San Diego District Attorney

D.A. LIAISON LEGAL UPDATE

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Remember 9/11/01; Support our Troops

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THIS EDITION'S WORDS OF WISDOM:

"*I have wondered at times about what the Ten Commandments would have looked like if Moses had run them through the U.S. Congress*. (Ronald Reagan)

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(* Connotes a *hot-off-the-press*, important case)

ADMINISTRATIVE NOTES:

***DNA Arrest Warrants*:** The San Diego District Attorney's Office is starting a program for the issuance of John Doe arrest warrants, based upon the availability of an otherwise unidentified suspect's DNA. However, there is a science to this legal theory and is not necessarily available in all cases. Training on when it is

appropriate to seek such at warrant is expected to be forthcoming. In the mean time, questions on this can be directed to DDA Susan Martin, at 619-531-4272.

***Liaison DDA Availability*:** The San Diego District Attorney's Office is one of the few, if not only, prosecutor's office in this state that makes available three experienced deputy district attorneys (in addition to two telephonic search warrant deputies) on a 24-hour-a-day, 7-day-a-week basis, for questions related to search and seizure and other legal issues. This includes weekends, holidays, and even during vacations. It's much better to get answers to your legal questions as developments unfold as opposed to later the next day, after the damage is done. My cell number (858-395-0302) should be in your speed dial. If I don't answer right away, *leave a message*. It could be that I'm temporarily out of range, teaching a class, or riding my Harley. But I *will* call you back. It is rare for me to be completely out of range where my cell phone won't at least pick up the message. DDA's Marty Martins (619-529-4463; pager) and Tia Quick (619-529-5238; pager), are available as well. We are all fungible and non-territorial.

CASE LAW:

***DUI Arrests and Warrantless Residential Entries*:**

People v. Thompson **(Jun. 1, 2006) 2006 DJDAR 6776**

Rule: Exigent circumstances may justify a warrantless entry into a residence for the purpose of arresting a person suspected of driving while under the influence.

Facts: Defendant was found by a resident of an apartment complex passed out drunk in his car, parked in the reporting party's ("R.P.") parking space. Defendant was woken up and asked to move his car. He responded by throwing an empty vodka bottle on the ground and passing out again. The R.P. called police. Defendant, however, woke up again and drove away. The R.P. followed defendant as he drove recklessly on the freeway (70 mph) and through the streets of Santa Barbara, blowing red lights and stop signs. Although the R.P. eventually lost him, defendant's car was soon found by Santa Barbara Police Officers parked outside a house where he rented a room. The owner of the house told the officers that defendant was asleep inside but that they could not come in. Defendant, however, could be seen through the house standing in the backyard. When signaled to come to the front, defendant walked through the house to within seven feet of the officers, who were still at the front door, before he thought the better of it and told the officers he didn't want to talk with them. When he turned to walk away the officers made entry into the house, taking him into custody and forcefully escorting him out front where the R.P. made a citizen's arrest. A defiant defendant provided blood which later tested out at a .21% blood/alcohol level. His motion to suppress the results of the blood test was denied by the trial court; a decision upheld by a majority of a divided Appellate Department of the Santa Barbara Superior Court. Defendant pleaded "no contest" (while admitting to two priors) and appealed. The Second District Court of Appeal (Div. 6) reversed, holding that the officers' entry into the residence violated the

defendant's Fourth Amendment rights. (See 124 Cal.App.4th 96; Legal Update; Vol. 10, #2, p. 7 [Jan. 28, 2005].) The Appellate Court's decision was based upon *Welsh v. Wisconsin* (1984) 466 U.S. 740, where the U.S. Supreme Court held that a peace officer may not make a warrantless entry into a residence to effect a DUI arrest where the only exigency is that evidence (i.e., the suspect's blood/alcohol level) may be destroyed by the passage of time. The State petitioned to the California Supreme Court.

