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Emergency Entries to Arrest Developments Since *Payton*

(Part I)

"The burden is on the government to establish that exigent circumstances made the warrantless action necessary."

In 1980 in *Payton v. New York*,¹ the U.S. Supreme Court held that the 4th amendment to the U.S. Constitution, made applicable to the States by the 14th amendment, prohibits law enforcement officers from making a warrantless entry into a suspect's home to effect a routine felony arrest.² The majority of the Court reaffirmed the principle that the "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed"³ and that the simple language of the amendment applies equally to seizures of persons and property. The Court again emphasized its belief that the warrant requirement minimizes the danger of needless intrusion.⁴

The Court in *Payton* established the rule for arresting a suspect in his own premises:

"... for Fourth Amendment purposes, an *arrest warrant* founded on probable cause implicitly carries with it the limited authority to enter a *dwelling in which the suspect lives* when there is reason to believe the suspect is within."⁵ (emphasis added)

The *Payton* Court thus made it clear that absent consent or emergency circumstances, a law enforcement officer must obtain an arrest warrant to gain lawful entry to a suspect's residence to arrest him.

The Supreme Court left two important questions unanswered in *Payton*. First, they did not rule on the authority of a law enforcement officer, acting without either a search or arrest warrant, to enter a third party's home to arrest a suspect.⁶ Second, the Court did not consider the type of emergency which would constitute exigent circumstances to justify a warrantless entry into a private residence to effect an arrest or search.⁷

This article will address those issues left unanswered in *Payton* by discussing the Supreme Court's decision concerning the entry of third party premises to arrest. It will then focus on specific factors which the courts have considered to constitute exigent circumstances justifying a warrantless entry of premises.

STEAGALD v. UNITED STATES ENTRY OF THIRD PARTY RESIDENCES TO ARREST

In 1981, a year after its decision in *Payton v. New York*, the Supreme Court addressed the issue of entry

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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 advisor. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.



Special Agent Johnson

into a third party's residence to effect an arrest. In *Steagald v. United States*,⁹ an agent of the Drug Enforcement Administration (DEA) was contacted by a confidential informant who suggested that he might be able to locate Ricky Lyons, a Federal fugitive for whom an arrest warrant was outstanding. A few days later, the informant called the agent again and gave him a telephone number in the Atlanta, GA, area where Ricky Lyons could supposedly be reached during the next 24 hours. Two days later, DEA agents in Atlanta obtained the address corresponding to the telephone number provided by the informant. Several days later, DEA agents drove to that address to arrest Lyons. Two men later identified as Hoyt Gaultney and Gary Steagald were detained outside the house. Several agents proceeded into the house. The agents did not locate Ricky Lyons at the house, but during the search for Lyons, an agent observed what he believed to be cocaine. They subsequently obtained a search warrant, and thereafter, seized 43 pounds of cocaine. Based on the evidence seized, the agents arrested Steagald.

Steagald was indicted on Federal drug charges, and prior to trial, he moved to suppress all evidence discovered during the searches of the house. He argued that the evidence resulted from an illegal entry, inasmuch as the DEA agents had failed to obtain a search warrant before initially entering the house. At the suppression hearing, a DEA agent testified that there had been no "physical hindrance" preventing him from obtaining a search warrant and that he did not

obtain one because he believed that the arrest warrant for Lyons was sufficient to justify the entry and search.⁹

The district court agreed that the arrest warrant alone was sufficient to justify the entry and denied the suppression motion. Steagald was convicted. A divided Court of Appeals for the Fifth Circuit affirmed the district court's denial of the suppression motion.

In a 7-2 opinion, the Supreme Court reversed the court of appeals and held that the homeowner was constitutionally entitled to the protection of a search warrant.¹⁰ The Court specifically noted that the search at issue took place in the absence of consent or exigent circumstances and reiterated the general rule that warrantless entries into a home to conduct a search or make an arrest are unreasonable under the fourth amendment.¹¹

The Court noted that the DEA agents had an arrest warrant for Ricky Lyons; however, they concluded that although "an arrest warrant and a search warrant both serve to subject the probable cause determination of the police to judicial review, the interests protected by the two warrants differ."¹²

The Supreme Court reasserted the *Payton* rule that the fourth amendment rights of the person named in an arrest warrant were fully protected by that warrant, and the arrest warrant alone was sufficient to authorize the entry into that individual's home to effect his arrest. The Court restated the reason for the *Payton* rule as follows: "Because an arrest warrant authorizes the police to deprive a person of his liberty, it necessarily also authorizes a limited invasion of that person's privacy interest when it is necessary to arrest him in his home."¹³

