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a provision forbidding the acquisition of evidence in a certain way is that not merely evidence so acquired shall not be used before the Court but that it shall not be used at all." *Silverthorne Lumber Co. v. United States*, 251 U.S. 385, 391–392, 40 S.Ct. 182, 183, 64 L.Ed. 319 (1920) (citation omitted).

If we are to give more than lip service to protection of the core constitutional interests that were twice violated in this case, some effort must be made to isolate and then remove the advantages the Government derived from its illegal conduct.

I respectfully dissent.

UNITED STATES, Petitioner

v.

Alberto Antonio LEON et al.

No. 82–1771.

Argued Jan. 17, 1984.

Decided July 5, 1984.

The United States District Court for the Central District of California granted defense motions to suppress evidence. The Court of Appeals for the Ninth Circuit affirmed, 701 F.2d 187. Certiorari was granted. The Supreme Court, Justice White, held that: (1) the Fourth Amendment exclusionary rule should not be applied so as to bar the use in the prosecution's case in chief of evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate but ultimately found to be invalid; (2) standard of reasonableness is an objective one; (3) suppression is appropriate where officers have no reasonable ground for believing that the warrant was properly issued; and (4) officer's reliance on magistrate's determination of probable cause in instant case was objectively reasonable.

Judgment of Court of Appeals reversed.

Justice Blackmun filed concurring opinion.

For dissenting opinion of Justice Brennan, in which Justice Marshall joined, see 104 S.Ct. 3430.

For dissenting opinion of Justice Stevens see 104 S.Ct. 3446.

1. Searches and Seizures ⇐3.6(3)

Totality of the circumstances approach is the prevailing test for determining whether an informant's tip suffices to establish probable cause for issuance of a search warrant. U.S.C.A. Const.Amend. 4.

2. Federal Courts ⇐461

Although petition for certiorari expressedly declined to seek review of determinations that search warrant was unsupported by probable cause and presented only question whether exclusionary rule should be modified in case of good-faith reliance on a search warrant, the Supreme Court had power to consider the probable cause issue and it was also within the court's authority to take the case as it came to it, accepting the Court of Appeal's conclusion that probable cause was lacking under prevailing legal standards. U.S.C.A. Const.Amend. 4; U.S.Sup.Ct.Rule 21.1(a), 28 U.S.C.A.

3. Criminal Law ⇐394.4(1)

Use of fruits of a past unlawful search or seizure works no new Fourth Amendment wrong. U.S.C.A. Const.Amend. 4.

4. Witnesses ⇐390

Evidence obtained in violation of the Fourth Amendment and inadmissible in the prosecution's case in chief may be used to impeach a defendant's direct testimony. U.S.C.A. Const.Amend. 4.

5. Witnesses ⇐390, 406

Evidence inadmissible in the prosecution's case in chief or otherwise as substantive evidence of guilt may be used to im-

peach statements made by a defendant in response to proper cross-examination reasonably suggested by defendant's direct examination.

6. Criminal Law ⇐394.1(3)

Perception underlying determinations that the connection between police conduct and evidence of crime may be sufficiently attenuated to permit use of that evidence at trial is a product of considerations relating to the exclusionary rule and the constitutional principles it is designed to protect. U.S.C.A. Const.Amend. 4.

7. Searches and Seizures ⇐3.9

Reasonable minds frequently may differ on the question whether a particular search warrant affidavit establishes probable cause, and preference for warrants is most appropriately effectuated by according great deference to a magistrate's determination. U.S.C.A. Const.Amend. 4.

8. Searches and Seizures ⇐3.9

Deference to a magistrate in search warrant matters is not boundless and deference accorded finding of probable cause does not preclude inquiry into the knowing or reckless falsity of the affidavit on which that determination was based and a magistrate must purport to perform his neutral and detached function and not serve merely as a rubber stamp for the police. U.S.C.A. Const.Amend. 4.

9. Searches and Seizures ⇐3.5

A magistrate failing to manifest that neutrality and detachment demanded of a judicial officer when presented with a search warrant application and who acts instead as an adjunct law enforcement officer cannot provide valid authorization for an otherwise unconstitutional search. U.S.C.A. Const.Amend. 4.

10. Searches and Seizures ⇐3.9

Reviewing courts will not defer to a search warrant based on an affidavit that does not provide the magistrate with a substantial basis for determining existence of probable cause. U.S.C.A. Const.Amend. 4.