Held: The California Supreme Court, in a 6-to-1 decision, reversed the Appellate Court, thus reinstating defendant's conviction. The Court first held that under the circumstances, the arresting officers had sufficient "*probable cause*" to arrest defendant. The resident gave the officers a description of defendant's state of inebriation and his driving. Defendant's vehicle was parked in front of his residence. When observed in the house, he matched the R.P.'s physical description of the person she had seen driving, and appeared drunk to the officers. The only issue was, knowing that they had the right man, could the officers legally make a warrantless entry into his residence for the purpose of arresting him? The Court ruled that even under *Welsh v. Wisconsin*, which held that the legality of a warrantless entry into a residence depends upon the "*gravity of the underlying offense*," entering defendant's home to arrest him under the circumstances present here was justified. *Welsh* involved a state statute that listed a first time DUI offense as civil in nature, subject to no more than a $200 fine; i.e., a "*nonjailable* traffic offense." DUI under California law, on the other hand, even though only a misdemeanor, is considered to be anything but a minor offense. (See V.C. § 23536(a)) "This court . . . has recognized the 'monstrous proportions of the problem as well as the horrific risk posed by those who drink and drive.' [Citation.]" Where jail is a potential punishment, *Welsh* does not apply. In this case, recognizing that defendant's blood/alcohol level was rapidly dissipating, there was no opportunity to seek a warrant. Evidence of defendant's crime (i.e., his blood/alcohol level) was disappearing; a recognized "*exigent circumstance*." The immediate entry and seizure of defendant's person, therefore, was reasonable under the circumstances. Defendant's arrest was lawful.

Note: Great case, and one that makes a lot of sense. But just as it looked like the Court was giving us an easy-to-apply "*bright line*" test for making a warrantless entry of a residence to arrest someone on a misdemeanor DUI, they watered it down with the following disclaimer: "In holding that exigent circumstances justified the warrantless entry here, we need not decide—and do not hold—that the police may enter a home without a warrant to effect an arrest of a DUI suspect in *every* case." Why they felt the need to throw this in, I have no idea, other than to reaffirm their adherence to the premise that one's home remains sacred and is not to be violated except in exceptional circumstances. So while it might be difficult to comprehend a circumstance where a DUI suspect could *not* be brought out for purposes of getting a timely analysis of his blood, we should take this as a warning to be careful to thoroughly document the need to make a warrantless entry under such circumstances. For instance, the Court described how this particular defendant had actively and dangerously fled from the citizen who reported him, was apparently thinking about escaping out through the backyard, could easily corrupt the validity of a delayed test of his blood by drinking more alcohol, refused to cooperate when the police asked him to come to the front door, and who, with the front door wide

open and him standing in plain view, had seriously diminished any expectation of privacy he might have had. Factors such as this, and how you exhausted all less intrusive ways to resolve the problem, should be stressed in your reports.

***Search Warrants; Computers as Dominion and Control Evidence*:**

People v. Balint **(Mar. 30, 2006) 138 Cal.App.4th 200**

Rule: An open and running laptop computer, found during the execution of a theft-related search warrant, may be seized as a possible container of dominion and control evidence even if not specifically listed in the warrant.

Facts: Victim Erin Fouche lost her Compaq laptop computer in a car burglary on October 30, 2002. Five days later, Michael Maydon was arrested for failing to pay a motel room bill. Three stolen credit cards, taken along with some other items in another theft a week earlier, were found in Maydon's possession when arrested. The credit card theft victim in fact knew Maydon (them all doing dope together) and knew that he lived with another thief by the name of John Stephens. On November 25 (almost a month after Fouche's laptop was taken), Anaheim detectives executed a search warrant on Maydon and Stephens' residence looking for other items related to the credit card theft. In plain view, sitting on a sofa in the family room, open and turned on, was a Compaq laptop computer. Although not listed in the warrant, the laptop was seized and impounded. After being arrested, Stephens claimed that the laptop belonged to defendant who also lived with them. In fact, defendant called the Anaheim Police Department claiming that the laptop was hers, asking whether she was going to be arrested. She claimed to have purchased the laptop from someone for $200, but admitted that she knew it was possibly stolen property. A second search warrant was later obtained to get into the Compaq laptop's computerized files, resulting in discovery that it belonged to Erin Fouche; the vehicle burglary victim. Charged with possession of stolen property, defendant brought a motion to suppress the laptop, arguing that because it was not listed in the warrant as property to be seized, it had been taken illegally by the police. The trial court denied defendant's motion, noting that the computer was subject to being seized as something that might contain evidence of "dominion and control" over the premises searched. Defendant was thereafter convicted by a jury and appealed.