The Court noted, however, that the *Payton* rationale was inapplicable to situations where police sought to use an arrest warrant as the legal authority to enter the home of a third party to conduct a search for the person named in that warrant. "Such a warrant embodies no judicial determination whatsoever regarding the person whose home is to be searched. Because it does not authorize the police to deprive the third person of his liberty, it cannot embody any derivative authority to deprive this person of his interest in the privacy of his home."¹⁴

In conclusion, the Court found that although the arrest warrant protected Lyons from an unreasonable seizure, it did nothing to protect Steagald's home from an unreasonable search. The Court concluded that the deprivation of the third-party homeowner's right to privacy must be based on an independent determination by a magistrate, evidenced by a *search warrant*, that the person named in the arrest warrant is probably in the third party's home.¹⁵

In the final portion of its opinion in *Steagald*, the Court stated that the situation in which warrants would be required are few because arrests frequently occur inside the subject's own home (in which case an arrest warrant is sufficient) or in a public place (in which case probable cause justifies a warrantless arrest).¹⁶ Furthermore, the Court concluded that exigent circumstances would excuse the need to obtain a search warrant when entry was necessary to accommodate legitimate law enforcement efforts.¹⁷

DETERMINING THE EXISTENCE OF EXIGENT CIRCUMSTANCES

In both the *Payton* and *Steagald* decisions, the Supreme Court noted that circumstances would arise in the course of some investigations which would justify police officers in making warrantless entries into premises to effect an arrest. Prior to those decisions, the existence of exigent circumstances had been recognized as a legitimate exception to the general rule that warrantless searches and seizures made inside a home are *per se* unreasonable.¹⁸ The burden is on the government to establish that exigent circumstances made the warrantless action necessary. In determining whether that burden has been met, the courts must rely on the "realities of the situation presented by the record."¹⁹

Since the *Payton* and *Steagald* decisions, numerous courts have addressed the issue of what factors are sufficient to constitute exigent circumstances. An analysis of these cases reveals the existence of several factors which appear as common threads in lower court decisions which found exigent circumstances. Several of these recurring factors are: (1) The gravity of the offense which precipitated the warrantless entry; (2) the time between establishing probable cause to arrest and the warrantless entry; (3) the destruction of evidence; (4) the likelihood of escape; (5) danger to the safety of law enforcement officers and/or the public; (6) prior efforts to obtain a warrant, with particular emphasis on the availability of telephonic search warrants; and (7) whether the exigency was created by the Government. The remainder of this article will focus upon each of these factors and their application by the courts.

Gravity of the Offense

In *Payton*,²⁰ the Supreme Court held that warrantless *felony* arrests in the home were prohibited by the fourth amendment, absent probable cause and exigent circumstances. In *Steagald*,²¹ however, the Court, in referring to *Payton*, placed no limitation on the type of crime with which the suspect must be charged for this rule to be applicable. As a result, some courts have concluded that the nature of the underlying offense was not material when determining the reasonableness of a warrantless entry of premises.²² For example, could officers justify a warrantless entry of premises to arrest for a minor offense based on exigent circumstances? The Supreme Court confronted that issue in deciding *Welsh v. Wisconsin*²³ in May of 1984.

Shortly before 9:00 p.m. on the night of April 24, 1978, a lone witness observed a car being driven erratically. After changing speeds and veering from side to side, the car eventually swerved off the road and came to a stop in an open field. No one was injured. Concerned about the driver and fearing that the car would get back on the highway, the witness drove up behind the car to block its access to the highway. Another passerby also stopped, and the witness asked him to notify the police. Before the police arrived, the driver of the car emerged from his vehicle and requested that the witness give him a ride home. The witness suggested that they wait for assistance in removing the car. Ignoring that suggestion, the driver of the car instead walked away from the scene.

“. . . the gravity of the underlying offense for which the arrest is being made is an important factor to be considered in determining whether an exigency exists to justify the warrantless entry of the home.”

Several minutes later, the police arrived and the witness described what he had seen, specifically noting that the driver was either very inebriated or very sick. The police officer checked the registration of the vehicle and determined that it was registered to Edward Welsh and that he lived within walking distance of the scene.

Without securing any type of warrant, the police went to Welsh's residence. When Welsh's stepdaughter answered the door, at approximately 9:00 p.m., the police gained entry into the house.²⁴ Welsh was found upstairs lying in his bed. At that point, he was placed under arrest for driving under the influence. At the police station, Welsh refused to submit to a breathalyzer test.

