

# FBI Law Enforcement Bulletin

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## Thank You

The newsletter *Crime Control Digest* announced "Outstanding Law Enforcement Publications" in its March 9, 1987, issue, including the *FBI Law Enforcement Bulletin*. The Bulletin staff noted in a reply to this recognition that "the real credit should go to the contributors because it is their cooperation that makes the Bulletin a professional journal—their ideas advance the progress of law enforcement toward professionalism." To all the Bulletin contributors over the years, thank you.

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# FBI

## Law Enforcement Bulletin



United States Department of Justice  
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William H. Webster, Director

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### The Cover:

The regionalization of police training is symbolic of the spirit of cooperation and commitment to excellence characteristic of the St. Louis Police Academy throughout its history. (See article p. 1.)

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# Emergency Searches of Premises

## (Conclusion)

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*Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.*

Part one of this article examined the circumstances under which law enforcement officers may legally search premises without a warrant in response to a perceived threat to life. This part considers the requirements for lawful warrantless searches of premises by officers responding to perceived dangers of escape by criminals or destruction or removal of evidence.

### **DANGER OF ESCAPE OR DESTRUCTION OF EVIDENCE EMERGENCY**

In addition to danger to life, the U.S. Supreme Court has recognized two other emergency situations confronted by law enforcement as embodying exigent circumstances sufficient to justify warrantless searches and seizures. They are danger of escape<sup>67</sup> and danger of destruction or removal of evidence.<sup>68</sup> Although society clearly has an interest in preventing the escape of criminals and in preserving evidence necessary to the judicial process, this interest is obviously a lesser one than the paramount interest of preserving life. As a consequence, courts have required a greater factual justification for warrantless searches and seizures of premises based upon perceived danger of escape or destruction of evidence.<sup>69</sup>

An officer who has made a warrantless search of premises to prevent escape or the destruction of evidence must be prepared to demonstrate factually each of the following: (1) That there was probable cause to believe at

the time of the search that the criminal sought or evidence of the crime was located in the place searched;<sup>70</sup> (2) that there was probable cause to believe an emergency threat of escape or destruction of evidence existed at the time of the search;<sup>71</sup> (3) that the officer had no prior opportunity to obtain a warrant authorizing the search;<sup>72</sup> and (4) that the action taken was no greater than necessary to eliminate the threat of escape or destruction of evidence.<sup>73</sup>

Because of the requirement that the action taken by officers be no greater than necessary to eliminate the threat of escape or destruction of evidence, most emergency searches of premises based upon these threats will be searches for persons. An officer seeking to prevent the escape of a criminal will search the premises for that person. An officer seeking to prevent the destruction of evidence will search the premises for persons who pose a threat to the evidence. Once these persons are located and controlled (or their absence established), the emergency is generally ended, and where a continued search is envisioned, application should be made for a search warrant.<sup>74</sup> The remainder of this article will examine in detail the necessary factual justification for warrantless searches of premises based upon perceived danger of escape or destruction of evidence.

### **Probability That a Criminal or Evidence of Crime is Inside Premises**

Before an officer searches premises without a warrant for a criminal to prevent his escape, he must know facts



Special Agent Sauls

that would cause a reasonable person to conclude that it is probably true that: (1) A crime has been committed, (2) the person to be arrested committed the crime, and (3) the criminal is presently in the premises to be searched.<sup>75</sup> In short, the first requirement of an emergency search of premises to prevent escape is probable cause to arrest plus probable cause that the person to be arrested is inside.

In *Payton v. New York*,<sup>76</sup> New York detectives developed probable cause to arrest Payton for murder on January 14, 1970, and proceeded to his residence to arrest him the next morning. Upon arrival, officers noted music and light coming from Payton's apartment, even though there was no response to their knock. Forcing their way in, they did not find Payton, but did find evidence of the murder in plain view. The admissibility of this evidence depended upon the legality of the officers' entry.<sup>77</sup>

The officers' probable cause to arrest was conceded. The lights and music playing in his apartment were indicative of Payton's presence in the apartment, even though there was no response to the officers' knocks. The officers arguably satisfied the first requirement for a valid emergency search to prevent escape. Unfortunately, they presented no facts indicating exigent circumstances, an immediate need to make a warrantless entry to prevent escape or destruction of evidence.<sup>78</sup> As a consequence, the warrantless entry under the circumstances presented was held by the U.S. Supreme Court to be improper.