Held: The Fourth District Court of Appeal (Div. 3) affirmed. The search warrant executed at the house contained a standard, appellate-court approved, description of "dominion and control" evidence as items for which the officers had a right to search and seize. The seizure of "articles of personal property tending to establish the identity of persons in control of the premises" has been upheld as lawful. Although a laptop computer was not specifically listed, officers cannot be expected to predict before a search the types of containers in which identity information will be found. It is reasonable to assume that a computer, particularly when standing open and turned on, will likely provide some indication of who is responsible for the premises. Therefore, the Court concluded that the open laptop computer at issue here, because it qualifies as an electronic container capable of storing data similar in kind to the documents stored in any

ordinary filing cabinet, was subject to seizure under the terms of the warrant at issue here. Seizing and later searching (under a second warrant) the laptop, therefore, was lawful.

Note: The Court notes several times how this laptop was open, in the family room, and turned on. But it never specifically says that the theory of this case is limited to such circumstances, and in fact cites a whole bunch of other cases from various jurisdictions allowing for the seizure of computers as containers of dominion and control evidence under a variety of circumstances. But it is just easier if officers remember to include in their warrants a request for a magistrate's authorization to seize and search computers for not only dominion and control evidence, but also for substantive evidence of the suspect's criminal acts that led to the warrant in the first place. I can't think of too many crimes in today's high tech society where you couldn't successfully argue to a court the likelihood of finding evidence of a suspect's criminal acts documented on the home computers that everyone, including crooks, now have. And don't forget to include a request for authorization to seize, transport, and submit the computer to a computer expert for a detailed search under conditions where evidence will not be destroyed.

***Self-Defense*, *Elements*:**

United States v. Biggs **(9th Cir. Mar. 31, 2006) 441 F.3rd 1069**

Rule: The availability of the defense of "self-defense" does *not* require proof that the person who used deadly force to protect himself didn't have reasonable alternatives.

Facts: Defendant was a federal inmate at the Lompoc United States Penitentiary doing life for a 1977 murder he had committed. As an inmate in the administrative segregation unit, defendant was on 23-hour-a-day lock down with a one hour exercise period shared with three other prisoners. In April, 2001, defendant attacked and injured another inmate during their exercise hour with a hand-made, eight-inch knife. Charged with a assault with a deadly weapon in federal court, defendant proposed to present a defense of self-defense. In support of this argument, defendant intended to introduce evidence that the victim had been attempting to procure a knife to use on him, and had in fact threatened him while en route to the exercise cage, justifying the use of reasonable force to protect himself. The trial court refused to allow defendant to present such a defense, noting that he had other reasonable alternatives to the use of force. Defendant therefore pled guilty and was sentenced to another seven years in prison. He appealed.

Held: The Ninth Circuit Court of Appeal reserved. For a criminal defendant in federal court to be allowed to present to a jury the defense of "self-defense" requires only that there be a prima-facie (i.e., a bare minimum amount of evidence) showing that (1) the defendant had a reasonable belief that the use of force was necessary to defend himself or another against the immediate use of unlawful force and (2) no more force than was reasonably necessary under the circumstances was in fact used. It is *not* required that the defendant prove that he did not have other reasonably available alternatives to the use of force (such as reporting the threats to the guards, in this case). Under federal law, defendant would have been legally entitled to stand his ground and use reasonable force

in return to an assault. The trial court, therefore, was in error when it precluded defendant from presenting his evidence (such as it was) of self-defense.

Note: The rule is the same under California law. (See CALJIC 5.50, or CALCrim 3470; "Self-Defense and Defense of Another.") While "discretion (in certain circumstances may well be) . . . the better part of valor," California law has never required a potential assault victim to back off, even when he could easily have done so. As noted in the Court's decision, the requirement that a person take advantage of a reasonable, non-violent alternative to standing one's ground only applies to the "justification" defenses, such as "duress," "coercion" or "necessity." "Duress" and "coercion" occur when a human being forces another to act. "Necessity" applies when the circumstances, such as the forces of nature, cause a person to perform a criminal act.

***Fingerprint Evidence as the Product of an Illegal Arrest*:**

United States v. Garcia-Beltran **(9th Cir. Apr. 6, 2006) 443 F.3rd 1126**

Rule: Fingerprint evidence seized as the product of an illegal arrest is *not* subject to suppression if obtained merely to identify the defendant, but *is* subject to suppression if obtained for other evidentiary purposes. In either case, however, a second, subsequent print exemplar will be admissible in evidence.

