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NOTES

WHAT'S REASONABLE ABOUT AN INVENTORY SEARCH?

An "inventory search," the latest,¹ and accordingly, least established exception to the warrant requirement, allows police who do not have a warrant or probable cause to search and list the contents of any vehicle taken into police custody. The search is allegedly legitimated by the need to discover and protect the contents of lawfully impounded vehicles.² Since such a search does not fall within traditional exceptions to the warrant requirement, *e.g.*, as the search incident to a lawful arrest³ or plain view,⁴ it can be upheld only if it meets the reasonableness requirement of the fourth amendment. The standards of reasonableness applied in different jurisdictions have not been uniform. Of particular interest is the marked difference between the standard of reasonableness applied to inventory searches by the Louisiana courts and that employed by the federal courts.

1. The constitutionality of inventory searches is a relatively recent problem that has been judicially considered only during the last two decades.

2. *South Dakota v. Opperman*, 428 U.S. 364 (1976); *State v. Gaut*, 357 So. 2d 513 (La. 1978). For a more detailed discussion of the suggested justifications and the criticism they have received, see note 18, *infra*, and accompanying text. See also Moylan, *The Inventory Search of an Automobile: A Willing Suspension of Debelief*, 5 U. BALT. L. REV. 203 (1976); Liski, *Inventory Searches of Motor Vehicles: The Effect of South Dakota v. Opperman*, 6 CAPITAL U. L. REV. 315 (1976). The latter article submits that *Opperman* did not create a new exception to the warrant requirement by authorizing inventory searches but rather allowed them by extending traditional exceptions.

3. After a full custodial arrest, police can reasonably search the suspect without probable cause or a warrant. It is well settled that this type of search constitutes one of the carefully defined exceptions to the warrant requirement and that such a search does not violate the fourth amendment. 68 AM. JUR. 2d *Searches and Seizures* § 37 (1976). See, *e.g.*, *United States v. Robinson*, 414 U.S. 218 (1973); *Preston v. United States*, 376 U.S. 364 (1964); *Draper v. United States*, 358 U.S. 307 (1959); *Jones v. United States*, 357 U.S. 493 (1958); *Harris v. United States*, 331 U.S. 145 (1947); *Carroll v. United States*, 267 U.S. 132 (1925). However, this search must be limited to those areas "from which [the suspect] might gain possession of a weapon or destructible evidence." *Chimel v. California*, 395 U.S. 752, 763 (1969).

4. When an object is in "plain view," its discovery is not a search for fourth amendment purposes. *Coolidge v. New Hampshire*, 403 U.S. 443 (1971); *Harris v. United States*, 390 U.S. 234 (1968); *Weaver v. Williams*, 509 F.2d 884 (4th Cir. 1975).

Article I, section 5, of the 1974 Louisiana Constitution,⁵ incorporating the protections of the fourth amendment,⁶ guarantees citizens a right to be free from unreasonable searches and seizures. An essential adjunct to this guarantee is found in the holdings of both the United States and Louisiana Supreme Courts—warrantless searches, that is, “searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable,”⁷ subject to only a few exceptions. One of the newer exceptions, the “inventory” of a vehicle, has been held to be a “search” under the fourth amendment⁸ and thus must meet its reasonableness requirements.⁹ However, with reference to the ultimate validity of such searches, there has been a split in the opinions of both state and federal courts.¹⁰ Although presented with earlier op-

5. Every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy. No warrant shall issue without probable cause supported by oath or affirmation, and particularly describing the place to be searched, the persons or things to be seized, and the lawful purpose or reason for the search. Any person adversely affected by a search or seizure . . . shall have standing to raise its illegality in the appropriate court.

LA. CONST. art. I, § 5.

6. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. CONST. amend. IV.

7. *Katz v. United States*, 389 U.S. 347, 357 (1967). See *Chimel v. California*, 395 U.S. 752 (1969); *Mancusi v. DeForte*, 392 U.S. 364 (1968); *Camara v. Municipal Court of San Francisco*, 387 U.S. 523 (1967); *Stoner v. California*, 376 U.S. 483 (1964); *Jones v. United States*, 357 U.S. 493 (1958); *United States v. Lawson*, 487 F.2d 468 (8th Cir. 1973).