*Payton* demonstrates that both probable cause to arrest and to believe the person sought is in the premises are necessary elements but that these facts standing alone are insufficient to justify a warrantless search.<sup>79</sup>

An officer making a warrantless search of premises to prevent the destruction of evidence must know, as a first step, facts that would cause a reasonable person to conclude: (1) That a crime has been committed, (2) that evidence of the crime exists, and (3) that the evidence presently exists in the place to be searched.<sup>80</sup> He needs probable cause to search the premises for evidence. Again, these facts, standing alone, are not enough.

In *Vale v. Louisiana*,<sup>81</sup> the U.S. Supreme Court considered another warrantless search of premises. In *Vale*, officers observed Vale coming out of his house in response to a car horn. After a brief, close conversation with the driver, Vale reentered his residence and reappeared a short time later. Looking cautiously up and down the street, he returned to the car and leaned inside. Based upon these actions and other knowledge the officers had of Vale, they concluded a narcotics transaction had taken place. This belief was reinforced upon the officers' approach when they recognized the driver of the car as a person they knew to be addicted to narcotics, and when he, on seeing the police, hurriedly placed something in his mouth. Vale was arrested outside his house, and a warrantless search of the interior revealed a quantity of narcotics.

Armed with the above-stated facts prior to entry, the officers had probable cause to search Vale's residence.<sup>82</sup> But, because they failed to show facts that the evidence was in danger of removal or destruction, they had no jurisdiction to perform the search without a warrant.<sup>83</sup> Probable cause to search is

***"Where physical circumstances make it impossible to maintain the status quo while a warrant is sought, a warrantless entry of premises may be proper to prevent escape."***

just the first requirement.

**Probability of Flight or Destruction of Evidence  
Flight**

An officer in possession of facts amounting to probable cause to search needs additional facts establishing the probability of an emergency threat of escape or destruction of evidence before he may lawfully search without a warrant. To justify a warrantless search to prevent escape, he must present facts establishing the probability that the person to be arrested would have escaped if time had been taken to obtain a warrant.<sup>84</sup> A variety of circumstances may provide such facts.

A person in a public place who flees into premises to elude arrest for a recently committed crime evidences his likelihood of escape. This law enforcement circumstance is sometimes referred to as "*hot pursuit*." For example, in *United States v. Martinez-Gonzales*,<sup>85</sup> drug enforcement agents developed probable cause to believe a certain apartment was a cocaine "stash pad." An unidentified Hispanic male was described to them as having been one of the persons who leased the apartment. Having information that cocaine had recently been delivered to the apartment, the agents kept the location under surveillance while a search warrant was being sought. Seeing a person matching the description of the Hispanic male standing outside the open doorway of the apartment, the agents approached him, identifying themselves as police. The male (later identified as Martinez-Gonzalez) looked frightened and ran into the apartment. The agents entered the apartment and arrested Martinez-

Gonzales in the process of flushing bags of cocaine down the toilet. The U.S. Court of Appeals for the Second Circuit validated the warrantless entry to prevent escape, stating "the agents were justified in entering the apartment to prevent Martinez's retreat from 'thwart[ing] an otherwise proper arrest.'" <sup>86</sup>

Officers who have probable cause to arrest a person inside premises and who know that, despite their efforts to the contrary, that person has *knowledge of their presence* and intent to arrest, possess facts indicating the person may flee before a warrant may be obtained. In *United States v. Moore*,<sup>87</sup> drug enforcement agents purchased cocaine from a man named Hazzard, arrested him, and developed probable cause that Moore was Hazzard's source. The agents were also aware that a short time earlier, Moore had seemed apprehensive about officers discovering her illegal activities. They also knew she was presently in an apartment inside the building outside of which they had just arrested Hazzard. In addition, Moore was expecting Hazzard to promptly return to her apartment with the proceeds of his drug sale. The U.S. Court of Appeals for the First Circuit held these facts "sufficient to establish a substantial risk that the subject would flee . . .,"<sup>88</sup> justifying an immediate warrantless entry of her apartment to effect her arrest.