It is significant that under Wisconsin State law a first offense for driving under the influence is a nonjailable civil violation with a maximum fine of \$200.²⁵ In addition, a valid arrest is a necessary prerequisite to the imposition of the breathalyzer test. Welsh was charged with a criminal misdemeanor, inasmuch as this was his second DUI citation.²⁶ Welsh requested dismissal of the complaint, claiming that the underlying arrest was invalid. The trial court concluded that the existence of probable cause and exigent circumstances justified the warrantless arrest. The Wisconsin Supreme Court affirmed.

The U.S. Supreme Court reversed. In expressing hesitation at finding exigent circumstances to justify warrantless entries, the Court stated:

“Before agents of the government may invade the sanctity of the home, the burden is on the government to demonstrate exigent circumstances that overcome the

presumption of unreasonableness that attaches to all warrantless home entries. . . . When the government's interest is only to arrest for a minor offense, that presumption of unreasonableness is difficult to rebut, and the government usually should be allowed to make such arrests only with a warrant issued upon probable cause by a neutral and detached magistrate.”²⁷

The Supreme Court held that the gravity of the underlying offense for which the arrest is being made is an important factor to be considered in determining whether an exigency exists to justify the warrantless entry of the home. In addition, the Court said that it was difficult to conceive of any circumstances where a warrantless entry would be justified when the underlying offense is *extremely minor*.²⁸ The Court emphasized three reasons for overruling the State supreme court's finding of exigent circumstances: (1) There was no hot pursuit because police did not continuously pursue Welsh from the place where he left his car; (2) there was no threat to public safety because Welsh was home and had abandoned his car; and (3) although there might have been the potential for destruction of evidence relating to the expulsion of alcohol from the blood, the minor nature of the crime made this inconsequential.²⁹

It should be noted that the Court in *Welsh* emphasized the importance of the nature of the offense to the overall question of whether exigent circumstances exist to justify a war-

rantless home entry. The Court observed that although the grave nature of a crime does not alone create exigent circumstances, it is an important factor in the determination.

Since the Court's decision in *Welsh*, one Federal court of appeals has found the existence of exigent circumstances to justify a warrantless entry to arrest when the underlying offense was a misdemeanor. In *Bledshoe v. Garcia*,³⁰ a civil rights action was brought against New Mexico police officers for unlawful arrest. Bledshoe had been arrested at his mother's residence pursuant to a bench warrant for failure to appear. By way of factual background, Officer Garcia went to the residence and spoke to Bledshoe outside and told him of the warrant. Bledshoe confirmed that he was a.w.o.l. Officer Garcia then allowed Bledshoe to re-enter the house to inform his mother. While inside, several people in the house argued with Garcia that Bledshoe was not going with the officer and yelling ensued. Officer Garcia left the residence and briefed two other officers on what had transpired. The officers returned to the house, entered over Bledshoe's mother's objection, and arrested her for interfering with a law enforcement officer. Other relatives also attempted to thwart the officers' efforts to locate Larry Bledshoe and they were also arrested. Bledshoe escaped in the meantime.

The U.S. Court of Appeals for the 10th Circuit held that although absence without leave from the armed forces is only a criminal misdemeanor, it is nevertheless a serious offense and the circumstances as a whole justified the finding of exigent circumstances to support the warrantless entry. The court held that the resist-

ance and clear defiance of the officers' efforts to take Bledshoe into custody, as well as the possibility of flight, justified their immediate actions.³¹

Following the Court's holding in *Welsh v. Wisconsin*, courts will closely examine warrantless entries to make arrests for minor offenses. The burden is on the law enforcement officer in those circumstances to articulate all factors, such as those present in the *Bledshoe* case, which will justify a warrantless entry to arrest when the underlying offense is minor.

The Time Between Establishment of Probable Cause and the Warrantless Entry

Many of the lower court decisions which have examined the existence of exigent circumstances justifying the warrantless entry have focused in part on the time when police officers developed probable cause to arrest an individual. When the establishment of probable cause precedes the warrantless entry by only a short period of time, the courts are more favorable to the government's claim of exigent circumstances.³² However, in a planned arrest situation where the police have previously established probable cause and are waiting to effect the arrest for convenience or strategic reasons, courts are less receptive to police claims that exigent circumstances necessitated a warrantless entry.³³

The case of *United States v. Hultgren*³⁴ is illustrative of some issues that lower courts have confronted in this regard. The legal issues arise from a progressively complex factual situation involving a narcotics investigation. It commenced on February 2, 1982, when Foster, a DEA informant,

purchased cocaine from Hellums at Hellums' residence. No arrests were made. At midnight on March 1, 1982, Foster informed a DEA agent that he had a cocaine deal with Hellums and Hultgren scheduled to occur on March 2, 1982.

