10-1982

Illinois v. Lafayette

Lewis F. Powell Jr.

D

Wrong - but can't correct all errs.

Ill Ct held not a valid "inventory search" 9/21

(Discussion — confusion in state courts - persuaded me to join 3)

PRELIMINARY MEMORANDUM

May 27, 1982 Conference
List 1, Sheet 4

No. 81-1859 Cert to Ill App Ct (Heiple, Scott, Alloy)

ILLINOIS

v.

LAFAYETTE

State/Criminal Timely

1. SUMMARY. May the police search a purse without a warrant after the owner has been arrested and transported to the station house?

2. FACTS AND HOLDING BELOW. Police arrested resp for disturbing the peace and took him to the station house. At the time of arrest, resp was wearing a purse over his shoulder. Police searched this purse at the station house and discovered ten amphetamines in-

Deny. This looks some like a search incident to arrest, but the State court ruled the state had waived this argument. JPS

side a cigarette package. Resp was charged with possession of a controlled substance and moved to suppress the amphetamines. At the suppression hearing, the officer who searched the purse testified that he had no fear for his safety when he arrested resp and that he did not expect to find a gun or drugs when he searched the purse. Instead, he conducted the search because standard procedures require the police to inventory everything possessed by an arrestee. The officer admitted that resp's purse was small enough to be sealed in a bag or box for protective purposes.

The trial court suppressed the evidence and the Ill App Ct affirmed. The State could not defend the search as a search incident to arrest, because it had not made this argument at the suppression hearing. Even if the State had not waived the point, a stationhouse search of a closed container cannot be a search incident to arrest. See United States v. Chadwick, 433 U.S. 1 (1977) (Government could not justify stationhouse search of locked footlocker, seized at time of arrest, as a search incident to arrest).

The Ill Ct App then concluded that petr's search of the purse was not a valid inventory search. In South Dakota v. Opperman, 428 U.S. 364 (1976), the Court upheld the inventory search of an automobile. Illinois, however, has refused to apply Opperman to closed personal containers, because these enjoy greater privacy interests than automobiles and because the police may secure containers of this sort simply by sealing them in a bag or box. People v. Bayles, 82 Ill. 2d 128, 411 N.E.2d 1346 (1980). In this case, moreover, the arresting officer testified that he had no fear for his safety.

The Illinois Supreme Court denied leave to appeal.

3. CONTENTIONS. (1) The search was a reasonable search incident to arrest. Chadwick is distinguishable because it involved a locked footlocker. The purse involved here was much more intimately associated with resp's person. As the Court recognized in United States v. Edwards, 415 U.S. 800, 803 (1974), "searches and seizures that could be made on the spot at the time of arrest may legally be conducted later when the accused arrives at the place of detention." Applying this principle, several courts have upheld stationhouse searches of wallets and purses. United States v. Passaro, 624 F.2d 938 (CA9 1980); United States v. Phillips, 607 F.2d 808 (CA8 1979); Smalin v. State, 587 S.W.2d 571 (Ark. 1979).

(2) The search was also a valid inventory search. As the Court recognized in Opperman, these searches protect the owner's property while it remains in police custody, protect the police against disputes over lost and stolen property, and save the police from potential danger. Applying this reasoning, several courts have approved inventory searches of purses. E.g., People v. Maher, 550 P.2d 1044 (Cal. 1976) (dictum); People v. Harris, 105 Cal. App. 3d 204 (1st Dist. 1980); Smalin v. State, supra.

4. DISCUSSION. The Ill Ct App expressly referred to the Fourth Amendment and relied upon cases construing that provision. People v. Bayles, the Illinois case that the court followed, also rested explicitly on the Fourth Amendment. Thus, there is no doubt that the court invoked the Federal Constitution to strike the search contested here.

As petr points out, the lower court's holding conflicts with several other decisions. Even some of those conflicting decisions,

moreover, expressed uncertainty about the effect of Chadwick on stationhouse searches. The Court, therefore, might want to call for a response and consider clarifying the bounds of stationhouse searches.

On the other hand, this probably would be a poor case for that task. Although the lower court discussed the "search incident to arrest" exception at length, it rejected that rationale on the basis of the State's waiver.[1] This Court, accordingly, could only review the inventory search argument, which the state court rejected on the merits. It might be better to review the constitutionality of stationhouse searches in a case in which both the inventory and "search incident" rationales would be available to the Court.

There is no response.

May 18, 1982 Merritt op in petn

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[1]The court wrote: "we find the State has waived this argument for the purposes of appeal by failing to raise it at the suppression hearing.... Moreover, even assuming, arguendo, that the State has not waived this argument, the stationhouse search of the shoulder bag did not constitute a valid search incident to a lawful arrest." Petn app 3a. The court then discussed the merits of the State's argument, concluding: "we find the postponed warrantless search of the defendant's shoulder bag to be unreasonable" and "the search was not incident to the defendant's arrest." Id., at 4a, 5a. In light of the clear reference to the State's waiver, I would interpret the latter conclusions as mere dictum. This does not appear to be a case in which the state court excused a default and rested its decision on the merits of the claim.

Court .... Voted on................., 19...

Argued ...., 19... Assigned ...., 19... No. 81-1859

Submitted ...., 19... Announced ...., 19...

ILLINOIS

vs.

LAFAYETTE

Motion for leave to proceed ifp.

I don't think we should

Ross sheds

light on this.

BRW thinks - as I do -

that we should have a

uniform rule applicable

to station house.

Grant

(But solicited for CJ to take second look

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	POST	DIS	AFF	MERITS REV	AFF	MOTION G	D	ABSENT	NOT VOTING
Burger, Ch. J.		✓											
Brennan, J.			✓										
White, J.		✓											
Marshall, J.			✓										
Blackmun, J.				Join 3									
Powell, J.				Join 3									
Rehnquist, J.			✓										
Stevens, J.			✓										
O'Connor, J.		✓											

October 28, 1982

81-1859 Illinois v. Lafayette

Dear Chief:

Although my vote was a "shaky" one to join 3, I hesitate to decide this case by a PC.

As I read your draft, it would expand our recent automobile search cases that were based - at least for me - in part on the limited expectation of privacy that one has in an automobile. This was a part of the rationale in my Saunders opinion.

The search of a closed container in a station house may, as you suggest, be justified as an "inventory search", even though a warrant easily was obtainable. But I had rather not go this far without having full briefing and argument. Nor am I eager to add another Fourth Amendment case for this Term. I am now inclined to deny.

