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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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Results of a Lie Detector Test Not Admissible in Evidence—In a trial for murder a police officer testified that while interrogating the defendant, and prior to his confession, portions of the defendant's lie-detector test record had been pointed out to him as evidence of his lying. *Leeks v. State,* 245 P.2d 764 (Okla. 1952). The court declared this evidence inadmissible because its effect was to inform the jury of the exact results of the lie-detector test, and since the test results are not judicially recognized it is error to project the results into a criminal case trial.

It is interesting to note, however, that the court goes on to say that the use of a lie-detector is not to be excluded as an instrument of investigation. Nor does it mean that its use may not be shown as a step leading up to a confession, that is, so long as the exact results are not brought out by either the state or the defendant. See also *Henderson v. State,* 230 P.2d 495 (Okla. 1951) (cited by the court).

Identity by Voice Recognition—In *Henderson v. State,* 71 S.E.2d 628 (Ga. 1952), the defendant, charged with murder, had been identified by a witness on the basis of his color, size, and voice. The testimony reveals that the witness was not previously familiar with the defendant's voice. She heard the voice of the man who perpetrated the crime; she did not know him or his voice at that time. She later heard the voice of the accused, and in her opinion, it was the same. The court pointed out that personal identity of an accused may be established by the testimony of a witness that he was familiar with his voice and recognized it. In the instant case, however, the witness was not previously familiar with the accused voice and, therefore, her opinion, having heard him talk since the crime, could not be accepted as identity by voice recognition.

Regarding the general unreliability of voice identifications, see article by McGehee, 17 J. GEN PSY. 249 (1937).

Search as an Incident to an Unlawful Arrest—The Florida police have unsuccessfully attempted to use traffic violation arrests to create the "search incident to a lawful arrest" situation. In *Burley v. State,* 59 So.2d 744 (Fla. 1952), the evidence showed that the police suspected Burley of having connections with illegal lotteries, but they had no real reason to arrest Burley. The police, knowing that Burley drove a black Pontiac, waited for him to drive by on the highway. When Burley did drive by, they followed him, hoping he would violate some traffic law so the could arrest him. Burley passed a car and a truck on a curve. The police arrested him and thereupon searched his car. The search revealed the lottery tickets. The court took the position that since the curve on which Burley passed the car and truck was not in a "no passing zone" the arrest was illegal, and being so, the search was illegal.

In *Graham v. State,* 60 So.2d 186 (Fla. 1952), a similar fact situation occurred. The police suspected Graham of possessing lottery tickets; they waited beside the road for her to drive by and arrested her for reckless driving. After the arrest the police searched her person and her car and

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found the lottery tickets. The police attempted to justify the reckless driving arrest on the ground that Graham had repeatedly crossed the center line. There was no claim that she had speeded, that traffic was heavy, or that she had endangered herself, her automobile or any other person or property of any other person. There was no claim that she was driving on a curve or over a hill. The court concluded that the traffic violation arrest was unlawful and, therefore, the search of the person and automobile as incident thereto was unlawful and unreasonable.

In neither of these cases did the court point out what would have happened had the arrest been justifiable as a traffic violation arrest. Would the searches then have been held reasonable. The court appears to say yes by stressing the fact that the violations were not actual, and having little regard for the fact that these arrests were planned.

In *McKnight v. United States,* 183 F.2d 977 (D.C. 1950), however, where the police, possessing a warrant for McKnight's arrest, waited for him to enter a house before arresting him so they could search the house as an incident to the arrest, the Court of Appeals for the District of Columbia held the search to be unreasonable. The Supreme Court has specially held that "An arrest may not be used as a pretext to search for evidence." *United States v. Lefkowitz,* 285 U.S. 452, 467 (1932).