Facts: Defendant was illegally arrested by a Portland, Oregon, police officer, *possibly* as a result of an "INS sweep" (the officer could not remember). The parties stipulated to the fact that defendant was illegally arrested. Defendant's fingerprints were obtained as a result of this arrest. Defendant, who falsely identified himself to the arresting officers, was found through his fingerprints to have an INS file that showed that he was in violation of a federal felony because he was in the country illegally after having been formally deported once before. (18 U.S.C. § 1326(a), (b)(2)) Charged in federal court with this offense, defendant brought a motion to suppress his fingerprints as a product of the illegal arrest. His motion was denied and he appealed. The Ninth Circuit Court of Appeal reversed, finding that although a person's identity is not subject to suppression, even if his identity was discovered as the product of an illegal arrest, his fingerprints *are* subject to suppression if obtained for investigative, as opposed to merely identification, purposes. (*United States v. Garcia-Belton* (9th Cir. 2004) 389 F.3rd 864.) The Ninth Circuit remanded the case back to the district (trial) court to determine why his fingerprints were obtained; i.e., for identification or investigative purposes. The trial court found on remand that his fingerprints were obtained at least partially for investigative purposes, and therefore suppressed them. The Government immediately asked the trial court for an order requiring defendant to provide a new set of fingerprints, which the court granted. Defendant appealed this order.

Held: The Ninth Circuit Court of Appeal affirmed. Defendant argued that *all* evidence which is the product of his illegal arrest should be suppressed. And there is authority in support of the rule that the exclusionary rule includes one's fingerprints seized as the product of an illegal arrest. (*Davis v. Mississippi* (1969) 394 U.S. 721; *Hayes v. Florida*

(1985) 470 U.S. 811.) However, it is also a rule of law that one's body, or identity, is *not* subject to suppression, even if discovered as a result of an illegal arrest. (*INS v. Lopez-Mendoza* (1984) 468 U.S. 1032.) From these seemingly conflicting legal theories comes the rule that even thought an illegally arrested person's fingerprints are subject to suppression when obtained for "*investigative purposes*," they will *not* be suppressed so long as merely obtained for "*identification purposes*." (*United States v. Garcia-Belton*, *supra*.) This does not, however, answer the question whether, once suppressed, the government is precluded from ever again getting an illegally arrested person's fingerprints. Basing its decision upon prior authority, the Court determined that once the government is aware of defendant's true identity, they are *not* precluded from collecting new evidence on that issue, including a new set of fingerprints. (*United States v. Ortiz-Hernandez* (9th Cir. 2005) 427 F.3rd 567; *United States v. Parga-Rosas* (9th Cir. 2001) 238 F.3rd 1209.) Requiring defendant in this case to provide a new set of fingerprints once his true identity was discovered, despite the prior illegal arrest, was therefore lawful.

Note: I'm often asked questions about the warrantless seizure of "body samples" (e.g., hair, DNA, etc.) from arrestees under a variety of circumstances. My response is typically, aside from some potential civil liability issues; "*don't worry about it*." We usually have the argument that such evidence is subject to seizure as a search incident to arrest. And even if, under the circumstances, that theory does not apply, most ethical defense attorneys won't waste the court's time by challenging it anyway, knowing that even if successful, the prosecution need merely ask the court for a new order for samples to be taken. And it is also important to note that despite what later might be held to be an illegal arrest, one's body, or identity, is never subject to being suppressed. We don't suppress defendants as the product of an illegal arrest. We only suppress evidence.

***Anonymous Tips and Detentions*:**

People v. Castro **(Apr. 11, 2006) 138 Cal.App.4th 486**

Rule: Anonymous information that includes some basis, albeit weak, for the tipster's knowledge, when combined with a dangerous circumstance, suffices to justify a stop and detention even if it lacks other corroborating predictive information.

Facts: An anonymous caller telephoned the Kern County Sheriff's Department dispatcher to report that defendant, who he identified by name, had just left his (the tipster's) house and was going to his (defendant's) wife's house to shoot her. The tipster described defendant's gun and indicated that he had it strapped to his back. He gave the dispatcher defendant's physical description including what he was wearing at that time, and a description of defendant's truck. The tipster further provided the wife's address, saying that he had been following defendant, although he had lost him, heading in that direction. He said that the wife was presently home with two daughters, and that the tipster's wife was calling her to warn her. The dispatcher asked the tipster whether defendant and his wife were getting divorced. The tipster responded that he didn't know; that "apparently they were split up." When again asked for his name, the tipster indicated that he didn't want to get involved; he just didn't want anyone to get hurt. California

Highway Patrol officers received the call from the Sheriff's Department. They caught defendant before he got to his wife's house and made a traffic stop. A gun was found in the purse of a woman who was in defendant's truck. She later testified that defendant put the gun in her purse. Ammunition that fit the gun was in defendant's pocket. Charged with possession of a firearm by a person having two prior qualifying misdemeanor convictions (i.e., P.C. § 273.5(a); spousal abuse), per P.C. §12021(c)(1), defendant filed a motion to suppress the gun and other evidence, arguing that an anonymous tip alone is insufficient cause to stop and detain him. The trial court denied defendant's motion. Defendant was convicted by a jury and sent to prison. He appealed.