At 3:00 p.m. on that date, Foster informed the agent that in 2 hours he would obtain a sample of the cocaine at Hellums' house, and at that time, final arrangements would be made for the larger sale. At 6:20 p.m., Foster advised the agent that he had met with Hellums and Hultgren, had received a sample, and that the larger transaction would occur at 8:00 p.m. At 7:00 p.m., Foster met with the agent; the sample was tested and determined to be cocaine. Foster was then given a transmitter to broadcast the conversations from Hellums' residence.

At 7:30 p.m., Foster returned to Hellums' residence for the sale, and DEA agents established a surveillance. Although the sale was to occur at 8:00 p.m., Hultgren and Rondinelli did not arrive until 9:30 p.m. Rondinelli was not known to the agents prior to his arrival with Hultgren. DEA agents monitored the conversation between Hellums, Hultgren, Rondinelli, and Foster regarding prices, quantities, and future transactions. Then, for reasons unknown to the agents, the transmitter stopped broadcasting and they only heard static. Minutes later, DEA agents forcibly entered the residence and arrested Hellums, Hultgren, and Rondinelli as they attempted to escape through the back door.

The three arrested individuals were charged with possession of cocaine and with conspiracy to possess cocaine with intent to distribute. Rondinelli and Hultgren challenged their warrantless arrests at Hellums' residence. The district court found that exigent circumstances justified the arrests, and the U.S. Court of Appeals for the Fifth Circuit affirmed.

The circuit court found that the DEA agents did not have sufficient probable cause to arrest Rondinelli until 9:30 p.m., inasmuch as Rondinelli was previously unknown to them. By that time, the surveillance and monitoring of the cocaine transaction was under way and there was no time to obtain the necessary warrants. The court also found that the agents were justified in not having previously obtained warrants and that the subsequent failure of the informant's transmitter constituted exigent circumstances.³⁵

The circuit court had a more difficult time with Hultgren's arrest, inasmuch as probable cause to arrest Hultgren for conspiracy was established at midnight on March 1, 1982, and probable cause for the possession charge was established at 6:20 p.m. on March 2, 1982. The court examined whether the agents' failure to avail themselves of the opportunity to obtain a warrant earlier on the conspiracy charge was fatal to the Government's claim that exigent circumstances justified the warrantless entry on the possession charge.³⁶

The court noted that the finding of exigent circumstances is not foreclosed by the failure to obtain a warrant at the earliest practicable moment.³⁷ The opportunity to obtain a warrant, however, is one of the fac-

"The time at which probable cause is established is but one of the factors to be considered in the determination of whether exigent circumstances exist."

tors to be weighed in determining reasonableness. The court concluded that the ongoing nature of the investigation and the close proximity of events between Moments 1 and 2 were significant factors in finding that the failure to obtain a warrant on the conspiracy charge did not preclude the subsequent arrest precipitated by exigent circumstances.³⁸

The time at which probable cause is established is but one of the factors to be considered in the determination of whether exigent circumstances exist. In each case which addressed this issue the courts also considered the existence of other factors, such as hot pursuit,³⁹ destruction of evidence,⁴⁰ or safety to police and the public⁴¹ in finding justification for the warrantless entry.

Preventing the Destruction of Evidence

Courts have recognized that preventing the destruction of evidence is another legitimate exigency which will assist in justifying a warrantless entry of premises.⁴² In *United States v. Cuaron*,⁴³ the arrests of Cuaron and three other individuals in a joint DEA and local police narcotics investigation illustrate the significance of this factor. In that case, DEA undercover agents purchased cocaine from Jon and William Neets. Jon Neets told the agents that he would be meeting his supplier after the meeting, and they negotiated another 2-pound transaction for that day. Neets said he could only obtain 1 pound of cocaine from his supplier at a time and that he would have to return with the money before he could obtain the second

pound. Using an electronic tracking device, officers located Neets at premises later identified as Cuaron's residence. While at Cuaron's residence, at approximately 12:30 p.m., Neets called the undercover agents and said that he was at his supplier's residence. At approximately 2:00 p.m., the agents arrested Jon and William Neets after they returned and effected the transaction. At approximately 2:55 p.m., DEA agents entered Cuaron's residence without a warrant. The door to an upstairs room slammed shut. Agents, thereafter, arrested Cuaron as he tried to flush cocaine down the toilet, secured the house, and obtained a search warrant for the premises.