11. Criminal Law ⇐394.4(5)

Decision modifying Fourth Amendment exclusionary rule where police act in reasonable reliance on a search warrant subsequently found to be invalid does not work a lowering of the probable cause standard. U.S.C.A. Const.Amend. 4.

12. Searches and Seizures ⇐3.9

Even if search warrant application is supported by more than a "bare bones" affidavit, a reviewing court may properly conclude that, notwithstanding the deference a magistrate deserves, the warrant was invalid because the magistrate's probable-cause determination reflected an improper analysis of the totality of the circumstances or because the form of the warrant was improper in some respect. U.S.C.A. Const.Amend. 4.

13. Criminal Law ⇐394.1(1)

Exclusionary rule is designed to deter police misconduct rather than to punish the errors of judges and magistrates. U.S.C.A. Const.Amend. 4.

14. Criminal Law ⇐394.4(5)

Suppression of evidence obtained pursuant to a warrant should be ordered only on a case-by-case basis and only in those unusual cases in which exclusion will further the purposes of the exclusionary rule. U.S.C.A. Const.Amend. 4.

15. Criminal Law ⇐394.1(1)

Even assuming that exclusionary rule effectively deters some police misconduct and provides incentives for the law enforcement profession as a whole to conduct itself in accord with the Fourth Amendment, it cannot be expected, and should not be applied, to deter objectively reasonable law enforcement activity. U.S.C.A. Const. Amend. 4.

16. Criminal Law ⇐394.4(5)

Fourth Amendment exclusionary rule should not be applied so as to bar the use in the prosecution's case in chief of evidence obtained by officers acting in reasonable reliance on a search warrant issued by

detached and neutral magistrate but ultimately found to be invalid; limiting *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed. 1081; *Olmstead v. United States*, 277 U.S. 438, 48 S.Ct. 564, 72 L.Ed. 944; *Agnello v. United States*, 269 U.S. 20, 46 S.Ct. 4, 70 L.Ed. 145. U.S.C.A. Const.Amend. 4.

17. **Criminal Law** ⇐394.4(5)

A reasonable reliance on a search warrant exception to Fourth Amendment exclusionary rule demands a standard of objective reasonableness and that standard requires officers to have a reasonable knowledge of what the law prohibits. U.S.C.A. Const.Amend. 4.

18. **Criminal Law** ⇐394.4(5, 6)

In applying the reasonable reliance on a search warrant exception to the Fourth Amendment exclusionary rule, it is necessary to consider the objective reasonableness not only of the officers who eventually execute a warrant but also the officers who originally obtain it or who provide information material to the probable-cause determination and, hence, an officer cannot obtain a warrant on the basis of a "bare bones" affidavit and then rely on colleagues who are ignorant of the circumstances under which the warrant is obtained to conduct the search. U.S.C.A. Const.Amend. 4.

19. **Criminal Law** ⇐394.4(6)

Notwithstanding the reasonable reliance on a search warrant exception to Fourth Amendment exclusionary rule, suppression is an appropriate remedy if the magistrate or judge in issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth. U.S.C.A. Const.Amend. 4.

20. **Criminal Law** ⇐394.4(6)

The reasonable reliance on a warrant exception to Fourth Amendment exclusionary rule does not apply where the issuing magistrate wholly abandoned his judicial role and, in such circumstances, no reasonably well-trained officer should rely on the warrant and an officer does not manifest objective good faith by relying on the warrant based on affidavit so lacking in indicia of probative cause as to render official belief in its existence entirely unreasonable. U.S.C.A. Const.Amend. 4.

21. **Criminal Law** ⇐394.4(7)
Searches and Seizures ⇐3.4, 3.7

Depending on the circumstances, a search warrant may be so facially deficient, i.e., in failing to particularize the place to be searched or the things to be seized, that the executing officers cannot reasonably presume it to be valid. U.S.C.A. Const. Amend. 4.

22. **Criminal Law** ⇐394.4(5)

The good-faith exception to Fourth Amendment exclusionary rule for searches conducted pursuant to warrants does not signal the court's unwillingness strictly to enforce the requirements of the Fourth Amendment. U.S.C.A. Const.Amend. 4.

23. **Criminal Law** ⇐394.4(6)

Where police officer's application for a warrant was supported by much more than a "bare bones" affidavit and affidavit related results of an extensive investigation and provided sufficient evidence to create disagreement among thoughtful and competent judges as to existence of probable cause, the officer's reliance on magistrate's determination of probable cause was objectively reasonable and application of extreme sanction of exclusion of evidence seized under warrant was inappropriate, notwithstanding that warrant was subsequently found deficient on ground of stale information and failure to establish informant's credibility. U.S.C.A. Const.Amend. 4.

