrant.

***Legal Update Format*:** Note that the format for the *Legal Update* is different, allowing you to click right to the topic by using the "Bookmarks." This was accomplished by converting the text from Word to Adobe. If this causes problems for anyone, please let me know. At this point, it is just an experiment.

CASE LAW:

***Search Warrant Execution and Officers' Safety*:**

Los Angeles County v. Rettele **(May 21, 2007) 550 U.S. ___ [127 S.Ct. 1989]**

Rule: With knowledge that a suspect may be armed, detention of the occupants of a residence at gunpoint during execution of a search warrant while the residence is checked for the suspects is reasonable, even though the detainees do not match the description of the suspects and even though the detainees are sans clothing.

Facts: Los Angeles Sheriff's Deputies obtained a search warrant for two residences as a part of an extensive fraud and identity theft investigation. There were four suspects being sought, all of whom were African-American, and three of whom were believed to be living in one of the two residences that was to be searched. One of the suspects had a 9-millimeter Glock handgun registered in his name. Unbeknownst to the deputies at the time, the suspects had moved out of the first house three months earlier. Plaintiff Max Rettele, his girlfriend, Judy Sadler, and her son, 17-year-old Chase Hall, all three of whom are Caucasian, moved into the house in the meantime. Deputies hit the house at 7:15 a.m. on December 19, 2001. Chase Hall answered the door and was ordered to the floor. The deputies, with guns drawn, then burst into Rettele and Sadler's bedroom. Rettele and Sadler were made to get out of the bed and stand, naked, with the deputies preventing them from covering themselves for one to two minutes while the room was checked for guns. Eventually, Sadler was allowed to put on a robe and Rettele to get dressed. After determining that the three persons were not the ones they were looking for, the deputies apologized, thanked them for not getting upset, and left. The whole process took less than 15 minutes. Rettele, Sadler and Chase, apparently more upset then the deputies realized, all sued in federal court alleging that their Fourth Amendment rights had been violated, the search warrant having been executed in an "*unreasonable manner*." The district trial court granted the civil defendants' (i.e., the deputies and the County) motion for summary judgment (i.e., dismissed it). The Ninth Circuit Court of Appeal reversed, ruling that a reasonable law enforcement officer would have stopped the search immediately upon recognizing that the plaintiffs were not of the same race as the suspects, and that Rettele and Sadler should not have been ordered from their bed and made to stand there naked. The County appealed to the United States Supreme Court.

Held: The United States Supreme Court reversed, reinstating the trial court's summary judgment in favor of the officers and the County. As to the Ninth Circuit's ruling that a reasonable deputy would have terminated the search immediately upon discovering that the occupants were of a different race than the suspects, the Court noted that: "We need not pause long in rejecting this unsound proposition." Detaining the occupants of a residence "represents only an incremental intrusion on personal liberty when the search of a home has been authorized by a search warrant." Detaining the occupants of a house being searched is a useful tool in that process, helping to (1) prevent flight, (2) minimize the risk of harm to the officers, and (3) facilitate the orderly completion of the search. Finding Caucasian persons in the house when you are looking for African-American suspects does not eliminate the possibility that the suspects are also living there. With information that at least one of the suspects may be armed, detaining the Caucasian occupants until the house can be safety secured is not unreasonable. Making Rettele and Sadler get out of bed and stand there uncovered, when suspects are known to sleep with their weapons, is also permissible "and perhaps necessary" to insure the deputies' safety. "The risk of harm to both the police and the occupants is minimized if the officers routinely exercise unquestioned command of the situation." In the absence of any evidence that Rettele and Sadler were required to stand there unclothed for any longer than necessary, the Fourth Amendment was not violated.

Note: Two justices held that the constitutional issue should not have been decided, in that the deputies were at the very least entitled to qualified immunity from civil suit whether or not they violated the Fourth Amendment. A third justice would have let the Ninth Circuit's opinion stand. So the above is the opinion of at least six of the nine Supreme Court justices. And what a great opinion it is. While certain justices of the Ninth Circuit Court of Appeal continually demonstrate their lack of appreciation of the dangers inherent in police work, the majority of the U.S. Supreme Court is just the opposite. The value in this case is the Supreme Court's recognition that an officer's safety outweighs the "frustration, embarrassment, and humiliation" that is sometimes a necessary by-product of the execution of a search warrant in a person's home. My advice to you is to do what these deputies apparently did and, without compromising your safety, minimize the embarrassment as much as practicable under the circumstances, and then *document, document, document*.