8. *South Dakota v. Opperman*, 428 U.S. 364 (1976). See *Harris v. United States*, 390 U.S. 234 (1968); *Camara v. Municipal Court of San Francisco*, 387 U.S. 523 (1967).

9. A warrantless search without probable cause is constitutional under the fourth amendment and article 1, section 5 of the Louisiana Constitution only when it is “reasonable.” *State v. Jewell*, 338 So. 2d 633 (La. 1976).

10. Cases rejecting the reasonableness of the inventory search include: *United States v. Lawson*, 487 F.2d 468 (8th Cir. 1973); *Williams v. United States*, 412 F.2d 729 (5th Cir. 1969); *Brett v. United States*, 412 F.2d 401 (5th Cir. 1969); *Mozzetti v. Superior Court*, 4 Cal. 3d 699, 94 Cal. Rptr. 412, 484 P.2d 84 (1971) Cases upholding inventory searches as reasonable include: *United States v. Mitchell*, 458 F.2d 960 (9th Cir. 1972); *United States v. Smith*, 340 F. Supp. 1023 (D. Conn. 1972); *People v. Trusty*, 183 Colo. 291, 516 P.2d 423 (1973).

portunities to rule on this issue,¹¹ the United States Supreme Court did not do so until 1976 in *South Dakota v. Opperman*.¹²

In *Opperman* defendant's unoccupied vehicle was impounded after having been parked in a restricted zone overnight. Pursuant to standard police procedures, the police inventoried the entire car, including the glove compartment where marijuana was found. When he was subsequently tried for possession of marijuana, the defendant claimed that the introduction of evidence obtained from the inventory was unconstitutional and that the evidence should have been suppressed as the fruit of an illegal search. The trial court disagreed and admitted the evidence. Defendant appealed to the South Dakota Supreme Court,¹³ which reversed, holding that the warrantless inventory of the vehicle's glove compartment was unreasonable under the circumstances and violated the fourth amendment.¹⁴ This decision was reversed by the United States Supreme Court which held that "in following standard police procedures, prevailing throughout the country and approved by the overwhelming majority of courts, the conduct of the police was not 'unreasonable' under the Fourth Amendment."¹⁵

Noting first the lesser expectation of privacy¹⁶ and the inherent mobility of motor vehicles,¹⁷ the Court justified the

11. See, e.g., *Cady v. Dombrowski*, 413 U.S. 433 (1973); *Cooper v. California*, 386 U.S. 58 (1967).

12. 428 U.S. 364 (1976).

13. 228 N.W.2d 152 (S.D. 1975).

14. *Id.* at 158-59.

15. 428 U.S. at 376.

16. *Id.* at 368. But see Justice Tate's concurrence in *State v. Navarro*, 312 So. 2d 848 (La. 1975): "An American's vehicle . . . is an important component of his daily life in the mobile America of this day. A traffic offense does not end, for an American driver, the protections of the Fourth Amendment to the freedom of his effects from state rummaging by warrantless search." *Id.* at 855. Thus, it seems that the Louisiana Supreme Court does not agree entirely that there is a lesser expectation of privacy in an automobile.

17. 428 U.S. at 367. One should note that the court is using the traditional automobile exception to justify the inventory search. The automobile exception was formed solely to allow police to search vehicles when there was probable cause but circumstances made it impractical to obtain a warrant. See, e.g., *Chambers v. Maroney*, 399 U.S. 42 (1970); *Cooper v. California*, 386 U.S. 58 (1967); *Preston v. United States*, 376 U.S. 364 (1964); *Carroll v. United States*, 267 U.S. 132 (1925). However,

search as being necessary to protect the owner's property while in police custody, to protect police from tort claims for loss of such property, and to protect police from potential danger.¹⁸ Due to these considerations, the court held that the search was not unreasonable and consequently not unconstitutional under the fourth amendment.¹⁹

Although this type of vehicle search had been mentioned in Louisiana decisions as early as 1964,²⁰ the Louisiana Supreme Court did not rule on the constitutional validity of such searches until 1976 in *State v. Jewell*.²¹ In *Jewell* police officers found the defendant asleep in the driver's seat of his automobile, which was illegally parked on the highway with the motor running and the lights out. Defendant was then removed from the vehicle and arrested. A police officer immediately inventoried the car and found a small pill bottle containing a phencyclidine (PCP). The PCP was introduced into evidence at defendant's subsequent trial for possession of illegal drugs. The Louisiana Supreme Court held that the search did not qualify as a true inventory search and was therefore unconstitutional.

since by definition an inventory does not involve a probable cause search, reliance on the automobile exception seems inappropriate.