Held: The Fifth District Court of Appeal affirmed. An anonymous tip alone, without corroboration or other "sufficient indicia of reliability," is legally insufficient to justify a detention (which includes a traffic stop, referred to in the decision as a "*Terry* stop," per *Terry v. Ohio* (1968) 392 U.S. 1). (*Florida v. J.L.* (2000) 529 U.S. 266.) A "sufficient indicia of reliability" can be anything that makes it reasonable for an officer to believe that the tipster had inside knowledge about the suspect, such as being able to correctly predict his actions. In this case, the Court's decision was made even harder because the CHP officers who arrested defendant were not there to testify to the circumstances of the stop and what information they had at the time. No evidence was presented at the motion to suppress, for instance, indicating where, in relation to the wife's home, the stop was made (assuming the CHP officers could have testified that defendant was then approaching his estranged wife's home, as the tipster had predicted). However, the Sheriff's dispatcher did testify, and described the details of what, if true, were potentially very dangerous circumstances. She was able to describe how the tipster indicated he knew defendant did in fact have a gun, how he knew something of the defendant's marital problems, and that he knew defendant's wife was home with her two daughters. Whether or not this information, as testified to by the dispatcher, was sufficient corroboration was a close question, per the Court. However, the Supreme Court in *Florida v. J.L.* also indicated that the rules for what the officers must know in order to justify a *Terry* stop might appropriately be more flexible where the danger alleged in an anonymous tip is greater than under the circumstances in *J.L.* In *J.L.*, the anonymous tipster merely alleged that a juvenile was standing on a street corner with a gun in his pocket. In this case, the anonymous tipster alleged that the armed defendant was in route to shoot his wife. Despite the limited corroboration there was for the tipster's information, the inherent dangerousness of the circumstances added enough so that the Court could conclude that the officers acted reasonably when they stopped and detained defendant. Expanding on *Florida v. J.L.* to some extent, the Court established the following rule in such a circumstance: "(A)n anonymous tip that includes some basis for the tipster's knowledge and an alleged threat to a person's safety suffices to justify a *Terry* (*v. Ohio*) stop even if it lacks corroborating predictive information." Using this standard, defendant, therefore, was lawfully stopped.

Note: Two extremely important points were made in this case. First, in anonymous tip cases, a better record must be made describing a tipster's inside information, particularly including any "*predictive*" information he might have as to what the defendant was intending to do. The Court did not elaborate on what caused the record to be so poor in

this case other than the fact that somebody screwed up. Either the prosecutor didn't properly prepare for the hearing or the CHP officers who arrested defendant just didn't show up to testify. (My apologies to whomever I just unfairly slandered.) Secondly, and perhaps more important, this Court, to their credit, had the backbone to take advantage of some good language in *Florida v. J.L.* to the effect that excessively dangerous circumstances might substitute for corroborative evidence, thus "reduce(ing) the quantum of reliable (corroborative) information needed to justify a *Terry* stop" in an anonymous tip case. The line between the *not-so-dangerous* and the *excessively dangerous* can be found somewhere between someone merely standing on a street corner who is alleged to be armed with a gun (the facts of *Florida v. J.L.*) and that same armed someone actively looking for a victim while threatening to shoot that victim (the facts in this case).

***Attempted Extortion*:**

People v. Umana et seq. **(Apr. 13, 2006) 138 Cal.App.4th 625**

Rule: For purposes of Extortion, whether or not the extortion victim actually committed the crime for which he is accused is not relevant. Also, the act of accusing an extortion victim of having committed a crime is a continuing offense that may extend beyond when first reported to the police.