Sincerely,

The Chief Justice

lfp/ss

cc: Justice White
Justice Rehnquist
Justice O'Connor

[Levene--October 28, 1982]

2nd Draft -- Illinois v. Lafayette, No. 81-1859

Per Curiam:

Respondent was charged with possession of a controlled substance in violation of Section 1402 (b) of the Illinois Controlled Substances Act, Ill. Rev. Stat., ch. 56 1/2, ¶ 1402 (b). Prior to trial, the Kankakee County Circuit Court suppressed the ten amphetamine pills found in respondent's shoulder bag during an inventory search at the stationhouse. The Illinois Appellate Court affirmed the suppression order, 99 Ill. App.3d 830, 425 N.E.2d 1383 (3d Dist. 1981), and the Illinois Supreme Court declined discretionary review. App. to Pet. for Cert. B-1. We have concluded that

the court below erred in requiring that respondent's bag be sealed and inventoried as a single item, and we reverse.

On September 1, 1980, at about 10 p.m., Officer Maurice Mietzner arrived at the Town Cinema in Kankakee in response to a call about a disturbance. There he found the respondent in a violent altercation with the theatre manager. Mietzner arrested respondent for disturbance of the peace, handcuffed him, and took him to the police station. Respondent wore his shoulder bag on the trip to the station.

At the police station respondent was taken to the booking room; there Mietzner removed the handcuffs from respondent and ordered him to empty his pockets and place the contents on the counter. After doing so, respondent took a package of cigarettes from his

consent?

shoulder bag and placed the bag on the counter. Mietzner then searched the bag, and found ten amphetamine pills inside a cigarette case package.

At the suppression hearing, Mietzner testified that he examined the bag's contents because "everything" had to be inventoried as part of the standard police procedure. He did not expect to find drugs or weapons when he searched it; he conceded that the shoulder bag was small enough that it could have been "placed and sealed in a larger bag or box for protective purposes." 99 Ill. App.3d at 832, 425 N.E.2d at 1384.

The State argued before the trial court that the search of the shoulder bag was a valid inventory search. The trial court summarily suppressed the pills.

On appeal, the State contended for the first time that the search was "incident to a lawful custodial arrest," and again claimed that the search "constituted a valid inventorying of the defendant's personal effects upon his arrest." 99 Ill. App.3d at 832, 425 N.E.2d at 1385.

On appeal, State argued "incident to arrest." Ill Ct held State had waived this

The Illinois Court of Appeals affirmed. It held that the state had waived the argument that the search was incident to a valid custodial arrest by failing to raise it at the suppression hearing. Id. The court went on to state that "the stationhouse search of the shoulder bag did not constitute a valid search incident to a lawful arrest." 99 Ill. App.3d at 833, 425 N.E.2d at 1885.

The Court of Appeals also held that the search was not a valid inventory of respon-

dent's belongings. It purported to distinguish South Dakota v. Opperman, 428 U.S. 364 (1976), finding (1) that there is a greater privacy interest in a purse-like shoulder bag than in a car, and (2) that the State's legitimate interests could have been met in a less intrusive manner, by "sealing [the shoulder bag] within a platic bag or box and placing it in a secured locker." 99 Ill. App.3d at 834-35, 425 N.E.2d at 1386. Presumably, that court concluded that after sealing the bag a warrant should have been obtained. We disagree.

Ill Ct found:

In South Dakota v. Opperman, 428 U.S. 364 (1976), we upheld a search of the contents of an unlocked glove compartment of a car lawfully impounded by the police. We recognized that inventory searches serve three legitimate

Purposes of inventory searches:

purposes: to protect the owner's property while in the custody of the police, to protect the police against false claims of theft, and to protect the police from potential harm. Id. at 369. Accordingly, we held that the Fourth Amendment does not prohibit routine inventory searches of automobiles lawfully in police custody.

Would such a search be unreasonable

Of course, there are limits on inventory searches, which remain subject to the Fourth Amendment's bar on "unreasonable" searches. What is reasonable must be determined from all the facts and circumstances. It would be "unreasonable" to carry out an investigative search under the pretext of conducting a routine inventory search, United States v. Diggs, 544 F. 2d 116, 125-27 (CA3 1976)(Gibbons, J., concurring); State v.

Crabtree, 618 P.2d 484, 486 (Utah 1980), or to conduct a more intrusive search than is necessary to protect the property and themselves.

Here, the police routinely inventoried respondent's possessions after a routine arrest for disorderly conduct. They did not suspect they would find contraband. Respondent does not claim that the inventory was a pretext; on the contrary, he concedes that the police merely sought to protect themselves from false claims and respondent's property from theft or damage. Br. for Resp. in Opp. 6. Thus, the only question is whether the search was more intrusive than needed.

7, Resp. concedes

In Opperman, we rejected the claim that the car should have been locked and placed under guard to protect it and its contents. Although separately inventorying and storing

the car's contents entailed a greater intrusion into the owner's privacy, we held such a search permissible for three reasons.

First, searching the car was the only way the police could adequately protect themselves against the occasional danger that unsearched cars might present. As there is no way that police can tell whether or what class of automobiles that come into their custody might contain dangerous instrumentalities, only routine searches can guarantee their safety. Second, inventories may help to discourage false claims against the police. And third, there is "a substantial gain in security if automobiles are inventoried and valuable items are removed for storage." Opperman, 428 U.S. at 379 (Powell, J., concurring). The same reasons apply here to the police decision

to separately inventory the contents of respondent's bag rather than to seal and secure the bag as a single item.

First, any items that are brought within the confines of a police station, however innocent in appearance, might contain dangerous instrumentalities. The need to protect against such risks does not turn on the presence or absence of an actual fear that a particular package is dangerous. Second, absent a detailed inventory, the police would still be subject to claims that "someone" entered the sealed locker and removed valuable items from the bag. Third, the very existence of an inventory list may deter police employees from stealing goods in police custody. Thus, it was not "unreasonable" for the police to in-

ventory the contents of respondent's shoulder bag.

Respondent's reliance on United States v. Chadwick, 433 U.S. 1 (1976), is misplaced. In Chadwick, the FBI arrested the respondent as he entered a car outside the Boston train station. At the same time, they also seized a large, locked footlocker that respondent had just placed in the car. Unlike this case, the had abundant probable cause to believe the footlocker contained contraband. We held that the subsequent warrantless search of the double locked footlocker in the Federal Building violated the Fourth Amendment, rejecting the government's claim that the search fell within the "automobile" or "search incident to arrest" exceptions. The government did not claim that the search was a routine inventory

search,[1] and indeed could not have done so since the purpose of the search was to confirm strong suspicion that the footlocker contained drugs.