18. 428 U.S. at 369. These proposed justifications have been widely criticized as unsound. The "potential danger to police" justification is the weakest. Police arresting a minor traffic offender have no reason to believe that he or his automobile is dangerous. See, e.g., *United States v. Humphrey*, 409 F.2d 1055 (10th Cir. 1969). See also Note, 29 WASH. & LEE L. REV. 197 (1972). The other two justifications, i.e., safeguarding the owner's property and protecting police from false tort claims, have somewhat more substance than the first. However, it seems unfair that possible loss of insurable property can justify an invasion of privacy, a constitutional right that is uninsurable. The duty of care owed by police should not be so great as to authorize the search. At most, the police as depositaries of impounded vehicles are bailees for mutual benefit. The duty owed the bailor is that of ordinary care. See, e.g., *Federal Insurance Co. v. C&W Transfer and Storage Co., Inc.*, 282 So. 2d 563 (La. App. 4th Cir. 1973). A search is not inherently part of this ordinary care since locking the car would give it the same protection that it would get in the owner's garage. See also *Opperman v. South Dakota*, 428 U.S. 364 (1976) (Marshall, J., dissenting); Lisko, *Inventory Searches of Motor Vehicles: The Effect of South Dakota v. Opperman*, 6 CAPITAL U.L. REV. 315; Note, 87 HARV. L. REV. 835 (1974).

19. 428 U.S. at 376.

20. *State v. Rowan*, 163 So. 2d 87 (La. 1964).

21. 338 So. 2d 633 (La. 1976). The inventory issue was before the Louisiana Supreme Court in *State v. Jones*, 315 So. 2d 270 (La. 1975), but that case was decided on other grounds.

From the facts, of the case, the court concluded that the purpose of the search was not limited to safeguarding property within the impounded vehicle for which police might be held responsible.²²

In so holding, the court adopted the generally accepted view that essential to a valid inventory search is the presence of good faith on the part of the police and the absence of a police motive to circumvent the warrant requirement by calling a search for evidence an inventory.²³ To insure the presence of good faith, the Louisiana court stressed that the search must be customary and authorized by standard police procedures.²⁴ As additional evidence of good faith, the *Jewell* court mentioned that the police might consult with the automobile custodian concerning the impoundment and inventory.²⁵ However, the court did not elaborate on this and gave little indication of when the absence of such a consultation would make an otherwise true inventory search invalid.

*State v. Gaut*²⁶ required the court to confront and resolve the consultation issue. After arresting the defendant for driving while intoxicated, the police had inventoried his vehicle despite his protest. The Louisiana Supreme Court held that such a search is valid only when the vehicle is "*necessarily and lawfully impounded [and the] inventory is necessary under the exigencies of the situation.*"²⁷ The application of this new and stricter test dictates that the customary nature of the impoundment or search will no longer suffice to justify this exception to the warrant requirement. It is clear that both the impoundment and the subsequent search must be based on an

22. 338 So. 2d at 639. The court also considered whether the inventory was limited in scope to those areas where such property might reasonably be found, but it did not base its holding on that issue. *Id.* at 639.

23. *Id.* at 638. The court quoted from Annot., 48 A.L.R.3d 537, 544 (1973): "An essential requirement to a valid inventory search is that the police must have acted in good faith in conducting the inventory, and must not have used the inventory procedure as a subterfuge for a warrantless search."

24. *Id.* at 636-37. This follows the reasoning of *State v. Breaux*, 329 So. 2d 696 (La. 1976), that discriminatory and noncustomary searches are not reasonable.

25. 338 So. 2d at 639.

26. 357 So. 2d 513 (La. 1978).