***Attempted Murder; A Direct, Ineffectual Act*:**

***People v. Superior Court* [*Decker*] (May 21, 2007) 41 Cal.4th 1**

Rule: "Slight acts" done in furtherance of a planned murder, where the defendant's "design" to commit the murder is clearly shown, constitute an attempt.

Facts: Looking for someone to kill his sister, defendant researched various sources including Soldier of Fortune magazine, finally determining that a local gunsmith, Russell Wafer, might be able to help. When offered the job, Wafer told defendant that he couldn't do it, but said that he had a friend, "John," from Detroit (since all contract killers seem to come from Detroit) who might be available. Wafer told defendant to call back in a week while he tried to locate John. Wafer instead called the Los Angeles County Sheriff's Department reporting defendant's plans to Detective Wayne Holston. When defendant called back as instructed, Wafer set up a meeting between him and Holston, who pretended to be John. Thinking he was talking to a professional hit man, defendant told Holston that he wanted his sister killed because she owed him a lot of money and that her demise was the only why he was going to get it. Defendant did not want to do it because it was his belief that he would be a prime suspect and he'd probably screw up something (*ya think*?). Also, defendant told Holston that if his sister's friend was with her, he'd have to kill her as well so that there wouldn't be any witnesses. Defendant supplied John with all the necessary information on his sister. They talked about how the murder or murders would go down with defendant urging Holston to "shoot her in the heart and head both, just to make sure." They worked out a deal whereby Holston would kill defendant's sister for a total of $35,000, $5,000 of which would be paid up front. The rest was to be paid when defendant got the money due to him upon his sister's death. They met again a few days later to deliver the down payment. At that time, Holston obtained assurances from defendant that he did in fact want his sister murdered, telling him that once he received the down payment and left this meeting, there was no turning back. Defendant assured Holston that he was "100 percent absolutely positive that he wanted the job done." Defendant gave John $5,000 in cash. Defendant was arrested shortly thereafter and charged with two counts of attempted murder along with a count of

solicitation of murder. The trial court dismissed the attempted murder counts, determining that the plan hadn't gone far enough to be a completed attempt. The People petitioned the appellate court asking to reinstate the attempted murder charges. The Second District Court of Appeal (Div 4) agreed with the People, finding that the attempted murder charges should not have been dismissed. (See *Legal Update*, Vol. 10, No. 3, pg. 1; 2/9/05.) The defendant appealed to the California Supreme Court.

Held: The California Supreme Court, in a 6-to-1 decision, affirmed. To be an "attempted" murder (per P.C. § 664), the People must prove (1) that the defendant had the specific intent to kill, and (2) the commission of a direct, but ineffectual act, beyond mere preparation, towards accomplishing the intended killing. The defendant's intent to kill his sister (and, if necessary, her friend) was not in dispute. The issue was where to draw the line between an act of "*mere preparation*" and a "*direct, but ineffectual*" act. An act of preparation "consists in devising or arranging the means or measures necessary for the commission of the offense." A direct, ineffectual act involves the "direct movement toward the commission after the preparations are made." Also, a direct, ineffectual act need not be the last act possible before the commission of the intended offense. "It is sufficient if it is the first or some subsequent act directed towards that end after the preparations are made." The Court also noted that "*slight acts* (italics added) in furtherance of the design will constitute an attempt;" also known as the "*slight-acts rule*." Under this rule, it is recognized that "(w)henever the design of a person to commit crime is clearly shown, slight acts in furtherance of the design will constitute an attempt." The "acts of preparation" in this case involved defendant conducting research into the underworld of professional killers, budgeting to pay for those services, evaluating how and where the murder should be done, testing the level of security around his sister's condominium, and planning for the possibility that there might be a witness and what to do about it if there was. At the other end of the spectrum was defendant's act of giving Holston a down payment while knowing that at that point, the plan to kill his sister and her friend had passed the point of no return. This final act clearly constituted an attempt.