We conclude that police may routinely inventory the contents of containers in the possession of a person lawfully arrested.[2] Accordingly, the petition for certiorari and respondent's motion to proceed in forma pauperis are granted, the judgment of the Illinois Court of Appeals is reversed, and the case is remanded to that court for further proceedings not inconsistent with this opinion.

It is so ordered.

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[1] Indeed, we specifically noted that our analysis did not apply to inventory searches under South Dakota v. Opperman, 428 U.S. 364 (1976). See United States v. Chadwick, 433 U.S. 1, 10 n.5 (1977).

[2] We do not address the issue whether the police could search the bag as a delayed search incident to respondent's arrest in view of the holding below that the state waived this issue by failing to raise it in the suppression hearing. See Wainright v. Sykes, 433 U.S. 72, 86-87 (1977).

Supreme Court of the United States
Washington, D. C. 20543

We received only one copy

CHAMBERS OF
THE CHIEF JUSTICE

I'll not join. Indeed now supply to Dewey

October 28, 1982

RE: No. 81-1859, Illinois v. Lafayette

MEMORANDUM TO: Justice White
Justice Powell
Justice Rehnquist
Justice O'Connor

I enclose, only to those who exhibited some view that this case was wrongly decided, a draft Per Curiam reversing summarily.

In Judge Wilbur Miller's terms, I don't "feel bitter" about this case.

Regards,

WEB

I recommend that you not join this. The decision below may have been wrong, but this opinion does not convince me of that. The only State interest that is remotely compelling here (where the shoulder bag [unlike a car, could be sealed in a larger bag) is the possibility that the bag will contain something dangerous. Of course the police had no reason to suspect that to be true. If the mere possibility of dangerousness is sufficient to justify a search, Chadwick and Saunders should (con't, back of this sheet)

Court ..... *Voted on*....., *19*...

Argued ....., *19*... *Assigned* ....., *19*... No. 81-1859

Submitted ....., *19*... *Announced* ....., *19*...

ILLINOIS

vs.

LAFAYETTE

Also motion for leave to proceed ifp.

Relist
for
C. J.

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING
Burger, Ch. J.													
Brennan, J.													
White, J.													
Marshall, J.													
Blackmun, J.													
Powell, J.			✓										
Rehnquist, J.													
Stevens, J.													
O'Connor, J.													

Court ..... *Voted on*....., 19...

Argued ....., 19... *Assigned* ....., 19... No. 81-1859

Submitted ....., 19... *Announced* ....., 19...

ILLINOIS

vs.

LAFAYETTE

Also motion for leave to proceed ifp.

Granted

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING
Burger, Ch. J.													
Brennan, J.										Same vote as in 9/27			
White, J.													
Marshall, J.													
Blackmun, J.													
Powell, J.										I voted to join 3			
Rehnquist, J.													
Stevens, J.													
O'Connor, J.													
.....													

Rev. 04/19/83

BENCH MEMORANDUM

No. 81-1859

Illinois v. Lafayette

From: Mark April 28, 1983

Questions Presented

Whether the police, acting pursuant to standard procedure, may conduct a warrantless station-house search of an arrestee's shoulder bag.

1. Background

At 10:00 p.m. Reep was arrested in a movie theater in Kankakee, Illinois, for disturbing the peace. He had a shoulder bag (purse) strapped over his shoulder. The arresting officer did not search Reep or seize the purse, but handcuffed him and took him to the police station. In the booking room the officer removed the handcuffs and told Reep to take everything from his pockets and place them on the counter. Reep did so. He also removed a pack of cigarettes from the purse and then placed the purse on the counter. The officer opened the purse and found two pills wrapped in cellophane. The pills contained amphetamine, and Reep subsequently was indicted for unlawful possession.

The trial court suppressed the pills seized from the purse. The Illinois Appellate Court, Third District, affirmed. First, the court held that the State had waived its argument that the search was justified as a delayed search incident to a lawful arrest. But then the court held, assuming *arguendo* that the State had not waived the argument, that the search would not be justified as a delayed search incident to arrest. Finally, the court held that the search could not be justified as an inventory search. The Illinois Supreme Court denied review.

This Court granted cert following the Chief's unsuccessful attempt to get a court for a summary reversal. The United States has filed a brief in support of petr, as has the Americans for Effective Law Enforcement, Inc. (joined by several police organizations). The California State Public Defender has filed a brief in support of resp.

II. Discussion

Petr seeks to justify the search here as either (i) a delayed search incident to arrest, or (ii) an inventory search. I find the search incident question very close, but believe the issue is not properly before the Court. If the Court does reach the issue, I would hold that the search incident rationale does not extend beyond the immediate post-arrest situation to the police station. I also believe that the search in this case is not justified on an inventory theory. I therefore recommend affirmance.

A

1. The first question on the "search incident" issue is whether it is properly before the Court. The Illinois court stated: "[W]e find the State has waived this argument for the purposes of appeal by failing to raise it at the suppression hearing." (Pet. App. at 3a.) But the Illinois court also stated that "even assuming, arguendo, that the State had not waived this argument, the stationhouse search of the shoulder bag did not constitute a valid search incident to a lawful arrest." (Id.) And the court then conducted a detailed discussion of this issue -- a discussion longer than its discussion of the "inventory search" question. The Illinois court concluded its opinion with this statement: "Therefore, the postponed warrantless search of the defendant's shoulder bag was neither incident to his lawful arrest nor a valid inventory of his belongings, and thus, violated the fourth amendment. Accordingly, we affirm ...." (Id., at

6a-7a.)

I think it clear that the court's "waiver" holding constitutes an independent and adequate state ground of decision. Petr argues that because the state court reached and decided the issue, this Court may consider it. See Jenkins v. Georgia, 418 U.S. 153, 157 (1974); Raley v. Ohio, 360 U.S. 423, 436 (1959). In those cases, however, the situation was that the state court had decided an issue that arguably had not been raised; in neither case did the state court expressly hold that the argument had been waived. It troubles me that the state court issued an advisory opinion on this issue, but the fact remains that if this Court were to reverse on a "search incident" theory, on remand the Illinois court would be free to reinstate its judgment on the basis of its waiver holding.

Petr also argues that Illinois's waiver rule is based on Steagald v. United States, 451 U.S. 204 (1981), and therefore that this Court may review the question whether the issue was waived. (Petr then argues that it actually did raise the search incident issue in a post-suppression hearing memorandum filed prior to the trial court's decision.) I reject petr's position. A state's waiver rule, even if based on a federal standard, is state law and is not subject to review in this Court.

