Police Prosecutor Update

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SEARCH AND SEIZURE
EMERGENCY AID DOCTRINE

On April 26, 2018, the Indiana Court of Appeals issued its decision in Randall v. State, ___ N.E.3d ___ (Ind. Ct. App. 2018). A sheriff's deputy performing off-duty security work for a hospital observed Randall slumped over the steering wheel of a car in the parking lot with driver's door open and the ignition off. The deputy conducted a "welfare check" and pulled behind Randall's car with his overhead lights on. At that point Randall got out of his car and started walking quickly toward the deputy. The deputy ordered Randall back to his car. When he went to speak to Randall, he noticed Randall was speaking quickly, sweating intensely and that Randall began reaching nervously around the car. The deputy also observed a folded square of aluminum foil, which the deputy believed consistent with methamphetamine use. The deputy asked Randall "what else in the vehicle he would not want a canine officer to find." Randall admitted he had a marijuana pipe. The deputy told Randall to get out of the car, and when Randall objected he put Randall in a wrist lock while another officer pointed a taser at Randall. Randall began crying, stated "it's in the door," and told the deputy there was methamphetamine in the door. A search resulted in the seizure of two pipes and methamphetamine from the car door.

Randall filed a motion to suppress, which the trial court denied, concluding that the deputy was justified under the community care-taking exception to the warrant requirement. The trial court granted Randall leave to file an interlocutory appeal.

The community caretaking function is "a catchall term for the wide range of responsibilities that police officers must discharge aside from their criminal enforcement activities." Police officers "provide an infinite variety of services to preserve and protect community safety." Noting that the supreme court "has only applied the community caretaking function as an exception to the warrant requirement in the limited context of inventor[ies]," the Court found that the community caretaking exception did not apply here. However, the emergency aid doctrine – that "police should be able to act without obtaining a warrant when they reasonably believe a person needs immediate aid or attention" – did apply. While patrolling the hospital parking lot where people have died, the deputy observed a man slumped over the steering wheel of his car with the door open. Therefore, he had an objectively reasonable basis to believe that Randall required medical assistance. Randall's subsequent behavior, waking up, exiting the car, quickly approaching the deputy, objectively supported the belief, even though it dispelled the immediate concern that Randall was dead or unconscious. Randall's brief seizure was permissible under the emergency aid exception. The Court also found that his seizure satisfied the three-part Litchfield test and Article I, Section 11 of the Indiana Constitution. Significantly, the Court found that "the degree of concern . . . that a violation has occurred" can be read in the context of the emergency aid exception as "the degree of concern that emergency medical assistance was needed." The denial of Randall's motion to suppress was affirmed.

SUFFICIENCY OF THE EVIDENCE
INTIMIDATION

On April 26, 2018, the Indiana Court of Appeals issued its decision in Laughlin v. State, ___ N.E.3d ___ (Ind. Ct. App. 2018). Laughlin called in a bomb threat to the county courthouse at 5:00 pm on a Saturday. He called 911 later and asked, "Did you find the bomb? . . . You have ten minutes to respond." The 911 dispatcher was able to determine that the calls came from a telephone number belonging to Laughlin. Police were also able to determine the address from which the calls were made. Once the courthouse was clear and no bombs were found, officers went to the address they had uncovered and located Laughlin. Laughlin was charged with intimidation where the threat is to commit a forcible felony, a Level 6 felony. After a bench trial, the court found Laughlin guilty. Laughlin appealed the conviction contending the state did not present evidence he intended the courthouse to be evacuated because he called in the threat at a time when the courthouse would be unoccupied. [Editor's note: Everyone knows prosecutors never work on weekends.] He also argued the state did not present sufficient evidence that he threatened a forcible felony.

As to the second contention, Laughlin called 911 multiple times, asked whether they found the bomb, and stated "You have ten minutes to respond." It was reasonable for the judge to conclude that Laughlin intended his calls to cause the courthouse to be evacuated. As to Laughlin's first contention, a forcible felony is "a felony that involved the use or threat of force against a human being, or in which there is imminent danger of bodily injury to a human being." The imposition of a time limit by Laughlin could reasonably be construed to mean that he intended to detonate a bomb in ten minutes, which is a threat to use force. Further, even if Laughlin believed the courthouse to be unoccupied, such that his threat was not against a human being, the courthouse is in a downtown area with shops and restaurants nearby, and at 5:00 pm on a Saturday afternoon, pedestrians would be in the vicinity. It was reasonable to infer that had a bomb been detonated, someone either inside or outside the courthouse would be in "imminent danger of bodily injury." Laughlin's conviction was affirmed.

SEARCH AND SEIZURE
INEVITABLE DISCOVERY

On April 12, 2018, the Indiana Court of Appeals issued its decision in Winborn v. State, ___ N.E.3d ___ (Ind. Ct. App. 2018). Winborn stayed the night at his pregnant girlfriend's apartment. In the morning, Winborn struck her, choked her and broke her phone. The girlfriend left Winborn in her apartment and walked to a nearby house where she called 911. She gave the police the keys to her apartment and gave consent for them to enter. Prior to going to the apartment, police found Winborn had a prior conviction for a handgun offense. They approached the apartment, and Winborn invited them in. Officers then placed Winborn in a squad car and advised him of his Miranda rights. Winborn gave a recorded statement of his account of the altercation, and stated he had a backpack containing a gun inside the apartment. An officer, before being advised about the backpack, entered the apartment. He noticed the backpack in a closet of women's clothes, assumed it belonged to Winborn, patted down the bag, and found a loaded .38 revolver. Winborn acknowledged that the bag belonged to him.

Winborn was charged with Level 5 carrying a handgun without a license, strangulation, and battery to a pregnant woman. Winborn filed a motion to suppress, which was denied, and was found guilty of the three offenses. On appeal Winborn argued that the warrantless search and seizure of his

backpack violated the Fourth Amendment. However, the court did not reach that issue. Contemporaneous to the officer's searching the apartment, Winborn was telling police that he had a backpack with a gun in the apartment. Additionally, Winborn was going to be removed from his girlfriend's property based on the assault. Officers testified he would have been allowed to remove his personal belongings. His backpack would have been searched incident to arrest. Under the inevitable discovery exception to the exclusionary rule, the gun would have been located eventually and would, therefore, have been admissible. The denial of the motion to suppress was upheld.

This is a controversial decision. Previously, Indiana courts have found no inevitable discovery exception under the Indiana Constitution. Shultz v. State, 742 N.E.2d 961 (Ind. Ct. App. 2001). "Accordingly, the inevitable discovery doctrine is not available to validate the admission of evidence obtained as a result of an illegal search." Gyamfi v. State, 15 N.E.3d 1131 (Ind. Ct. App. 2014). It remains to be seen whether the Indiana Supreme Court will grant transfer.