Where *physical circumstances* make it impossible to maintain the status quo while a warrant is sought, a warrantless entry of premises may be proper to prevent escape.<sup>89</sup> For example, if officers reasonably believe the person to be arrested is about to depart from a place which has too many avenues of escape to allow it to be secured, a warrantless entry is justified. In *United States v. Blasco*,<sup>90</sup> officers were conducting a surveillance of an estate

on Big Pine Key in the Florida Keys, investigating suspected importation of marijuana. The estate was isolated and bordered by water on two sides, a canal to the south, and the Spanish Harbor Channel to the west. During the evening, the officers developed probable cause that marijuana bales were being offloaded on the estate dock from at least two boats in an operation involving at least six people. During surveillance, the officers detained a person they believed was engaged in counter-surveillance and were concerned that his continuing absence might tip off the criminals to the law enforcement presence. Six officers entered the estate, while others sealed off land avenues of escape. The officers arrested 23 persons in and around the estate house and seized approximately 15 tons of marijuana.

The U.S. Court of Appeals for the 11th Circuit, in approving the warrantless entry, stated, "[t]he inherent mobility of the boats that the officers heard and the impossibility of controlling traffic in the canal and the Spanish Harbor Channel compel us to conclude that exigent circumstances to proceed without a warrant existed in this case. There was an imminent danger of flight or escape by the individuals involved."<sup>91</sup>

A second component of establishing the existence of an emergency threat of escape is showing that the *crime* involved is a sufficiently serious one. The fourth amendment prohibits unreasonable searches, and a warrantless entry of premises to prevent the escape of the perpetrator of a very minor crime (a parking violation, for example) is regarded as unreasonable.

In *Welsh v. Wisconsin*,<sup>92</sup> the U.S. Supreme Court stated, "It is difficult to conceive of a warrantless home arrest that would not be unreasonable under

the Fourth Amendment when the underlying offense is extremely minor."<sup>93</sup> Welsh was arrested in his bedroom for first-offense driving while intoxicated (in Wisconsin a noncriminal offense for which no imprisonment is possible). He had walked home after having been involved in a traffic accident a short distance from his residence. The government sought to justify his warrantless arrest based upon danger of escape and destruction of evidence (the elimination by his liver of the alcohol in Welsh's blood). The Court found the warrantless arrest under the circumstances to be a violation of the fourth amendment. In explaining this action, the Court noted the need for a "sense of proportion. Whether there is reasonable necessity for a search without waiting to obtain a warrant certainly depends somewhat upon the gravity of the offense..."<sup>94</sup> Consequently, an officer seeking to arrest a person for an offense that is not punishable by some incarceration may not make a warrantless entry of a home to effect the arrest, even if facts present suggest a danger of escape or destruction of evidence.

#### **Destruction of Evidence**

To justify a warrantless search of premises to prevent the destruction or removal of evidence, an officer must present facts establishing the probability that the evidence would have been destroyed or removed if time had been taken to obtain a warrant.<sup>95</sup> Again, a variety of circumstances may provide the necessary facts. These include circumstances suggesting a  *motive*  to destroy or remove evidence (such as sudden realization that law enforcement officers are closing in), coupled with evidence that is susceptible to destruction or removal.

In *United States v. Santana*,<sup>96</sup> police officers developed information that Santana was in possession of marked currency that had just been used to purchase heroin in Santana's residence. Officers went to Santana's house and saw her standing in the doorway holding a brown paper bag in her hand. The officers, who were 15 feet from Santana, identified themselves as police officers. Santana retreated into the house, and the officers followed, arresting her and seizing heroin that had fallen from the bag.

The U.S. Supreme Court held that at the beginning of the chase (when she was in her doorway), Santana was in a public place where she could be legally arrested without a warrant.<sup>97</sup> The Court approved the warrantless entry of Santana's home for the purpose of preventing the destruction of evidence, stating "[o]nce Santana saw the police, there was a ... realistic expectation that any delay would result in the destruction of evidence."<sup>98</sup> Had the officers waited outside while a warrant was obtained, the marked money, evidence readily destroyed, would likely have gone up in smoke.