27. *Id.* at 516.

actual necessity. The court emphasized that one factor to consider in determining the existence of such necessity is police consultation with the car's custodian.²⁸ Since the search is "ostensibly to protect the occupant of the vehicle against loss of his property or the law enforcement agency against the occupant's claim for failure to guard against such loss,"²⁹ it would be consistent with this justification to give the custodian an opportunity to make other arrangements for the car or even "consent to the agency's failure to afford him such protection."³⁰ In *Gaut* the police, without any valid justification, prohibited the defendant's guest passenger from driving the car away as the defendant had requested.³¹ Since there was an unobjectionable alternative to the inventory, which would have relieved the police of any duty owed to the defendant, it was not *necessary* to impound or search the vehicle. Thus the search was held to be outside the scope of a "true inventory search." The court in no way qualified this consultation requirement, thus implying that the custodian should always be able to vitiate the need for a search, even when there is no guest passenger or any other alternative to the impoundment.³² Since the need to impound does not presuppose the need to search, a separate need must be found before police can conduct an inventory search. In effect, the court has imposed a two-stage test by which to determine the constitutional validity of an inventory: (1) was it necessary to impound? and (2) was it necessary to search?

Although neither *Jewell* nor *Gaut* outlines the requisites of a "true inventory search," both decisions recognize the possibility of an inventory being reasonable under the Louisiana

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.* at 515.

32. The justification for the inventory search of the vehicle is ostensibly to protect the occupant of the vehicle against loss of his property or the law enforcement agency against the occupant's claim for failure to guard against such loss. This justification has a very hollow basis indeed, if the occupant disclaims that any valuables are involved and is willing to consent to the agency's failure to afford him such protection by an inventory search.

357 So. 2d at 516.

Constitution. These decisions indicate that in today's mobile society the police, as a practical matter, should be able to make the restricted invasions of privacy that are entailed in inventory searches,³³ but only when the searches are necessary and only when they are "restricted to their limited purpose."³⁴ Refusing to accord blanket acceptance to the inventory search, which could provide an all too available means for police to circumvent the warrant requirement, the court has chosen to determine the reasonableness of the search by looking to the facts of each individual case.

The various Louisiana inventory search cases have focused on the particular facts surrounding a search in determining its reasonableness.³⁵ Such facts include: whether the police requested consent of the custodian before searching;³⁶ whether the police allowed the custodian of the car to make other arrangements for his vehicle;³⁷ whether standard inventory forms were completed;³⁸ whether the police searched the vehicle after the tow truck was called;³⁹ whether the police searched the car on the scene or at the place of storage;⁴⁰ whether the police asked the custodian if the vehicle held any valuables that would make the inventory necessary;⁴¹ and whether the search

33. "[I]n the crowded and mobile society of today, the practical exigencies of law-enforcement have sometimes been held to justify limited invasion of privacy . . . even though based on something less than probable cause . . ." 357 So. 2d at 516.

34. *Id.* at 516.

35. In the very recent case of *State v. LaRue*, No. 62,394 (La. Sup. Ct. March 5, 1979), Justice Calogero listed the factors which the Louisiana Supreme Court has found to be significant in determining the reasonableness of an inventory search.

36. *State v. Schmidt*, 359 So. 2d 133 (La. 1978); *State v. Rome*, 354 So. 2d 504 (La. 1978).

37. *State v. Schmidt*, 359 So. 2d 133 (La. 1978); *State v. Gaut*, 357 So. 2d 513 (La. 1978); *State v. Rome*, 354 So. 2d 504 (La. 1978); *State v. Jewell*, 338 So. 2d 633 (La. 1978). It should be noted that none of these opinions give any indication of how much effort police should put forth to contact the car custodian if he is not on the scene. It seems that they should make some reasonable effort since other arrangements by the custodian would absolve the police of all liability and obviate the need to search the car.

38. *State v. Jewell*, 338 So. 2d 633 (La. 1978).

39. *State v. Schmidt*, 359 So. 2d 133 (La. 1978); *State v. Jewell*, 338 So. 2d 633 (La. 1976).

40. *State v. Schmidt*, 359 So. 2d 133 (La. 1978); *State v. Jewell*, 338 So. 2d 633 (La. 1976).

41. *State v. Gaut*, 357 So. 2d 513 (La. 1978); *State v. Schmidt*, 359 So. 2d 133

was limited in scope to those places where valuables might reasonably be kept.⁴² In examining these factors, the court has attempted to determine the true reason for the search. If the court infers from the circumstances that the purpose of the police was to obtain evidence, the search is not a "true inventory search" and is therefore unconstitutional. Since the intrusion is without probable cause or a warrant, all of the facts surrounding the search must indicate its reasonableness. If any aspect of the search makes it appear that the police were searching for evidence and not merely taking an inventory, the search will not be reasonable.