Note: Great case on the issue of how close to the planned crime we have to get before we have a completed attempt, telling us that we cross that line a lot sooner than some of us might have expected. The Court spent a lot of time discussing a prior case (*People v. Adami* (1973) 36 Cal.App.3rd 452.) involving similar circumstances but where it was held that there was no attempt. The Supreme Court disapproved *Adami* "to the extent it is inconsistent with this opinion." So for prosecutors, should the defense cite *Adami*, you should know that that case is no longer good law. The Court *does not* analyze a theory sometimes argued by defense attorneys that there can be no attempt where the person solicited has no intention of committing the murder. It is noted in a footnote (pg. 9, fn. 1), however, that such a theory, had it been brought up, would have failed. "*Factual impossibility*" (as opposed to "*legal impossibility*") is not a defense to the charge of "attempt." Intervening circumstances (e.g., Holston being a cop working undercover), unbeknownst to the defendant, will not thwart a charge of attempt. (*People v. Camodeca* (1959) 52 Cal.2nd 142, 147.) Also what this case does *not* discuss for us is where exactly in the sequence of events did the "acts of mere preparation" blossom into "direct but ineffectual acts." Was soliciting the gunsmith, Wafer, an attempt? If not, did the first

meeting with Holston constitute an attempt? Were these not "slight acts" done in furtherance of the planned murders, clearly evidencing defendant's "design" to commit the murders? Or was it absolutely necessary for us to get all the way to when defendant gave Holston the down payment while reaffirming his intent? A definitive answer to these questions will have to await another case. Stay tuned.

***Vehicle Stops; Detention of Passengers*:**

People v. Vibanco **(Apr. 30, 2007) 151 Cal.App.4th 1**

Rule: When officers' safety is involved, a passenger in a vehicle stopped for a traffic infraction may be ordered to stay in the vehicle, at the officer's discretion.

Facts: San Jose Police Officers Brian Shab and Topui Fonua were on routine patrol in an unmarked patrol car, but in uniform, in a high crime area known for drug-related activity when they observed a Cadillac with a cracked windshield and no front license plate. Four people were in the car. The officers made a traffic stop using the patrol car's flashing lights. As Officer Shab approached the driver, and Officer Fonua was just getting out of the patrol car, defendant, the right-rear passenger, opened his door, got out of the car, and started to walk away. Both officers ordered defendant to get back into the car. As defendant hesitated (either trying to figure out what he was being told, or deciding what he was going to do), Officer Shab noticed the left rear passenger, "Mrs. Moreno," reach underneath her shirt into her waistband area. Shab told her to stop what she was doing and to show her hands. Recognizing that "too many things were going on," and that they were losing control of the situation, Officer Shab decided to order the car's occupants to get out and to sit on the curb between the Cadillac and the patrol car. As they did so, Officer Fonua asked defendant for identification. Defendant handed the officer a driver's license in the name of "Juan Paulo La Cuarto Gonzales." Noting that defendant didn't look like the picture on the driver's license, Officer Fonua asked defendant for his name and date of birth. Defendant could only remember the "Gonzales" part of the name and didn't know when he was born. (Isn't it neat that crooks are so stupid?) Deciding that defendant had falsely identified himself, Officer Fonua attempted to handcuff him, causing defendant to run. He was immediately subdued and handcuffed. It was subsequently determined that defendant had an outstanding $250,000 felony arrest warrant for fraud. (Moreno was also arrested on warrants, and the right front passenger, a parolee, was arrested for being under the influence of drugs.) Searching defendant incident to arrest, an altered American Express card was found in his pocket. A search of the car resulted in the recovery of a backpack in the trunk with some washed checks, blank checks, stolen mail, credit cards, and a letter written to defendant. Charged with a pile of fraud-related felonies, defendant filed a motion to suppress. The trial court granted his motion, ruling that defendant had been unlawfully detained when the officers would not let him walk away. The People appealed.

Held: The Sixth District Court of Appeal reversed, finding that the officers had a right, "under the circumstances of this case," to prevent defendant from walking away. The parties conceded that defendant, when told to get back into the car, had been detained.