A similar threat of destruction or removal of evidence was present in *United States v. Allison*.<sup>99</sup> In *Allison*, a person arrested for sale of heroin told officers he had been staying in a certain motel room with another man, that the man had narcotics, a gun, and money in the motel room, and that if the officers did not act quickly the man, who was present at the first subject's arrest, would beat the officers back to the room, get his drugs, and leave town. The officers went to the motel, verified as much of the man's story as possible, and went to the room. A light in the bathroom caused them to fear a person was inside, despite no response to their knocking. The officers entered the room and searched it for persons. They found

no one but discovered heroin in plain view. The second man, Allison, was arrested later. In approving the warrantless search, the U.S. Court of Appeals for the D.C. Circuit stated that "the police were placed on notice of an immediate threat that [Allison] would remove or destroy the narcotics."<sup>100</sup> This threat was factual support for their prompt warrantless action.

As where the warrantless entry is to prevent escape, officers who enter without a warrant to prevent destruction of evidence must be prepared to show *the crime* involved was not a minor one. Again, the standard of seriousness applied by the U.S. Supreme Court in *Welsh v. Wisconsin*<sup>101</sup> was the potential of incarceration. If no incarceration is possible for the offense under investigation, a warrantless search of premises to prevent the destruction of evidence will likely be an unreasonable one.

#### **No Prior Opportunity to Obtain a Warrant**

The third requirement that must be met to justify a warrantless search of premises based upon an emergency threat of danger of escape or destruction of evidence is a showing that the officers performing the warrantless search had no prior opportunity to obtain a warrant. Courts making inquiry in this regard generally consider three factors: (1) The length of time between establishing probable cause to search and discovering the emergency circumstances;<sup>102</sup> (2) whether after discovering the pending emergency there is sufficient time to obtain a warrant before the probable escape or destruction of evidence will occur;<sup>103</sup> and (3) whether the officers intentionally created the emergency circumstances requiring warrantless action.<sup>104</sup>

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**“... it is necessary to show that the action taken to neutralize the emergency was no greater than necessary to accomplish that purpose.”**

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If officers are allowed to postpone acting on probable cause until emergency circumstances allow them to act without a warrant, the protection of citizens by the warrant requirement will be needlessly weakened. Thus, where officers develop probable cause to search a residence for narcotics on Monday and fail to act on that information until Thursday, when they perform a warrantless search based upon information they receive that day indicating the drugs are about to be removed, the warrantless search will likely be deemed unreasonable, despite the sudden danger of removal of the evidence.

If the probable cause to search is developed closer in time to the discovery of the emergency circumstances, there is greater justification for the failure to obtain a warrant. For example, in *United States v. Cuaron*,<sup>105</sup> drug enforcement agents were in the process of making a series of undercover buys of cocaine from an individual and were hoping to discover his source of supply through surveillance of the dealer's movements between transactions. The dealer was to obtain a pound of cocaine from his source, meet the agents to make the sale, take the proceeds of the sale back to his source, and return with an additional pound. Agents were able to follow the dealer discretely to the home of his source, Cuaron, when he picked up the first pound, and placed the house under surveillance. Upon delivery of the pound of cocaine, the agents began the process of obtaining a search warrant. This occurred about an hour before a warrantless search of the house was performed (the warrant was obtained 5 hours after the application process began).

When the dealer delivered the pound of cocaine, he was arrested and therefore unable to make his expected return to Cuaron with the proceeds of the sale. Based upon the fact that the dealer would not return as planned, coupled with Cuaron's reported extreme apprehensiveness and the observation of several people coming to the house and leaving a short time later, agents became concerned that Cuaron would destroy or dispose of all his cocaine before the search warrant could be obtained. A warrantless search to secure the house was performed, during which Cuaron was discovered flushing cocaine down the toilet.