Syllabus *

Acting on the basis of information from a confidential informant, officers of

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

the Burbank, Cal., Police Department initiated a drug-trafficking investigation involving surveillance of respondents' activities. Based on an affidavit summarizing the police officers' observations, Officer Rombach prepared an application for a warrant to search three residences and respondents' automobiles for an extensive list of items. The application was reviewed by several Deputy District Attorneys, and a facially valid search warrant was issued by a state-court judge. Ensuing searches produced large quantities of drugs and other evidence. Respondents were indicted for federal drug offenses, and filed motions to suppress the evidence seized pursuant to the warrant. After an evidentiary hearing, the District Court granted the motions in part, concluding that the affidavit was insufficient to establish probable cause. Although recognizing that Officer Rombach had acted in good faith, the court rejected the Government's suggestion that the Fourth Amendment exclusionary rule should not apply where evidence is seized in reasonable, good-faith reliance on a search warrant. The Court of Appeals affirmed, also refusing the Government's invitation to recognize a good-faith exception to the rule. The Government's petition for certiorari presented only the question whether a good-faith exception to the exclusionary rule should be recognized.

Held:

1. The Fourth Amendment exclusionary rule should not be applied so as to bar the use in the prosecution's case-in-chief of evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate but ultimately found to be invalid. Pp. 3412–3423.

(a) An examination of the Fourth Amendment's origin and purposes makes clear that the use of fruits of a past unlawful search or seizure works no new Fourth Amendment wrong. The question whether the exclusionary sanction is appropriately imposed in a particular case as a judicially created remedy to safeguard Fourth Amendment rights through its deterrent effect, must be resolved by weighing the costs and benefits of preventing the use in the prosecution's case-in-chief of inherently trustworthy tangible evidence. Indiscriminate application of the exclusionary rule—impeding the criminal justice system's truthfinding function and allowing some guilty defendants to go free—may well generate disrespect for the law and the administration of justice. Pp. 3412–3413.

(b) Application of the exclusionary rule should continue where a Fourth Amendment violation has been substantial and deliberate, but the balancing approach that has evolved in determining whether the rule should be applied in a variety of contexts—including criminal trials—suggests that the rule should be modified to permit the introduction of evidence obtained by officers reasonably relying on a warrant issued by a detached and neutral magistrate. Pp. 3413–3416.

(c) The deference accorded to a magistrate's finding of probable cause for the issuance of a warrant does not preclude inquiry into the knowing or reckless falsity of the affidavit on which that determination was based, and the courts must also insist that the magistrate purport to perform his neutral and detached function and not serve merely as a rubber stamp for the police. Moreover, reviewing courts will not defer to a warrant based on an affidavit that does not provide the magistrate with a substantial basis for determining the existence of probable cause. However, the exclusionary rule is designed to deter police misconduct rather than to punish the errors of judges and magistrates. Admitting evidence obtained pursuant to a warrant while at the same time declaring that the warrant was somehow defective will not reduce judicial officers' professional incentives to comply with the Fourth Amendment, encourage them to repeat their mistakes, or lead to the granting of all colorable warrant requests. Pp. 3416–3419.

(d) Even assuming that the exclusionary rule effectively deters some police misconduct and provides incentives for the law enforcement profession as a whole to conduct itself in accord with the Fourth Amendment, it cannot be expected, and should not be applied, to deter objectively reasonable law enforcement activity. In the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient. Once the warrant issues, there is literally nothing more the policeman can do in seeking to comply with the law, and penalizing the officer for the magistrate's error, rather than his own, cannot logically contribute to the deterrence of Fourth Amendment violations. Pp. 3419–3420.

(e) A police officer's reliance on the magistrate's probable-cause determination and on the technical sufficiency of the warrant he issues must be objectively reasonable. Suppression remains an appropriate remedy if the magistrate or judge in issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth, or if the issuing magistrate wholly abandoned his detached and neutral judicial rule. Nor would an officer manifest objective good faith in relying on a warrant based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable. Finally, depending on the circumstances of the particular case, a warrant may be so facially deficient—*i.e.*, in failing to particularize the place to be searched or the things to be seized—that the executing officers cannot reasonably presume it to be valid. Pp. 3421–3422.