2. I turn to the merits of the search incident question, for your consideration in the event you disagree with my analysis of the waiver issue. (The search incident cases also are useful background in this area.) The doctrine of search incident to a lawful arrest is based on the need to protect arresting officers

from nearby weapons and to prevent the concealment or destruction of evidence. See Chimel v. California, 395 U.S. 752 (1969). In United States v. Robinson, 414 U.S. 218, 235 (1973), the Court upheld a search of a cigarette pack in the arrestee's pocket even though the police lacked probable cause: "A custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification." In New York v. Belton, 453 U.S. 454 (1981), the Court reaffirmed the rule, and noted that it permits searches of all containers within the arrestee's immediate control.

In view of this precedent, it is clear -- and resp concedes -- that the police could have searched this shoulder bag at the time of the arrest. The question then becomes whether this basis for the search remains when the officer reaches the station. An affirmative answer is provided in United States v. Edwards, 415 U.S. 800 (1974). In that case the Court upheld a warrantless seizure and search of an arrestee's clothing. JUSTICE WHITE's opinion for the Court (which you joined) noted that the police had authority to take the clothes into custody, and stated that "[t]he police were also entitled to take from Edwards any evidence of the crime in his immediate possession, including his clothing." Id., at 804-805. More to the point for this case, the Court said flatly: "It is ... plain that searches and seizures that could be made on the spot at the time of the arrest may legally be conducted later when the accused arrives at the place of detention." 415 U.S., at 803. The rationale was that

the accused "was no more imposed upon than he could have been at the time and place of the arrest." Id., at 805.

Under this theory, it would seem that the search of resp's purse was lawful. The police did no more than they could have at the scene of the arrest. An opposite result is suggested, however, by United States v. Chadwick, 433 U.S. 1 (1977), which invalidated a warrantless search, at the police station, of a double-locked footlocker. The Chief's opinion (which you joined) distinguished the "search incident" cases in language that would appear to apply fully to this case:

> "[W]arrantless searches of luggage or other property seized at the time of an arrest cannot be justified as incident to that arrest either if the 'search is remote in time or place from the arrest,' ... or no exigency exists. Once law enforcement officers have reduced luggage or other personal property not immediately associated with the person of the arrestee to their exclusive control, and there is no longer any danger that the arrestee might gain access to the property to seize a weapon or destroy evidence, a search of that property is no longer an incident of the arrest." 433 U.S., at 15.

Under this approach, it is not true that the police may do at the stationhouse whatever they might have done at the scene; rather, once the particular interests that justify a search incident to arrest have vanished, a warrant (or some other rationale) is necessary for the search.

The SG attempts to reconcile these passages from Chadwick and Edwards. He relies on a distinction derived from the Chief's use of the phrase "luggage or other personal property not immediately associated with the person of the arrestee." Under this theory, he suggests that the search incident rationale continues

beyond the immediate post-arrest situation whenever the item is something ordinarily "carried on the person of an individual or kept within ready access at all times." Brief for SG at 17. There is some intuitive force to this position: a purse seems more like a person's pockets (which surely can be searched at the police station) than like a double-locked 200-pound footlocker (which cannot be searched). But adherence to this view would produce the same problems associated with the "unworthy container" test in the car search cases. If a purse is "immediately associated with the person," is the same true of a suitcase that he is carrying? What about a briefcase? a shopping bag? four shopping bags? In short, the line-drawing problems would be as difficult -- and as confusing to police -- as those in the car search cases. Having just decided to avoid these problems by adopting a bright-line test in United States v. Ross, ___U.S.___ (1982), the Court probably should do so in this context as well.

I therefore think that, if the search incident issue properly were here, the Court would have to choose between the Edwards and Chadwick rationales. Following Edwards, the Court could hold that the police are entitled to conduct a stationhouse search to the same extent as they are entitled to conduct a contemporaneous search incident to arrest. Following Chadwick, the Court could hold that the primary basis of a search incident to arrest -- the exigencies of the situation -- has disappeared by the time the arrestee and his belongings arrive at the police station, and therefore any search conducted there must be pursuant to a warrant or justified by a different rationale. I do not find this

an easy choice, because I believe there is some force in Edwards' reasoning that if the police could search the shoulder bag at the scene, there is little reason to find that the police cannot conduct the same search at the station. But I conclude that the rationale of a contemporaneous search incident to arrest simply does not apply to a stationhouse search of a purse. By the time the police reach the stationhouse, the purse should be sufficiently secured so that the suspect cannot reach it to obtain a weapon or to destroy or conceal evidence. (In fact, this was not true here, but I would think that by permitting the arrestee to retain the shoulder bag on the trip to the station, the officer indicated his belief that there was no danger to himself or to possible evidence.) The search at the station, therefore, is not like a contemporaneous search incident to arrest. Whatever search may be conducted "incident to booking" should be determined by reference to the particular interests of the police in security at the station.

B

1. The issue that is before the Court is whether the search below is valid as a routine inventory search. The leading case is South Dakota v. Opperman, 428 U.S. 364 (1976), in which the Court upheld a routine inventory search of a lawfully impounded automobile. The Court's opinion placed partial emphasis on the fact that a person has a lesser expectation of privacy in a car. It also noted that the police were operating pursuant to a standard procedure that served three interests: (i) protection of the

owner's property, (ii) protection of the police from claims concerning lost or stolen property, and (iii) protection of the police from potential danger. 428 U.S., at 369. The Court held that these routine administrative searches did not require a warrant, for the concept of probable cause did not apply to these noninvestigative searches.

You joined the Chief's opinion, but also wrote a concurring opinion stating that the decision "provides no general license for the police to examine all the contents of such automobiles." Id., at 380. You emphasized that the police operated pursuant to departmental regulations and without discretion; that the police had not searched the locked trunk, and that there was no evidence in the record that the police had examined the contents of the items seized other than so far as necessary to inventory them and remove them for storage.

2. The application of Opperman to this case is not simple. To the extent Opperman turned on the reduced expectation of privacy in an automobile -- particularly in an abandoned automobile -- the decision does not apply to a stationhouse search of the contents of a purse or other container. On the other hand, the rationales of Opperman are not limited to the car situation. It therefore is necessary to consider how they apply here:

(i) Protection of the owner's property -- This rationale seems to provide little reason to search and inventory every piece of property found in an arrestee's purse. The entire bag could be locked up in one piece, without being opened, and it would be as safe as if the bag were searched, inventoried, and

then locked up.