The U.S. Court of Appeals for the 10th Circuit, evaluating the reasonableness of this warrantless search, compared the time lapse between the discovery of a threat of destruction or removal of evidence (using the time of the dealer's arrest plus the half hour it would have taken him to return to Cuaron's house) with the length of time it would take to obtain a warrant (since Federal agents were involved in this investigation, the court considered the length of time necessary to obtain a telephonic search warrant, the fastest option available in the Federal system).<sup>106</sup> The court held that the warrantless entry 55 minutes after the arrest of the dealer was reasonable.<sup>107</sup>

In addition to requiring prompt application for a warrant where possible, courts also require that officers not intentionally trigger the emergency in an effort to justify their warrantless action. If the status quo can be maintained without intervention until the warrant is obtained, that is what is required. For example, officers with probable cause to search a residence for a person to be arrested may not knock on the door and announce their identity and then claim the occupants' knowledge of their pres-

ence created a danger of escape and the immediate need to enter.<sup>108</sup> If they have no facts to suggest "exigent circumstances" before announcing their presence to the persons inside, they should discretely stand by while a warrant is obtained. Likewise, officers planning a controlled delivery of narcotics at a specific time and place cannot wait for the emergency threat of escape created by an announcement of their identity and intent to arrest. If it is their intent to make a nonconsensual entry and time allows, they are required before the transaction to apply for a warrant.<sup>109</sup>

**Action Taken No Greater Than Necessary to Eliminate Threat**

Finally, it is necessary to show that the action taken to neutralize the emergency was no greater than necessary to accomplish that purpose. The presence of valid justification to perform an emergency search does not necessarily support a search as broad in scope as one authorized by a search warrant, and generally, only a search for persons and a securing of the scene is allowed. In *United States v. Anderson*,<sup>110</sup> responding to a complaint that Anderson had assaulted another man with a sawed-off shotgun, officers went to Anderson's room in a rooming house. They found the door to the room open and observed Anderson, who had become aware of their presence, reaching for a shotgun. They entered the room, arrested Anderson, and seized the shotgun and two shotgun shells. The U.S. Court of Appeals for the D.C. Circuit held that this warrantless entry and seizure was justified based upon exigent circumstances.<sup>111</sup>

After Anderson was removed from the room, officers proceeded to conduct a thorough search of the room, during

which they located a shotgun barrel stock that had been trimmed from a shotgun during the sawing-off process. This stock was introduced at Anderson's trial. The court of appeals reversed Anderson's conviction, concluding that the search that located the stock had been conducted after the emergency had been resolved.<sup>112</sup> Once he was arrested and removed from the room, Anderson presented no danger to the officers remaining on the scene nor did he present a threat of escape or destruction of evidence. Having eliminated the threat, the officers had no legal justification for a continued warrantless search.

Even though a continued warrantless search is not allowed, officers believing evidence of crime is present will certainly want to protect that evidence. The need of law enforcement officers to prevent others from entering a place to be searched to prevent destruction or removal of evidence pending arrival of a warrant has been judicially recognized.<sup>113</sup> Where, after the emergency is resolved by removal of the persons presenting the threat, officers have probable cause to further search the premises and a search warrant is being sought, officers remaining on the scene may maintain the status quo by restricting access to the place to be searched.<sup>114</sup> Action taken to accomplish this end should be no greater than necessary, and if possible, the premises should be secured from the outside.<sup>115</sup>

Most emergency searches of premises will be searches to locate and control persons, to prevent their escape, and to prevent these persons from destroying evidence. Under certain circumstances, however, nothing

short of an immediate search for evidence will maintain the status quo. Removing all persons from a house believed to contain evidence will not serve to preserve that evidence from destruction if the threat of destruction is rising flood waters. Similarly, certain evidence is destroyed over short periods of time by natural processes.<sup>116</sup> Immediate seizure and preservation of the evidence is justified under such circumstances.<sup>117</sup> Also, where information providing clues to the whereabouts of an escaping person is probably present, an immediate search may be justified to prevent the escape.<sup>118</sup> Again, all requirements for a valid emergency search must be satisfied, including limiting the search and seizure to only what action is required to resolve the emergency.