Facts: Defendant Jessica Langshaw, when she was between 17 and 19 years of age, dated at least seven young men, each involving varying degrees of consensual sexual contact from simple "petting" to sexual intercourse. An eighth victim, one of Langshaw's school teachers, never got further than a hug and a kiss on the cheek. Each dating relationship lasted anywhere from a couple of dates to a couple of months. Eventually, each of these males received a letter from Langshaw with a recurring theme: "I hereby notify you that I am demanding restitution for the damage that I suffered as a result of the rapes you committed against me on (fill in the date). I am requesting that you pay damages in the amount of (typically between $50,000 and $150,000) in weekly installments of $500, as well as (the victim's motorcycle, in two cases). In addition, I want a verbal apology and a full written confession of all crimes you committed against me. I wish to receive the first payment on or before February 28, 2002 (plus the title to your motorcycle). I would like to settle this matter in confidence, but I'm prepared to take further action if you wish to dispute my claim." This would be followed by threats to report the alleged sexual assault to the police, the "State District Attorney," and, in a couple of cases, to the victim's employer. The letter would then typically end with: "I have also made arrangements with an attorney to bring civil charges against you if you refuse to meet the above demands. Please understand that I will not hesitate to pursue the matter further if necessary. I will contact you for your decision." Co-defendant Umana delivered the demand letters to the victims in several cases, and was with Langshaw on a number of other relevant occasions. Langshaw in fact reported three of the alleged sexual assaults to law enforcement, none of which resulted in a prosecution, and filed civil actions in four cases. She filed a complaint with the state bar alleging inappropriate sexual contacts by one of the victims who was an attorney. And she filed a complaint on the teacher with his school, causing him to be relieved of his teaching duties until an

investigation was completed. When one of the victims complained to the police that he was being blackmailed, an investigation led to the others. It was also determined that co-defendant Umana was Lanshaw's boyfriend and coconspirator. Criminal charges were filed alleging a number of counts of attempted extortion (P.C. § 524), delivering a threatening writing with the intent to extort (P.C. § 523) and filing a false police report (P.C. § 148.5). Langshaw testified at trial that she was in fact the victim of each of the alleged sexual assaults, but that she had been advised by a deputy district attorney that charges could not be filed unless she could get the men to apologize and confess. (The DDA denied she had ever been told this.) She also claimed to have been told that she could file civil actions and that a pre-litigation "demand letter" was the way to handle the situation. The jury convicted Langshaw of six counts of attempted extortion, five counts of sending an extortion letter, and three counts of filing a false police report. Co-defendant Umana was convicted of three counts each of attempted extortion and sending an extortion letter. Both appealed from their respective prison sentences.

Held: The Third District Court of Appeal (Sacramento) affirmed defendants' convictions. Penal Code § 518 defines the crime of "extortion" as it relates to this case as; "(T)he obtaining or property from another, with his consent . . . , induced by wrongful use of force or fear, . . ." Threatening an extortion by means of a letter is a separate crime. (P.C. § 523) Attempted extortion, as described in P.C. § 524, is an attempt "by means of any threat, such as specified in (P.C.) Section 519 . . . , to extort money or other property from another." Section 519 defines "fear," in pertinent part (subd. 2), as including the act of "accus(ing) the individual threatened . . . of any crime." Because Langshaw continued to argue that she was a rape victim, an allegation that each of the extortion victims denied, the Court took the time to note that whether or not Langshaw had in fact been raped by any of the extortion victims is irrelevant. So long as the threat to accuse someone of a crime is done for the purpose of extorting money or property, it is irrelevant whether or not the alleged crime ever really occurred. The only other issue raised by the defendants on appeal was whether the elements of an attempted extortion were met when, as occurred with one of her victims, the alleged rape had already been reported to the police by the time she attempted to extort money by sending the threatening letter. The Court noted that in this case, Langshaw's demand letter to this victim also indicated that she was continuing to talk to the police and the district attorney, and that she was "prepared to take further action if you wish to dispute my claim." Also, according to her testimony, Langshaw was told by a deputy district attorney that if she could get the person(s) who assaulted her to confess and apologize, charges might still be filed. Part of the purpose of her demand letter was to seek such a confession and/or apology. The threat to have this victim charged with rape, therefore, continued up to and including the delivery of the demand letter. This is an attempted extortion.

Note: This was an extremely involved fact situation (only because it involved multiple victims) which, with limited issues ultimately discussed, was almost not worth the time it took to brief it. But because we don't see many extortion cases, I thought, if for no other reason than to serve as kind of a refresher course on the law of extortion, it was worth talking about. I also found Jessica Langshaw's scheme to extort money somewhat unique, and one that anyone with a wandering eye might give some serious consideration.