(ii) Protection of police from false claims -- As you suggested in Opperman, this rationale has limited force. It probably is true that a detailed inventory will minimize false claims, but it is possible that some owners will assert that property was omitted from the inventory.

(iii) Protection of police from danger -- In my view, your rationale in Opperman applies equally here: "Except in rare cases, there is little danger associated with impounding unsearched automobiles. But the occasional danger that may exist cannot be discounted entirely. The harmful consequences in those rare cases may be great, and there does not appear to be any effective way of identifying in advance those circumstances or classes of automobile impoundments which represent a greater risk." 428 U.S., at 378. For example, there may be some danger to police when, upon the person's release from jail, they return an unsearched purse that might contain a weapon.

It therefore appears that the justifications for an inventory search do extend to the police station. The countervailing privacy interests, however, seem greater than in Opperman: the expectation of privacy in personal effects is greater than in an abandoned automobile. You were concerned, moreover, that any such search be limited and conducted pursuant to regulations. Under this rationale, it is not clear that the "standard procedures" followed in the Kankakee police station are sufficiently delineated or routine. The arresting officer testified that when he arrests a person with a purse, he routinely examines the con-

tents. He also said that he looked in the purse because "everything has to be inventoried." App. 15. But there was no testimony that the Kankakee police department had any regulations to this effect or that it otherwise instructed the officer on how to proceed. For example, we are not informed as to whether the police routinely open and inventory locked containers brought in with the arrestee. Nor are we told when an officer decides his inventory is sufficiently detailed -- for example, does he go inside a zippered compartment in the purse? does he open any container found in the zippered compartment? does he open anything found in the container? In sum, the officer's testimony that "a search at the time of booking" is "a normal procedure" is not particularly helpful. App. 12.

It seems fair to conclude that the Kankakee police search everything on the arrestee's possession. I do not believe the Court should adopt a broad rule permitting the police to inventory everything lawfully in their custody. If an inventory search is permissible in all situations, then the Fourth Amendment effectively does not apply once a person is arrested. This would undercut much prior case law. In Arkansas v. Sanders, 442 U.S. 753 (1979), for example, the Court invalidated a warrantless search of an unlocked suitcase. Under the broadest inventory theory, the police could inventory the suitcase once at the station. Indeed, under a broad inventory theory, the police could examine and inventory the contents of the locked trunk at issue in Chadwick.

If the police cannot inventory every piece of property that

comes into the station, the difficult question arises again as to where to draw the line. It appears to me that the effect of forbidding an inventory search in all cases is to forbid it in almost any case. If an inventory search is not permissible for an unlocked suitcase (as was involved in Sanders), there would be no justification for permitting it with respect to resp's unlocked "shoulder bag." The exception would be that the police of course may seize and inventory all items from the arrestee's person and clothing. This is essential for security if the person is to be detained at the station. But this rationale would support only seizure of these items. Once seized, any such property would be like the suitcase in Sanders or the luggage in Chadwick: the police have lawful custody of it, but may not search it without a warrant.

3. The SG adds an additional consideration. When an arrestee is taken into custody, it is reasonable for the police to determine his identification. Suppose he refuses to identify himself or gives a name the police think may be false, or the police simply want his driver's license to aid their booking. Are they prohibited from opening his purse or other container that may contain such identification? Must they allow the arrestee himself to extract from the closed container the relevant pieces of identification, without first making sure that the container has no weapon that may be used against them? I am sympathetic to the SG's point that "it is entirely reasonable, as part of the administrative booking procedure, to inspect the contents of an arrestee's wallet or purse in order to ascertain or verify the

identity of the person being incarcerated." Brief for SG at 19. The booking procedure should not become complex or in any sense a "game" in which the officers try to discover the identity of the arrestee.

If the Court held that the police could search a wallet or purse for identification, some line-drawing problems would remain. This case is a good example. Resp describes the searched item as a "shoulder bag" that resembles luggage; petr describes it as a "purse" that is functionally equivalent to a wallet. (The record is not developed on this point, though my guess is that it is more like a purse than a suitcase.) It therefore is not clear if the police would have had cause to look for identification in this bag.

Because the State did not raise this issue, but rather has sought to defend only on the need to inventory the items in the purse, the Court need not reach the question of looking for identification. I have raised the point because I think it is one that should be considered when one is trying to figure out exactly what the police should be entitled to do when booking an arrestee.

4. I am not entirely comfortable with the result reached herein, for I think that rejection of petr's argument may well result in a major change in police practice. The brief for the law enforcement amici points out that Professor LaFave's treatise states:

> "Currently, such evidence [resulting from routine booking searches] is admissible, and this is generally so even when the inventory has been most thorough. It is customary for the

> booking inventory to involve an item-by-item examination of everything in the arrestee's pockets or otherwise on his person, including looking into his wallet or into containers on the person; it may even extend to a strip search." 2 W. LaFave, Search and Seizure, §5.3 (1978).

And in previous cases the Court has found historical practice to be relevant. For example, in Edwards JUSTICE WHITE observed: "Historical evidence points to the established and routine custom of permitting a jailor to search a person who is being processed for confinement under his custody and control. While '[a] rule of practice must not be allowed ... to prevail over a constitutional right,' little doubt has ever been expressed about the validity or reasonableness of such searches incident to incarceration." 415 U.S., at 804 n. 6 (citations omitted). Nonetheless, I do not think that the rationales in Opperman should permit a warrantless search of every piece of property lawfully seized by the police.

III. Conclusion

I recommend affirmance on the ground that the police may not routinely search and inventory every piece of property that the arrestee brings with him to the police station. Other possible justifications for the search are not before the Court. The "delayed search incident" argument was waived, and the State has not sought to defend the search of the purse as necessary to obtain identification.

81-1859 ILLINOIS v. LAFAYETTE Argued 4/20/83

Validity of station house search of shoulder bag.

Picard (ant #6 - 2d)

Not helpful.

Carusona (Resp).

Limited argument to inventory search.

Arrest was for disturbing peace - a {petty offense / misdemeanor}. (But custodial arrest = is OK)

We should apply balancing search of Opperman. It does not allow opening containers.

Relies on Chadwick & Sanders - though conceding his position requires an "extension" of these cases.

No. 81-1859, Illinois v. Lafayette Conf. 4/22/83

The Chief Justice Rev.

Absolute right to make Inventory Search at Station House.

Should it open letters.

Sealing a wallet with money, etc does'nt protect police from suits

Oppenheim principles apply.