2. In view of the modification of the exclusionary rule, the Court of Appeals' judgment cannot stand in this case. Only respondent Leon contended that no reasonably well-trained police officer could have believed that there existed probable cause to search his house. However, the record establishes that the police officers' reliance on the state-court judge's determination of probable cause was objectively reasonable. P. 3423.

701 F.2d 187 (CA 9 1983), reversed.

Sol. Gen. Rex E. Lee, Washington, D.C., for petitioner.

Barry Tarlow, Los Angeles, Cal., for respondent Leon.

Roger L. Cossack, Los Angeles, Cal., for respondents Stewart, et al.

Justice WHITE delivered the opinion of the Court.

This case presents the question whether the Fourth Amendment exclusionary rule should be modified so as not to bar the use in the prosecution's case-in-chief of evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate but ultimately found to be unsupported by probable cause. To resolve this question, we must consider once again the tension between the sometimes competing goals of, on the one hand, deterring official misconduct and removing inducements to unreasonable invasions of privacy and, on the other, establishing procedures under which criminal defendants are "acquitted or convicted on the basis of all the evidence which exposes the truth." *Alderman v. United States*, 394 U.S. 165, 175, 89 S.Ct. 961, 967, 22 L.Ed.2d 176 (1969).

I

In August 1981, a confidential informant of unproven reliability informed an officer of the Burbank Police Department that two persons known to him as "Armando" and "Patsy" were selling large quantities of cocaine and methaqualone from their residence at 620 Price Drive in Burbank, Cal. The informant also indicated that he had witnessed a sale of methaqualone by "Patsy" at the residence approximately five months earlier and had observed at that time a shoebox containing a large amount

of cash that belonged to "Patsy." He further declared that "Armando" and "Patsy" generally kept only small quantities of drugs at their residence and stored the remainder at another location in Burbank.

On the basis of this information, the Burbank police initiated an extensive investigation focusing first on the Price Drive residence and later on two other residences as well. Cars parked at the Price Drive residence were determined to belong to respondents Armando Sanchez, who had previously been arrested for possession of marihuana, and Patsy Stewart, who had no criminal record. During the course of the investigation, officers observed an automobile belonging to respondent Ricardo Del Castillo, who had previously been arrested for possession of 50 pounds of marihuana, arrive at the Price Drive residence. The driver of that car entered the house, exited shortly thereafter carrying a small paper sack, and drove away. A check of Del Castillo's probation records led the officers to respondent Alberto Leon, whose telephone number Del Castillo had listed as his employer's. Leon had been arrested in 1980 on drug charges, and a companion had informed the police at that time that Leon was heavily involved in the importation of drugs into this country. Before the current investigation began, the Burbank officers had learned that an informant had told a Glendale police officer that Leon stored a large quantity of methaqualone at his residence in Glendale. During the course of this investigation, the Burbank officers learned that Leon was living at 716 South Sunset Canyon in Burbank.

Subsequently, the officers observed several persons, at least one of whom had prior drug involvement, arriving at the Price Drive residence and leaving with small packages; observed a variety of other material activity at the two residences as well as at a condominium at 7902 Via Magdalena; and witnessed a variety of relevant activity involving respondents' automobiles. The officers also observed respondents Sanchez and Stewart board separate flights for Miami. The pair later returned to Los Angeles together, consented to a search of their luggage that revealed only a small amount of marihuana, and left the airport. Based on these and other observations summarized in the affidavit, App. 34, Officer Cyril Rombach of the Burbank Police Department, an experienced and well-trained narcotics investigator, prepared an application for a warrant to search 620 Price Drive, 716 South Sunset Canyon, 7902 Via Magdalena, and automobiles registered to each of the respondents for an extensive list of items believed to be related to respondents' drug-trafficking activities. Officer Rombach's extensive application was reviewed by several Deputy District Attorneys.

A facially valid search warrant was issued in September 1981 by a state superior court judge. The ensuing searches produced large quantities of drugs at the Via Magdalena and Sunset Canyon addresses and a small quantity at the Price Drive residence. Other evidence was discovered at each of the residences and in Stewart's and Del Castillo's automobiles. Respondents were indicted by a grand jury in the District Court for the Central District of California and charged with conspiracy to possess and distribute cocaine and a variety of substantive counts.