#### SUMMARY

Returning to the hypothetical situation presented at the beginning of part one of this article, the officers have detained a suspected bank robber outside a residence. They suspect his accomplice is inside and conduct a prompt, warrantless search of the house. To justify this warrantless search based upon a perceived emergency threat of escape or destruction of evidence, the officers must be prepared to show that at the time of the search, they knew: (1) Facts that established probable cause to search the house for the accomplice or evidence of the crime; (2) facts that established probable cause to believe an emergency threat of escape or destruction of evidence existed; (3) that there was no prior opportunity to obtain a warrant; and (4) that their action was no greater than necessary to eliminate the threat of escape or destruction of evidence.

Evaluating the facts presented, it is clear that the third requirement has been satisfied. The search occurred within minutes of the robbery. There was no prior opportunity to obtain a warrant. The existence of facts to satisfy the other requirements is less certain.

It is arguable that there is probable cause to search the residence for evidence of the robbery. The suspected robber, who matches the description given by the victim and who is found a short time after the crime near where it was committed, is on the doorstep of the house. He also no longer has the loot or his gun on his person. Additional facts (such as evidence the suspected robber lives in or otherwise has access to the residence) would be helpful, but are not stated. The facts present may amount to probable cause, but perhaps they do not. In a close case such as this, it is especially advantageous to have the issue of probable cause determined by a neutral, detached magistrate during the search warrant application process.

Facts suggesting the accomplice is probably inside the house are more scarce. In the case presented, however, the officers will not prevail, even if they are determined to have probable cause to search. The officers know insufficient facts to establish a probable emergency threat of escape or destruction of evidence. There is no sign that anyone is in the residence who may escape or destroy evidence. Neither do they know facts suggesting that there is evidence within that will lead to the accomplice. Absent facts

suggesting such an emergency, the officers should secure the residence from the outside and make application for a search warrant. If there is no emergency, a search of the residence may not be made without a warrant (absent a valid consent). The officers need additional facts, or a warrant, before they proceed.

### CONCLUSION

This article has set out the requirements for emergency searches of premises based upon threats to life and threats of escape or destruction of evidence. Because the requirements differ depending upon the class of emergency threat involved, it is essential that officers evaluating the lawfulness of a proper emergency search determine which class of threat is present. Once that determination is made, the appropriate standard may be applied to the facts known. If a warrantless search is necessary, clear awareness of the threat involved will also facilitate limitation of the search to that action necessary to eliminate the threat.

The details of emergencies the future will bring cannot be known. A structured plan of response, however, is possible. Knowledge of the legal requirements for lawful warrantless searches in response to threat to life on the one hand, and a threat of escape or destruction of evidence on the other, will prepare officers to make correct judgments when stress is high and time is short.