Justice Brennan Rev.

On inventory only

Locked containers, brief cases, etc not here.

Justice White Rev.

Read it reads "incident to arrest" — not here.

But a search "incident to arrest" includes anything on the person including wallets, etc.

Locked suitcases not before

The

...rather than try to rationalize
these cases, adopt Professor
LaFave's view: at station house,
search everything on person.

81-1859 Ill v. Lafayette Rev-Ct.

Search of shoulder bag at police station. Reversed to Rev

Two issues:

1. Incident to arrest. Not raised in trial court, & Ill Ct/Apps applied state law waiver rule. Thus, independent state ground

2. Inventory at Station House

Conflicting cases:

(a) U.S. v Edwards - BRW's opinion: any search that could be made at arrest, can be made at station house

(b) Chadwick/Sanders. Decisions suggest that warrant is necessary for containers. Expectation of privacy greater in purse.

(c) Opperman - inventory - but there police followed routine prescribed rule.

3. Classify confusion (Ross)

Rather than try to rationalize prior cases, adopt Professor LaFave's view: at station house, search everything on person.

There is apparent prejudice

Justice Marshall Rev. – narrow op.

Both "incident to arrest & "inventory" are relevant

Justice Blackmun Rev.

Justice Powell Rev.

See notes

Should schedule everything – not done in this case

Justice Rehnquist Rev.

Justice Stevens Aff in

~~Contents of pocketbooks, etc., closed~~

No right to look for anything except for weapons, or for something related to crime for which arrested

The 3rd practice is not clear & may be invalid - or may not have been followed.

Justice O'Connor Rev.

"Incident to arrest" not here.

There should be a proper procedure for inventory search

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 1, 1983

Re: 81-1859 - Illinois v. Lafayette

Dear Chief,

Please join me.

Sincerely,

Byron

The Chief Justice

Copies to the Conference

cpm

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 1, 1983

Re: No. 81-1859 Illinois v. Lafayette

Dear Chief:

Please join me.

Sincerely,

WHR

The Chief Justice

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 6, 1983

Re: 81-1859 - Illinois v. Lafayette

Dear Chief:

As I read the holding on page 9 of your opinion, it would apply to a case in which a person was stopped for a traffic offense and was taken to the station to be booked because he was not carrying his driver's license. I wonder if you intend the holding to apply to every booking, or merely to those that precede the actual incarceration of the arrested person.

Perhaps it is necessary to write the opinion that broadly because it is probably somewhat doubtful that this respondent would have actually been kept in jail on a disturbing the peace charge but, at least for the moment, I am inclined to think the opinion is somewhat broader than I will be able to join.

Respectfully,

JPS

The Chief Justice

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 6, 1983

Re: 81-1859 - Illinois v. Lafayette

Dear Chief:

As I read the holding on page 9 of your opinion, it would apply to a case in which a person was stopped for a traffic offense and was taken to the station to be booked because he was not carrying his driver's license. I wonder if you intend the holding to apply to every booking, or merely to those that precede the actual incarceration of the arrested person.

Perhaps it is necessary to write the opinion that broadly because it is probably somewhat doubtful that this respondent would have actually been kept in jail on a disturbing the peace charge but, at least for the moment, I am inclined to think the opinion is somewhat broader than I will be able to join.

Respectfully,

JPS

The Chief Justice

Copies to the Conference

You have not yet acted. I would not be averse to JPS' implied suggestion for narrowing the opinion, but I'm not sure it'd be an easy line to maintain.

Mark

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

Delivered to me privately. I agree & have told SOS

June 7, 1983

No. 81-1859 Illinois v. Lafayette

Dear Chief,

It was my understanding from the Conference that a majority thought the State had waived the search incident to an arrest argument and that we would decide the case on the inventory search basis. I was surprised to see the reliance on the search incident to arrest cases on pp. 4-5 inasmuch as the opinion appears to finally be based on an inventory search.

I am not yet reconciled to an abandonment of the approach Potter had taken of requiring a warrant unless the search falls within a recognized exception. Having been a trial judge, and having conducted many judges training programs, I can tell you firsthand that most judges understand the "warrant exception" approach better than an approach based solely on a "reasonable search" basis. I prefer to move very cautiously away from our precedents in this area.

I suggest that the first full paragraph of Part II on pp. 3 & 4 be revised to read substantially as follows:

> "The question here is whether, consistent with the Fourth Amendment, the police may search the personal effects of a person under lawful arrest as part of the routine administrative procedure at a police stationhouse incident to booking and jailing the suspect. The justification for such searches does not rest on the existence of probable cause. Indeed, we have previously established that the inventory search constitutes a well-defined exception to the warrant requirement. See South Dakota v. Opperman, supra. The Illinois court and respondent rely on United States v. Chadwick, 433 U.S. 1 (1977), and Arkansas v. Sanders, 442 U.S. 753 (1979); in the former, we noted that 'probable

cause to search is irrelevant' in inventory searches and went on to state:

> 'This is so because the salutary functions of a warrant simply have no application in that context; the constitutional reasonableness of inventory searches must be determined on other bases.' Id., at 10 n.5.1/

To determine whether the search of respondent's shoulder bag was unreasonable we must 'balance[e] its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests.' Delaware v. Prouse, 440 U.S. 648, 654 (1979); cf. South Dakota v. Opperman, 428 U.S., at 367-369 (referring to individual's diminished expectation of privacy in automobile and legitimate state interests served by inventory); id., at 378-380, 382-384 (POWELL, J., concurring)."

Finally, I think we should adhere to the Opperman requirement that inventory searches be conducted in accordance with established administrative rules or procedures. Perhaps you could add a footnote following the first sentence on page 8 as follows:

> "[I]t is not our function to write a manual on administering routine, neutral procedures at the stationhouse.3/

> 3/ We do emphasize, however, that it must appear that the search in question was "conducted in accordance with established police department rules or policy" and that the search was part of the routine administrative procedure, South Dakota v. Opperman, 428 U.S., at 383 (POWELL, J., concurring), if the authorities attempt to justify the stationhouse search as an inventory search."

Sincerely,

Sandra

The Chief Justice

as marked;

Stylistic changes

Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **The Chief Justice**

Circulated: _____

Recirculated: JUN 10 1983

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Join

No. 81-1859

ILLINOIS, PETITIONER *v.* RALPH LAFAYETTE

ON WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, THIRD DISTRICT

[June ——, 1983]

CHIEF JUSTICE BURGER delivered the opinion of the Court.