The respondents then filed motions to suppress the evidence seized pursuant to the warrant.[1] The District Court held an

1. Respondent Leon moved to suppress the evidence found on his person at the time of his arrest and the evidence seized from his residence at 716 South Sunset Canyon. Respondent Stewart's motion covered the fruits of searches of her residence at 620 Price Drive and the condominium at 7902 Via Magdalena and statements she made during the search of her residence. Respondent Sanchez sought to suppress the evidence discovered during the search of his residence at 620 Price Drive and statements he made shortly thereafter. He also joined Stewart's motion to suppress evidence seized from the condominium. Respondent Del Castillo apparently sought to suppress all of the evidence seized in the searches. App. 78–80. The respondents also moved to suppress evidence seized in the searches of their automobiles.

evidentiary hearing and, while recognizing that the case was a close one, see App. 131, granted the motions to suppress in part. It concluded that the affidavit was insufficient to establish probable cause,[2] but did not suppress all of the evidence as to all of the respondents because none of the respondents had standing to challenge all of the searches.[3] In response to a request from the Government, the court made clear that Officer Rombach had acted in good faith, but it rejected the Government's suggestion that the Fourth Amendment exclusionary rule should not apply where evidence is seized in reasonable, good-faith reliance on a search warrant.[4]

[1] The District Court denied the Government's motion for reconsideration, App. 147, and a divided panel of the Court of Appeals for the Ninth Circuit affirmed. The Court of Appeals first concluded that Officer Rombach's affidavit could not establish probable cause to search the Price Drive residence. To the extent that the affidavit set forth facts demonstrating the basis of the informant's knowledge of criminal activity, the information included was fatally stale. The affidavit, moreover, failed to establish the informant's credibility. Accordingly, the Court of Appeals concluded that the information provided by the informant was inadequate under both prongs of the two-part test established in *Aguilar v. Texas*, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964), and *Spinelli v. United States*, 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969).[5] The officers' independent investigation neither cured the staleness nor corroborated the details of the informant's declarations. The Court of Appeals then considered whether the affidavit formed a proper basis for the search of the Sunset Canyon residence. In its view, the affidavit included no facts indicating the basis for the informants' statements concerning respondent Leon's criminal activities and was devoid of information establishing the informants' reliability. Because these deficiencies had not been cured by the police investigation, the District Court properly suppressed the fruits of the search. The Court of Appeals refused the Government's invitation to recognize a good-faith exception to the Fourth Amendment exclusionary rule. App. to Pet. for Cert. 4a.

2. "I just cannot find this warrant sufficient for a showing of probable cause.

. . . . .

There is no question of the reliability and credibility of the informant as not being established. . . . obviously that is

Some details given tended to corroborate, maybe, the reliability of [the informant's] information about the previous transaction, but if it is not a stale transaction, it comes awfully close to it; and all the other material I think is as consistent with innocence as it is with guilt.

. . . . .

So I just do not think this affidavit can withstand the test. I find, then, that there is no probable cause in this case for the issuance of the search warrant ...." App. 127.

3. The District Court concluded that Sanchez and Stewart had standing to challenge the search of 620 Price Drive; that Leon had standing to contest the legality of the search of 716 South Sunset Canyon; that none of the respondents had established a legitimate expectation of privacy in the condominium at 7902 Via Magdalena; and that Stewart and Del Castillo each had standing to challenge the searches of their automobiles. The Government indicated that it did not intend to introduce evidence seized from the other respondents' vehicles. App. 127–129. Finally, the court suppressed statements given by Sanchez and Stewart. *Id.*, at 129–130.

4. "On the issue of good faith, obviously that is not the law of the Circuit, and I am not going to apply that law.

I will say certainly in my view, there is not any question about good faith. [Officer Rombach] went to a Superior Court judge and got a warrant; obviously laid a meticulous trail. Had surveilled for a long period of time, and I believe his testimony—and I think he said he consulted with three Deputy District Attorneys before proceeding himself, and I certainly have no doubt about the fact that that is true." App. 140.

5. In *Illinois v. Gates*, 462 U.S. ——, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), decided last Term, the Court abandoned the two-pronged *Aguilar-Spinelli* test for determining whether an informant's tip suffices to establish probable cause for the issuance of a warrant and substituted in its place a "totality of the circumstances" approach.