The Louisiana Supreme Court has recognized the need for the police to make this type of search at times,⁴³ but to avoid police abuse, it has refrained from recognizing an absolute right to make an inventory. As the court said in *Jewell*, "Fundamental constitutional guarantees against unreasonable searches cannot be evaded by labelling them 'inventory' searches."⁴⁴ Accordingly, *Gaut* requires a showing of an actual need to legitimate each individual search. Evidently the court does not believe that this additional proof of reasonableness, which goes beyond *Opperman's* required proof of a standard good faith search, will adversely affect police activity in this regard.

The United States Supreme Court's application of a different standard of reasonableness is evident from an examination of *Opperman*. There, the Court held that an inventory search is reasonable because of the lesser expectation of privacy,⁴⁵ the inherent mobility of an automobile,⁴⁶ and the three "distinct needs" for the search that were discussed earlier.⁴⁷ Although

(La. 1978). The *Gaut* court implied that the custodian can always vitiate the need for the inventory search by stating there are no valuables in the car and waiving the inventory protection.

42. *State v. Rome*, 354 So. 2d 504 (La. 1978); *State v. Jewell*, 338 So. 2d 633 (La. 1978).

43. See note 33, *supra*.

44. 338 So. 2d 633, 637 (La. 1976).

45. 428 U.S. 364, 368. It should be noted that the Louisiana Supreme Court has never accepted this lesser expectation of privacy in an automobile. See note 16, *supra*.

46. *Id.* at 367.

47. *Id.* at 369. See note 18, *supra*, and accompanying text.

the opinion says that the facts of each case must determine the reasonableness of the search, the arguments that justify searching seem to make inventories reasonable per se since the bases for a finding of reasonableness will be present in any situation. The only restriction seems to be that the circumstances surrounding the search must not make it appear to be an obvious police ploy to circumvent the warrant requirement.⁴⁸

The United States Supreme Court evidently wants to put as few restraints as possible on this supposedly legitimate police function⁴⁹ and accordingly has deemed standard, good faith inventory searches reasonable. In so doing, the Court has allowed the policy authorizing the search to outweigh all factual considerations. The result is an overly broad view of reasonableness⁵⁰ that is much less strict than the Louisiana standard which requires a factual finding of both the need to impound and the need to search.⁵¹

The need to inventory justifies the resulting invasion of privacy in much the same way as probable cause justifies a search for evidence.⁵² The underlying basis of both is that the intrusion is necessary because of special circumstances. How-

48. *Id.* at 377. "[T]here is no suggestion whatever that this standard procedure, essentially like that followed throughout the country, was a pretext concealing an investigatory police motive." *Id.* at 376.

49. See *Elkins v. United States*, 364 U.S. 206, 222 (1960), where the United States Supreme Court recognized the need for considering police functions while interpreting the fourth amendment.

50. If the search were prompted by some actual need, as in *Cady v. Dombrowski*, 413 U.S. 433 (1973), the search would seem to be reasonable. In *Cady* the search was prompted by a reasonable belief that the automobile contained a revolver because the car owner was a Chicago policeman who was required to carry a weapon at all times.

51. The need to impound can easily exist when there is no need to inventory; as a practical matter, police cannot leave automobiles on the street unattended. However, when there is no distinct need to search, the inventory will not be reasonable even though the impoundment is.

52. "Generally, 'probable cause' exists where the facts and circumstances within police officers' knowledge, and of which they have reasonably trustworthy information, are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed." 68 AM. JUR.2D *Searches and Seizures* § 42 (1976). In other words, there is probable cause when the officer is reasonable in believing that the search or seizure is necessary. See *Terry v. Ohio*, 392 U.S. 1 (1968); *Brinegar v. United States*, 338 U.S. 160 (1949); *Carroll v. United States*, 267 U.S. 132 (1925). In Louisiana an inventory is reasonable when the circumstances are such that the search is necessary. *State v. Gaut*, 357 So. 2d 513 (La. 1978).

ever, in searching for evidence, probable cause alone does not justify the search; there must be a warrant or some special exception for such a search to be constitutionally supportable.⁵³ The warrant requirement allows for an objective determination of whether probable cause actually exists. This determination is made before the search so as to protect as many citizens as possible from unreasonable invasions of privacy.