The U.S. Court of Appeals for the 10th Circuit concluded that exigent circumstances justified the warrantless entry. The court found it reasonable to believe that evidence would be destroyed if the Neets did not return to the residence soon after the sale with the proceeds from the transaction. The court stated that because of time constraints in this particular instance, even attempting to obtain a warrant telephonically was excused by the exigencies. The court noted that although in this particular case the agents waited approximately 55 minutes before deciding to enter the residence, the exigencies still existed.⁴⁴

In *United States v. Eddy*,⁴⁵ the U.S. Court of Appeals for the Eighth Circuit found a warrantless entry justified where it appeared that the arrest outside the premises of a subject in a narcotics case may have alerted others inside to destroy evidence.

Warrantless entries to prevent the destruction of evidence, other than narcotics, have also been upheld as exigent circumstances.⁴⁶

When attempting to use the possible destruction of evidence as a factor in determining exigent circumstances, law enforcement officers must articulate facts indicating that destruction is more than just a remote possibility. Supportive facts could include, among other things, the specific location of the arrest of one subject in relation to the location of his confederates and the likelihood that the confederates saw or heard the arrest;⁴⁷ the involvement of several people in a crime and the likelihood that one or more would become suspicious if their accomplices did not return within the expected time;⁴⁸ or that suspects had observed a police surveillance.

Part II of this article will analyze four additional factors which courts have relied on in finding exigent circumstances to justify a warrantless entry of premises to arrest. **FBI**

(To be continued)

Footnotes

- ¹ 63 L.Ed.2d 639 (1980).
- ² *Id.* at 644. For a more detailed analysis of the *Payton* decision, see: D. Schofield and J. Davis, "Entering Premises to Arrest: An Analysis of the Warrant Requirement," *FBI Law Enforcement Bulletin*, August and September 1980, vol. 49, Nos. 8-9, pp. 26-31; pp. 24-31.
- ³ *Id.* at 650, citing *United States v. United States District Court*, 407 U.S. 297, 313 (1972).
- ⁴ *Id.* at 650.
- ⁵ *Id.* at 661.
- ⁶ *Id.* at 649.
- ⁷ *Id.* at 648.
- ⁸ 101 S.Ct. 1642 (1981).
- ⁹ *Id.* at 1645.
- ¹⁰ *Id.* at 1644.
- ¹¹ *Id.* at 1647.
- ¹² *Id.* at 1648. The Court stated that an arrest warrant is issued by a magistrate upon a showing that probable cause exists to believe that the subject of the warrant has committed an offense, and thus, the warrant primarily serves to protect an individual from an unreasonable seizure. A search warrant, in contrast, is issued upon a showing of probable cause to believe that the legitimate object of the search is located in a particular place, and therefore, safeguards an individual's interest in the privacy of his home and possessions against the unjustified intrusion of the police.
- ¹³ *Id.* at 1649 n. 7.
- ¹⁴ *Id.* at 1649 n. 7.
- ¹⁵ *Id.* at 1648, 1649 n. 7.