Citing *People v. Gonzalez* (1992) 7 Cal.App.4th 381, defendant argued that absent a reasonable suspicion to believe that he was engaged in criminal activity, or at least exhibiting some sort of threatening behavior, such a detention is illegal. Since *Gonzalez* was decided in 1992, however, newer case law has taken into account the dangerousness of a traffic stop and how that danger increases when passengers, as opposed to just a driver, are involved. In *Maryland v. Wilson* (1997) 519 U.S. 408, for instance, the U.S. Supreme Court held that because "danger to an officer from a traffic stop is likely to be greater when there are passengers in addition to the driver in the stopped car," the officers can legally order the passengers to *get out* of the car if that is what they feel will help keep control of the situation and minimize the danger. The California Supreme Court agrees with this rule. (*People v. Saunders* (2006) 38 Cal.4th 1129, 1134.) Lower state and federal appellate court cases have extended *Wilson*'s reasoning to allow an officer, when necessary for the officer's safety, to order passengers to remain in the vehicle. (*People v. Castellon* (1999) 76 Cal.App.4th 1369; *United States v. Williams* (9th Cir. 2005) 419 F.3rd 1029.) The Court here, in recognizing that "(t)he possibility of a violent encounter is likely to be even greater still when one or more of the passengers in a stopped car attempts to leave while others stay in the car," ruled that "(*Maryland v.*) *Wilson* can therefore reasonably be interpreted to allow officers as a matter of course to order a passenger or passengers either to get out of the car or to remain in the car during a lawful traffic stop if the officers deem it necessary for officer safety." As a secondary issue, defendant also argued that his Fourth Amendment rights were violated when Officer Fonua asked him for identification. The Court rejected this argument out of hand, noting that the case law is quite clear that so long as asking for identification does not unnecessarily prolong a detention, the Fourth Amendment is not implicated.

Note: Even though the Court here said that an officer can order passengers to stay in a vehicle, or get out of the vehicle, for "officer's safety" purposes "*as a matter of course*," it also repeated several times that ordering Vibanco to stay in the car in this case was justified "under the circumstances." The Ninth Circuit, on the other hand, has made it pretty clear (see *United States v. Williams*, cited above) that you don't have to justify yourself on this issue. But until we get a state case that addresses this problem, I'd suggest you err on the side of caution and, whenever a traffic stop leads to a search and/or arrest, make it a habit to explain why you felt it was necessary to hold onto a passenger who has expressed a desire to walk away. Given the inherent dangerousness of just about any traffic stop, this shouldn't be too difficult to do.

Vehicle Searches; Scope of a Search Warrant and the "Automobile Exception:"

***People v. Superior Court* [Nasmeh] (May 23, 2007) 151 Cal.App.4th 85**

Rule: (1) A warrant that allows for the search of a vehicle also authorizes, even if not mentioned, the seizure of that vehicle and its later forensic examination for trace evidence. (2) With probable cause to believe a vehicle contains evidence of a crime, the vehicle may be seized and searched despite the lack of a search warrant. (3) A delayed search of the vehicle does not violate the Fourth Amendment.

Facts: Jeanine Harms disappeared over the weekend of July 28-29, 2001. A missing person report was filed by a friend after no one could find her all weekend and she failed to come to work on Monday morning. Her car was parked in her driveway throughout the weekend. Checking her residence on Monday, it was noticed that a number of items appeared to be missing including the seat cushions and pillows from her couch and a rug that had been on the floor in front of the couch. Defendant's fingerprint was found in Harms' car. When defendant was contacted, he admitted to having gone to Harms' house with her during an evening (apparently Friday) that weekend, following her there in his own vehicle. According to defendant, the two of them talked for awhile before going to a corner market to get some beer. They returned to her residence and talked for another hour. Per defendant, Harms then decided that she was sleepy but told defendant he could hang around until he felt sober enough to drive. She then fell asleep on the couch where defendant later left her. Defendant denied any sexual contact with Harms and denied any knowledge about any missing items. He claimed, however, that as he was leaving, he saw a suspicious man in the neighborhood. A neighbor reported to police that he had heard a loud bang, similar to a gunshot, during the early morning hours on Saturday. Being the last person to see Harms alive, and because his fingerprint was found in her vehicle, Officer Steve Wahl of the Los Gatos-Monte Sereno Police Department obtained a search warrant for defendant's home, his vehicle and his person, authorizing him to search for (among other things) the items missing from Harms' home. Pursuant to this warrant, various items of clothing were seized from defendant's house but a visual inspection of his vehicle failed to reveal the presence of any evidence. So the car was towed to the police crime laboratory for forensic processing. This processing, however, took some 10 days to initiate, partially because Wahl had misplaced the keys to the car, and another 2 days to finish. The car was not released for another 12 days. Certain (unspecified) forensic (i.e., "trace" or "biological") evidence was found in the trunk area of the car. Defendant was later charged with Jeanine Harms' murder. He filed a motion to suppress the trace evidence seized from his car. At the hearing, Officer Wahl testified that although the search warrant did not specifically state that he could search for trace evidence, or that he was authorized to seize the car and take it to a laboratory for that purpose, he believed that the law allowed for both. The Superior Court judge disagreed and granted defendant's motion to suppress the forensic evidence seized from the vehicle's trunk. Specifically, the judge ruled that by looking for trace evidence, the officer had exceeded the scope of the search as authorized by the search warrant. The trial court further ruled that the so-called "automobile exception" to the search warrant requirement could not be used to justify the search of the vehicle in that the car was held too long, making the warrantless seizure and search of the car unreasonable. The People filed a pre-trial writ challenging these conclusions.