At present, the Louisiana Supreme Court has been dealing with an inventory search by examining all of the surrounding circumstances, after the search, to determine whether it was reasonable—whether the need to inventory did in fact exist. However, the only remedy available for illegal inventory search under this post-search scrutiny is the exclusion of the evidence.⁵⁴ The right to be free from unreasonable searches and seizures encompasses all citizens and should protect all,⁵⁵ by allowing a magistrate to decide, prior to the search, whether there is sufficient need to make an inventory reasonable, the right to be free from unreasonable searches would be insured. Thus, it would be consistent with the theory of protecting against unreasonable searches to require a warrant for an inventory search.⁵⁶

53. See note 7, *supra*, and accompanying text.

54. *Mapp v. Ohio*, 367 U.S. 643 (1961), held that the fourth amendment applied to state actions and, accordingly, that evidence secured by "unreasonable searches and seizures" could not be used against the victim of the search in a criminal proceeding in state court. This incorporated the federal "exclusionary rule" of *Weeks v. United States*, 232 U.S. 383 (1914).

55. See, e.g., *State v. Breaux*, 329 So. 2d 696, 699 (La. 1976), in which the court stated: "A Louisiana motorist does not, by entering his vehicle, lose at the whim of a traffic policeman his constitution's protection of his person against unreasonable searches." *A pari*, a citizen does not, by committing a minor traffic offense, lose the constitutional protection against unreasonable searches of his effects.

56. In Louisiana the inventory is justified by saying that the search is to protect the car owner from loss of property and to protect the police from tort claims resulting from such loss. *State v. Gaut*, 357 So. 2d 513, 516 (La. 1978). These being the reasons to search, there seems to be nothing requiring an immediate search. The short time that it would take to obtain a warrant would not prevent the inventory from serving this narrow purpose. The United States Supreme Court has noted the added justification of protecting the police from potential harm. *South Dakota v. Opperman*, 428 U.S. 364, 369 (1976). Perhaps the short delay incurred by a warrant requirement would adversely affect this purpose, but the Louisiana court does not recognize this as a valid justification. Accordingly, Louisiana has even more reason to require a warrant. One should also note the view of three Louisiana Supreme Court Justices on when a warrant

An inventory search of a legally impounded vehicle can be a reasonable invasion of privacy under both the Louisiana and United States Constitution. However, the Louisiana Supreme Court has required much more proof of this reasonableness than the United States Supreme Court. Seemingly, the Louisiana court believes that the need to search may exist under some circumstances, while the United States Supreme Court feels that there is always such a need. At any rate, both views of reasonableness might well be improved by letting a magistrate, rather than the police, decide what is a "true inventory search."

Richard W. Beard

THE MEDIA, THE PUBLIC AND GOVERNMENT—IS THERE A CONSTITUTIONAL RIGHT OF ACCESS?

Petitioner, sheriff of Alameda County, refused respondent broadcasting company permission to inspect and photograph areas of a county jail in which a prisoner's suicide had allegedly occurred. Petitioner's policy was to exclude access to both the press and the public. Respondent brought an action alleging that exclusion was a deprivation of its first and fourteenth amendment rights. The district court preliminarily enjoined petitioner from preventing respondents reasonable access to the jail. The United States Supreme Court reversed, *holding* that "[t]here is no discernable basis for a constitutional duty [on government] to disclose, or for standards governing disclo-

should be required to authorize searching an impounded vehicle for evidence. In *State v. Lain*, 347 So. 2d 167, 171 n.1 (La. 1977), Justice Dixon wrote: "The author is of the personal view that exigent circumstances do not exist when the automobile is lawfully (R.S. 40:989) in custody of police at the station. If there is an opportunity to obtain a search warrant, the circumstances are not exigent, and we should require that a warrant be obtained. Nevertheless, that is not the state of the law." Also, in *State v. Williams*, 347 So. 2d 231, 235 n.2 (La. 1977), Justice Calogero remarked: "Although this author personally believes, along with two of the other Justices of this Court, that when an automobile has been taken into police custody at a stationhouse that a search should never be authorized without a warrant even though 'exigent circumstances' had existed earlier at the scene, the state of the law is otherwise."