**FBI**

### Footnotes

- <sup>67</sup>See *United States v. Santana*, 427 U.S. 38 (1976). See also *Warden v. Hayden*, *supra* note 12.
- <sup>68</sup>See *Schmerber v. California*, 384 U.S. 757 (1966). See also *Vale v. Louisiana*, 399 U.S. 30 (1970) and *United States v. Santana*, *supra* note 67.
- <sup>69</sup>Compare *United States v. Blasco*, 702 F.2d 1315 (11th Cir. 1983), cert. denied sub. nom. *Galvan v. United States*, 104 S.Ct. 275 (1983), with *Irizarry v. United States*, *supra* note 40.
- <sup>70</sup>See *Payton v. New York*, 445 U.S. 573 (1980). See also *Schmerber v. California*, *supra* note 68.
- <sup>71</sup>See *Schmerber v. California*, *supra* note 68. See also *Cupp v. Murphy*, 412 U.S. 291 (1973).
- <sup>72</sup>See *Steagald v. United States*, 451 U.S. 204 (1981).
- <sup>73</sup>See *Arkansas v. Sanders*, *supra* note 6. See also *Mincey v. Arizona*, *supra* note 14.
- <sup>74</sup>*Id.*
- <sup>75</sup>See *Payton v. New York*, *supra* note 70.
- <sup>76</sup>*Id.*
- <sup>77</sup>*Id.*
- <sup>78</sup>*Id.* at 583.
- <sup>79</sup>*Payton* requires that absent exigent circumstances or consent, officers obtain an arrest warrant before entering a person's residence to arrest him. *Steagald v. United States*, *supra* note 72, requires a search warrant, absent exigent circumstances or consent, to enter the premises of someone other than the arrestee to make an arrest. Since this article concerns warrantless searches, no distinction is made regarding whether it is an arrest warrant or a search warrant that is not needed in emergency circumstances. For an excellent discussion of *Payton* and *Steagald*, see Johnson, "Emergency Entries to Arrest: Developments Since *Payton*," *FBI Law Enforcement Bulletin*, vol. 54, No. 6, June 1985, pp. 25-31.
- <sup>80</sup>*Zurcher v. Stanford Daily*, 436 U.S. 547, 556-557 n.6 (1978), quoting Comment, 28 *U. Chi. L. Rev.* 664, 687 (1961).
- <sup>81</sup>399 U.S. 30 (1970).
- <sup>82</sup>*Id.* at 37 (Black, J., dissenting).
- <sup>83</sup>*Id.* at 34.
- <sup>84</sup>See *Steagald v. United States*, *supra* note 72.
- <sup>85</sup>686 F.2d 93 (2d Cir. 1982).
- <sup>86</sup>*Id.* at 102.
- <sup>87</sup>790 F.2d 13 (1st Cir. 1986).
- <sup>88</sup>*Id.* at 16.
- <sup>89</sup>See, e.g., *United States v. Acevedo*, 627 F.2d 68 (7th Cir. 1980).
- <sup>90</sup>*Supra* note 69.
- <sup>91</sup>*Id.* at 1326.
- <sup>92</sup>466 U.S. 740 (1984).
- <sup>93</sup>*Id.* at 753.
- <sup>94</sup>*Id.* at 751, quoting *McDonald v. United States*, 335 U.S. 451, 459 (1948).
- <sup>95</sup>See *Vale v. Louisiana*, *supra* note 68.
- <sup>96</sup>*Supra* note 67.
- <sup>97</sup>*Id.* at 42.
- <sup>98</sup>*Id.* at 43.
- <sup>99</sup>639 F.2d 792 (D.C. Cir. 1980).
- <sup>100</sup>*Id.* at 794.
- <sup>101</sup>*Supra* note 92.
- <sup>102</sup>See e.g., *United States v. Robertson*, 606 F.2d 853 (9th Cir. 1979).
- <sup>103</sup>*Id.*
- <sup>104</sup>*United States v. Scheffer*, 463 F.2d 567 (5th Cir. 1972), cert. denied, 409 U.S. 984 (1972).
- <sup>105</sup>*United States v. Cuaron*, 700 F.2d 582 (5th Cir. 1983).
- <sup>106</sup>Officers are required to seek a telephonic search warrant only where emergency circumstances exist.
- <sup>107</sup>*United States v. Cuaron*, *supra* note 105, at 590.
- <sup>108</sup>Cf. *People v. Klimek*, 427 N.E.2d 598 (Ill. App. 2d Dist. 1981).
- <sup>109</sup>See *United States v. Scheffer*, *supra* note 104.
- <sup>110</sup>533 F.2d 1210 (D.C. Cir. 1976).
- <sup>111</sup>*Id.* at 1214.
- <sup>112</sup>*Id.* at 1216.
- <sup>113</sup>See *Segura v. United States*, 468 U.S. 796 (1984).
- <sup>114</sup>See also *Mincey v. Arizona*, *supra* note 14.
- <sup>115</sup>See *Segura v. United States*, *supra* note 113, at 811 (Opinion of Burger, C.J.) and 821, 822 (Stevens, J., dissenting).
- <sup>116</sup>See *Mincey v. Arizona*, *supra* note 14, at 406 (Rehnquist, J., concurring and dissenting), noting the claim by the State that certain evidence, such as fresh blood, required immediate examination.
- <sup>117</sup>*Schmerber v. California*, *supra* note 68.
- <sup>118</sup>Cf. *United States v. Robinson*, 533 F.2d 578 (D.C. Cir. 1976), cert. denied, 96 S.Ct. 432 (1976).