The question presented is whether, at the time an arrested person arrives at a police station, the police may, without obtaining a warrant, search a shoulder bag carried by that person.

I

On September 1, 1980, at about 10 p.m., Officer Maurice Mietzner of the Kankakee City Police arrived at the Town Cinema in Kankakee, Illinois, in response to a call about a disturbance. There he found respondent involved in an altercation with the theatre manager. He arrested respondent for disturbing the peace, handcuffed him, and took him to the police station. Respondent carried a purse-type shoulder bag on the trip to the station.

At the police station respondent was taken to the booking room; there, Officer Mietzner removed the handcuffs from respondent and ordered him to empty his pockets and place the contents on the counter. After doing so, respondent took a package of cigarettes from his shoulder bag and placed the bag on the counter. Mietzner then removed the contents of the bag, and found ten amphetamine pills inside a cigarette case package.

Respondent was subsequently charged with violating Sec-

omission

tion 1402(b) of the Illinois Controlled Substances Act, Ill. Rev. Stat., ch. 56 1/2, ¶ 1402(b), on the basis of the controlled substances found in his shoulder bag. A pretrial suppression hearing was held at which the State argued that the search of the shoulder bag was a valid inventory search under *South Dakota* v. *Opperman*, 428 U. S. 364 (1976). Officer Mietzner testified that he examined the bag's contents because it was standard procedure to inventory "everything" in the possession of an arrested person. App. 15, 16. He testified that he was not seeking and did not expect to find drugs or weapons when he searched the bag and he conceded that the shoulder bag was small enough that it could have been placed and sealed in a bag, container or locker for protective purposes. *Id.*, at 15. After the hearing, but before any ruling, the State submitted a brief in which it argued for the first time that the search was valid as a delayed search incident to arrest. Thereafter, the trial court ordered the suppression of the amphetamine pills. *Id.*, at 22.

On appeal, the Illinois Appellate Court affirmed. 99 Ill. App. 3d 830, 425 N. E. 2d 1383 (3d Dist. 1981). It first held that the State had waived the argument that the search was incident to a valid arrest by failing to raise that argument at the suppression hearing. *Id.*, at 832, 425 N. E. 2d, at 1385. However, the court went on to discuss and reject the State's argument: "[E]ven assuming, *arguendo*, that the State has not waived this argument, the stationhouse search of the shoulder bag did not constitute a valid search incident to a lawful arrest." *Id.*, at 833, 425 N. E. 2d, at 1385.

The State court also held that the search was not a valid inventory of respondent's belongings. It purported to distinguish *South Dakota* v. *Opperman*, *supra*, on the basis that there is a greater privacy interest in a purse-type shoulder bag than in an automobile, and that the State's legitmate interests could have been met in a less intrusive manner, by "sealing [the shoulder bag] within a plastic bag or box and placing it in a secured locker." 99 Ill. App. 3d, at 834–835, 425 N. E. 2d, at 1386. The Illinois court concluded:

> "Therefore, the postponed warantless search of the [respondent's] shoulder bag was neither incident to his lawful arrest nor a valid inventory of his belongings, and thus, violated the fourth amendment." *Id.*, at 835, 425 N. E. 2d, at 1386.

The Illinois Supreme Court denied discretionary review. App. to Pet. for Cert. B-1. We granted certiorari, —— U. S. —— (1982), because of the frequency with which this question confronts police and courts, and we reverse.

II

The question here is whether, consistent with the Fourth Amendment, it is reasonable for police to search the personal effects of a person under lawful arrest as part of the routine administrative procedure at a police stationhouse incident to booking and jailing the suspect. The justification for such searches does not rest on probable cause, and hence the absence of a warrant is immaterial to the reasonableness of the search. Indeed, we have previously established that the inventory search constitutes a well-defined exception to the warrant requirement. See *South Dakota* v. *Opperman*, *supra*. The Illinois court and respondent rely on *United States* v. *Chadwick*, 433 U. S. 1 (1977), and *Arkansa* v. *Sanders*, 442 U. S. 753 (1979); in the former, we noted that "probable cause to search is irrelevant" in inventory searches and went on to state:

> "This is so because the salutary functions of a warrant simply have no application in that context; the constitutional reasonableness of inventory searches must be determined on other bases." *Id.*, at 10 n. 5.[1]

---

[1] See also *United States* v. *Edwards*, 415 U. S. 800 (1974). In that case we addressed *Cooper* v. *California*, 386 U. S. 58 (1967), where the Court sustained a warrantless search of an automobile that occurred a week after its owner had been arrested. We explained *Cooper* in the following manner: "It was no answer to say that the police could have obtained a search warrant, for the Court held the test to be, not whether it was reasonable to

A so-called inventory search is not an independent legal concept but rather an incidental administrative step following arrest and preceding incarceration. To determine whether the search of respondent's shoulder bag was unreasonable we must "balanc[e] its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests." *Delaware* v. *Prouse*, 440 U. S. 648, 654 (1979).

In order to see an inventory search in proper perspective, it is necessary to study the evolution of interests along the continuum from arrest to incarceration. We have held that immediately upon arrest an officer may lawfully search the person of an arrestee, *United States* v. *Robinson*, 414 U. S. 218 (1973); he may also search the area within the arestee's immediate control, *Chimel* v. *California*, 395 U. S. 752 (1969). We explained the basis for this doctrine in *United States* v. *Robinson*, *supra*, where we said:

> "A police officer's determination as to how and where to search the person of a suspect whom he has arrested is necessarily a quick *ad hoc* judgment which the Fourth Amendment does not require to be broken down in each instance into an analysis of each step in the search. The authority to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. A custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification. *It is the fact of the lawful arrest*

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procure a search warrant, *but whether the search itself was reasonable*, which it was." *United States* v. *Edwards*, *supra*, 415 U. S., at 807 (emphasis added).

> *which establishes the authority to search*, and we hold that in the case of a lawful custodial arrest *a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a 'reasonable' search under that Amendment.*" 414 U. S., at 235 (emphasis added).

An arrested person is not invariably taken to a police station or confined; if an arrestee is taken to the police station, that is no more than a continuation of the custody inherent in the arrest status. Nonetheless, the factors justifying a search of the person and personal effects of an arrestee upon reaching a police station but prior to being placed in confinement are somewhat different from the factors justifying an immediate search at the time and place of arrest.