- ¹⁶ *United States v. Watson*, 423 U.S. 411 (1976).
- ¹⁷ *Steagald v. United States*, *supra* at 1652.
- ¹⁸ *Warden v. Hayden*, 387 U.S. 294 (1967) (not pursued); *Vale v. Louisiana*, 399 U.S. 30 (1970) (prevent destruction of evidence).
- ¹⁹ *United States v. McEachin*, 670 F.2d 1139, 1144 (D.C. Cir. 1981).
- ²⁰ 63 L.Ed.2d 639.
- ²¹ 101 S.Ct. 1642.
- ²² *United States v. Spencer*, 684 F.2d 220 (2d Cir. 1982), *cert. denied*, 459 U.S. 1109 (1983).
- ²³ 104 S.Ct. 2091 (1984).
- ²⁴ *Id.* at 2094 n. 1. The State trial court never determined whether there was consent for the entry. The Supreme Court, for purposes of its decision, therefore assumed that there was no valid consent.
- ²⁵ *Id.* at 2095.
- ²⁶ *Id.* at 2096 n.6. The Supreme Court noted that although Welsh was subject to a criminal charge, the police who conducted the warrantless entry were not aware of Welsh's previous charge for driving under the influence. It was therefore necessary to assume that the police at the time of the arrest acted as if they were investigating and eventually arresting for a nonjailable traffic offense that was only a civil violation under State law.
- ²⁷ *Id.* at 2098.
- ²⁸ *Id.* at 2099.
- ²⁹ *Id.* at 2099, 2100.
- ³⁰ 742 F.2d 1237 (10th Cir. 1984).
- ³¹ *Id.* at 1241.
- ³² *United States v. Acevedo*, 627 F.2d 68 (7th Cir., *cert. denied*, 449 U.S. 1021 (1980)); *United States v. Hullgren*, 713 F.2d 79 (5th Cir. 1983); *United States v. Martinez-Gonzales*, 686 F.2d 93 (2d Cir. 1982).
- ³³ *Chimel v. California*, 395 U.S. 752 (1969); *Payton v. New York*, *supra* note 1; *Steagald v. United States*, *supra* note 8; *United States v. Hullgren*, *supra* note 32, at p. 87 n. 11.
- ³⁴ 713 F.2d 79 (5th Cir. 1983).
- ³⁵ *Id.* at 85.
- ³⁶ *Id.* at 86.
- ³⁷ *Id.* at 86, citing *United States v. Gardner*, 553 F.2d 946 (5th Cir. 1977), *cert. denied*, 434 U.S. 1011 (1978).
- ³⁸ *Id.* at 87.
- ³⁹ *United States v. Martinez-Gonzalez*, *supra* note 32; *United States v. Haynie*, 637 F.2d 227 (4th Cir. 1980), *cert. denied*, 451 U.S. 972 (1981).
- ⁴⁰ *United States v. Martinez-Gonzalez*, *supra* note 32; *United States v. Cuaron*, 700 F.2d 582 (10th Cir. 1983); *United States v. Acevedo*, *supra* note 32.
- ⁴¹ *United States v. Hullgren*, *supra* note 32; *United States v. Berick*, 710 F.2d 1035 (5th Cir. 1983), *cert. denied*, 104 S.Ct. 286 (1983).
- ⁴² *Vale v. Louisiana*, *supra* note 18; *United States v. Acevedo*, *supra* note 32; *United States v. Berick*, *supra* note 41; *United States v. Gomez*, 633 F.2d 999 (2d Cir. 1980), *cert. denied*, 450 U.S. 994 (1981); *United States v. McEachin*, *supra* note 19.
- ⁴³ 700 F.2d 582 (10th Cir. 1983).
- ⁴⁴ *Id.* at 590.
- ⁴⁵ 660 F.2d 381 (8th Cir. 1981).

- ⁴⁶ *United States v. McEachin*, *supra* note 19. In this case, police received information from an informant that after a confederate was arrested, McEachin was nervous and stated that he was going to "move or get rid" of a gun which was used in an armed robbery.
- ⁴⁷ *United States v. Eddy*, *supra* note 45; *United States v. Todisco*, 667 F.2d 255 (2d Cir. 1981), *cert. denied*, 102 S.Ct. 1250 (1982).
- ⁴⁸ *United States v. Cuaron*, *supra* note 40; *United States v. Acevedo*, *supra* note 32; *United States v. Berick*, *supra* note 41; *United States v. Mejia*, 578 F.Supp. 1541 (E.D. N.Y. 1984), *aff'd*, by *United States v. Bermudez*, 751 F.2d 371 (2d Cir. 1984).

Crime Index Declines in 1984

Last year, the FBI's Crime Index showed a 3-percent decline, as compared to 1983. During 1984, the overall violent crime volume remained virtually unchanged from the previous year's level, but property crimes collectively decreased 3 percent, according to preliminary figures.

Among the four violent crimes measured by the Index, murder and robbery declined 4 percent and 5 percent, respectively, while increases of 6 percent in forcible rape and 4 percent in aggravated assault were recorded. Of the property crimes, burglary was down 6 percent, larceny-theft decreased 3 percent, and arson held at approximately the same level. Motor vehicle theft was the only

property crime to record an increase, one of 3 percent.

Each of the Nation's four geographic regions showed declines in the total Crime Index. The Northeastern States registered a decrease of 6 percent; the Midwest, 5 percent; and the Southern and Western States, 1 percent each.

Cities with populations over 50,000 registered a 2-percent decline, while those outside metropolitan areas reported a 5-percent decrease. The suburban and rural areas showed decreases of 3 and 5 percent, respectively.

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