Held: The Sixth District Court of Appeal reversed, ruling that with the trial court wrong on both issues, the evidence should not have been suppressed. As to the argument that the officer could not search for trace evidence, the Court ruled that with a warrant authorizing the search for the items missing from the victim's residence, searching for trace evidence that might have come from those items does not "offend the Fourth Amendment." Where the officer has a right, for instance, to be searching for the missing rug, he can lawfully look for fibers from that rug without the warrant having to

specifically say that. The warrant in this case (as is typical) commanded the affiant: "And if you find the same *or any part thereof*, to hold such property . . . ." (Italics added) "(*A*)*ny part thereof*" would include trace evidence. The Court further upheld the seizing and taking of defendant's vehicle to the laboratory for a more complete search. "If the police have probable cause to justify a warrantless seizure of an automobile on a public roadway, they may conduct either an immediate or a delayed search of the vehicle." A seized vehicle under these circumstances may be taken to a crime laboratory for whatever time is reasonably needed to undertake and complete the search. If this is permissible even without a warrant (see below), it may certainly be done with a warrant that authorizes a search, even if moving the car is not specifically mentioned in the warrant. Also, the Court found no constitutional violation merely because it took 10 days to begin, and another 2 days to complete, the search. Although P.C. § 1534 gives an officer 10 days to execute a warrant, there is no constitutional violation when officers go beyond that limitation by only a couple of days and there is no showing of bad faith. Absent a constitutional violation, the resulting evidence will not be suppressed. The Court also overruled the trial court on the issue of whether the "*automobile exception*" to the search warrant requirement applied. Having probable cause to believe that there might be seizeable evidence in the car, the U.S. Supreme Court has made it clear than an officer may lawfully seize and search the whole car, and any containers found therein, without a warrant. Also, that warrantless search can happen either there, when seized, or at some later date. So even if there were some legal deficiencies with the search warrant, a warrant wasn't even needed. As to the length of time the car was held by police, the court found that (1) given the complexity of the investigation, holding the car for some 24 days was not unreasonable, and (2) "the passage of time between the seizure and the search of [a] car is legally irrelevant." The trial court, therefore, should not have suppressed evidence based upon the time it took to search the car and release it back to defendant.

Note: Of course, abusing the scope of the search warrant would not have been an issue had the warrant affidavit been written a little better. Adding to your warrant the need to be looking for trace evidence, particularly in a homicide case with a missing victim, should be pretty standard. One of this Court's three justices voted to uphold the trial court's ruling on this issue, so not everyone is comfortable with an officer's failure to list stuff like trace evidence in the warrant. But as the majority of the Court noted: "The purpose of the exclusionary rule is . . . to deter illegal police conduct, not deficient police draftsmanship." So if this is the worst mistake Officer Wahl ever makes in his career, he will be doing better than most of us. This case also illustrates why I commonly suggest to police officers that they get a search warrant for a vehicle, at least in serious cases, even though the "automobile exception" might allow for a warrantless search. Aside from all the legal advantages a warrant gives us (e.g., presumption of lawfulness, defendant with the burden of proof, the ability to fall back on the officer's "good faith" when the probable cause comes up a little short, etc.), erring on the side of caution and getting a warrant gives the prosecutor two arguments to make, recognizing that the court only needs to accept one of them. A couple extra hours on the computer putting the warrant together will also save you a lot longer sitting in the courthouse hallway waiting to testify at the inevitable motion to suppress.