The governmental interests underlying a stationhouse search of the arrestee's person and possessions may in some circumstances be even greater than those supporting a search immediately following arrest. Consequently, the scope of a stationhouse search will often vary from that made at the time of arrest. Police conduct that would be impractical or unreasonable—or embarrasingly intrusive—on the street can more readily—and privately—be performed at the station. For example, the interests supporting a search incident to arrest would hardly justify disrobing an arrestee on the street, but the practical necessities of routine jail administration may even justify taking a prisoner's clothes before confining him, although that step would be rare. This was made clear in *United States* v. *Edwards*, *supra*, 415 U. S., at 804: "With or without probable cause, the authorities were entitled [at the stationhouse] not only to search [the arrestee's] clothing but also to take it from him and keep it in official custody."[3]

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[3] We were not addressing in *Edwards*, and do not discuss here, the circumstances in which a strip search of an arrestee may or may not be appropriate.

At the stationhouse, it is entirely proper for police to remove and list or inventory property found on the person or in the possession of an arrested person who is to be jailed. A range of governmental interests support an inventory process. It is not unheard of for persons employed in police activities to steal property taken from arrested persons; similarly, arrested persons have been known to make false claims regarding what was taken from their possession at the stationhouse. A standardized procedure for making a list or inventory as soon as reasonable after reaching the stationhouse not only deters false claims but also inhibits theft or careless handling of articles taken from the arrested person. Arrested persons have also been known to injure themselves—or others—with belts, knives, drugs or other items on their person while being detained. Dangerous instrumentalities—such as razor blades, bombs, or weapons—can be concealed in innocent-looking articles taken from the arrestee's possession. The bare recital of these mundane realities justifies reasonable measures by police to limit these risks—either while the items are in police possession or at the time they are returned to the arrestee upon his release. Examining all the items removed from the arrestee's person or possession and listing or inventorying them is an entirely reaonable administrative procedure. It is immaterial whether the police actually fear any particular package or container; the need to protect against such risks arises independent of a particular officer's subjective concerns. See *United States* v. *Robinson*, *supra*, 414 U. S., at 235. Finally, inspection of an arrestee's personal property may assist the police in ascertaining or verifying his identity. See 2 W. LaFave, Search and Seizure § 5.3, at 306–307 (1978). In short, every consideration of orderly police administration benefiting both police and the public points toward the appropriateness of the examination of respondent's shoulder bag prior to his incarceration.

Our prior cases amply support this conclusion. In *South Dakota* v. *Opperman*, *supra*, we upheld a search of the contents of the glove compartment of an abandoned automobile lawfully impounded by the police. We held that the search was reasonable because it served legitimate governmental interests that outweighed the individual's privacy interests in the contents of his car. Those measures protected the owner's property while it was in the custody of the police and protected police against possible false claims of theft. We found no need to consider the existence of less intrusive means of protecting the police and the property in their custody—such as locking the car and impounding it in safe storage under guard. Similarly, standardized inventory procedures are appropriate to serve legitimate governmental interests at stake here.

The Illinois court held that the search of respondent's shoulder bag was unreasonable because "preservation of the defendant's property and protection of police from claims of lost or stolen property 'could have been achieved in a less intrusive manner.' For example, . . . the defendant's shoulder bag could easily have been secured by sealing it within a plastic bag or box and placing it in a locker." 99 Ill. App. 3d, at 835, 425 N. E. 2d, at 1386 (citation omitted). Perhaps so, but the real question is not what "could have been achieved," but whether the Fourth Amendment *requires* such steps; it is not our function to write a manual on administering routine, neutral procedures of the stationhouse. Our role is to assure against violations of the Constitution.

The reasonableness of any particular governmental activity does not necessarily or invariably turn on the existence of alternative "less intrusive" means. In *Cady* v. *Dombrowski*, 413 U. S. 433 (1973), for example, we upheld the search of the trunk of a car to find a revolver suspected of being there. We rejected the contention that the public could equally well have been protected by the posting of a guard over the auto-

mobile. In language equally applicable to this case, we held, "[t]he fact that the protection of the public might, in the abstract, have been accomplished by 'less intrusive' means does not, by itself, render the search unreasonable." *Id.*, at 447. See also *United States* v. *Martinez-Fuerte*, 428 U. S. 543, 557 n. 12 (1976). We are hardly in a position to second-guess police departments as to what practical administrative method will best deter theft by and false claims against its employees and preserve the security of the stationhouse. It is evident that a stationhouse search of every item carried on or by a person who has lawfully been taken into custody by the police will amply serve the important and legitimate governmental interests involved.

Even if less intrusive means existed of protecting some particular types of property, it would be unreasonable to expect police officers in the everyday course of business to make fine and subtle distinctions in deciding which containers or items may be searched and which must be sealed as a unit. Only recently in *New York* v. *Belton*, 453 U. S. 454 (1981), we stated: "'[a] single familiar standard is essential to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront.'" *Id.*, at 458–460, quoting *Dunaway* v. *New York*, 442 U. S. 200, 213–214 (1979). See also *United States* v. *Ross*, 456 U. S. 798, 821 (1982).

Applying these principles, we hold that it is not "unreasonable" for police, as part of the routine procedure incident to incarcerating an arrested person, to search any container or article in his possession, in accordance with established inventory procedures.[4]

The judgment of the Illinois Appellate Court is reversed

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[4]The record is unclear as to whether respondent was to have been incarcerated after being booked for disturbing the peace. That is an appropriate inquiry on remand.

and the case is remanded for proceedings not inconsistent with this opinion.

It is so ordered.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 10, 1983

Re: No. 81-1859 Illinois v. Lafayette

Dear Chief,

Please join me.

Sincerely,

Sandra

The Chief Justice

Copies to the Conference

June 10, 1983

81-1859 Illinois v. Lafayette

Dear Chief:

Please join me.

Sincerely,

The Chief Justice

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 10, 1983

Re: 81-1859 - Illinois v. Lafayette

Dear Chief:

Please join me.

Respectfully,

JPS

The Chief Justice

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 13, 1983

Re: No. 81-1859 - Illinois v. Lafayette

Dear Chief:

Please join me in your second draft circulated June 10.

Sincerely,

Harry

The Chief Justice

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 16, 1983

No. 81-1859

Illinois v. Lafayette

Dear Thurgood,

Please join me in your concurrence in the judgment.

Sincerely,

Bill

Justice Marshall

Copies to the Conference

81-1859 Illinois v. Lafayette (Mark)

CJ for the Court
2nd draft 6/10/83
Joined by BRW, HAB, LFP, WHR, JPS, SOC

TM concurring in part
1st draft 6/15/83
2nd draft 6/16/83
Joined by WJB