[2] The Government's petition for certiorari expressly declined to seek review of the lower courts' determinations that the search warrant was unsupported by probable cause and presented only the question "[w]hether the Fourth Amendment exclusionary rule should be modified so as not to bar the admission of evidence seized in reasonable, good-faith reliance on a search warrant that is subsequently held to be defective." We granted certiorari to consider the propriety of such a modification. 463 U.S. ——, 103 S.Ct. 3535, 77 L.Ed.2d 1386 (1983). Although it undoubtedly is within our power to consider the question whether probable cause existed under the "totality of the circumstances" test announced last Term in *Illinois v. Gates*, 462 U.S. ——, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), that question has not been briefed or argued; and it is also within our authority, which we choose to exercise, to take the case as it comes to us, accepting the Court of Appeals' conclusion that probable cause was lacking under the prevailing legal standards. See This Court's Rule 21.1(a).

We have concluded that, in the Fourth Amendment context, the exclusionary rule can be modified somewhat without jeopardizing its ability to perform its intended functions. Accordingly, we reverse the judgment of the Court of Appeals.

II

Language in opinions of this Court and of individual Justices has sometimes implied that the exclusionary rule is a necessary corollary of the Fourth Amendment, *Mapp v. Ohio*, 367 U.S. 643, 651, 655–657, 81 S.Ct. 1684, 1689, 1691–1692, 6 L.Ed.2d 1081 (1961); *Olmstead v. United States*, 277 U.S. 438, 462–463, 48 S.Ct. 564, 567, 72 L.Ed. 944 (1928), or that the rule is required by the conjunction of the Fourth and Fifth Amendments. *Mapp v. Ohio*, *supra*, 367 U.S., at 661–662, 81 S.Ct., at 1694–1695 (Black, J., concurring); *Agnello v. United States*, 269 U.S. 20, 33–34, 46 S.Ct. 4, 6–7, 70 L.Ed. 145 (1925). These implications need not detain us long. The Fifth Amendment theory has not withstood critical analysis or the test of time, see *Andresen v. Maryland*, 427 U.S. 463, 96 S.Ct. 2737, 49 L.Ed.2d 627 (1976), and the Fourth Amendment "has never been interpreted to proscribe the introduction of illegally seized evidence in all proceedings or against all persons." *Stone v. Powell*, 428 U.S. 465, 486, 96 S.Ct. 3037, 3048, 49 L.Ed.2d 1067 (1976).

A

[3] The Fourth Amendment contains no provision expressly precluding the use of evidence obtained in violation of its commands, and an examination of its origin and purposes makes clear that the use of fruits of a past unlawful search or seizure "work[s] no new Fourth Amendment wrong." *United States v. Calandra*, 414 U.S. 338, 354, 94 S.Ct. 613, 623, 38 L.Ed.2d 561 (1974). The wrong condemned by the Amendment is "fully accomplished" by the unlawful search or seizure itself, *ibid.*, and the exclusionary rule is neither intended nor able to "cure the invasion of the defendant's rights which he has already suffered." *Stone v. Powell*, *supra*, 428 U.S., at 540, 96 S.Ct., at 3073 (WHITE, J., dissenting). The rule thus operates as "a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the person aggrieved." *United States v. Calandra*, *supra*, 414 U.S., at 348, 94 S.Ct., at 620.

Whether the exclusionary sanction is appropriately imposed in a particular case, our decisions make clear, is "an issue separate from the question whether the Fourth Amendment rights of the party seeking to invoke the rule were violated by police conduct." *Illinois v. Gates*, *supra*, 462 U.S., at ——, 103 S.Ct., at 2324. Only the former question is currently before us, and it must be resolved by weighing the costs and benefits of preventing the use in the prosecution's case-in-chief of inherently trustworthy tangible evidence obtained in reliance on a search warrant issued by a

detached and neutral magistrate that ultimately is found to be defective.

The substantial social costs exacted by the exclusionary rule for the vindication of Fourth Amendment rights have long been a source of concern. "Our cases have consistently recognized that unbending application of the exclusionary sanction to enforce ideals of governmental rectitude would impede unacceptably the truth-finding functions of judge and jury." *United States v. Payner*, 447 U.S. 727, 734, 100 S.Ct. 2439, 2445, 65 L.Ed.2d 468 (1980). An objectionable collateral consequence of this interference with the criminal justice system's truth-finding function is that some guilty defendants may go free or receive reduced sentences as a result of favorable plea bargains.[6] Particularly when law enforcement officers have acted in objective good faith or their transgressions have been minor, the magnitude of the benefit conferred on such guilty defendants offends basic concepts of the criminal justice system. *Stone v. Powell, supra*, 428 U.S., at 490, 96 S.Ct., at 3050. Indiscriminate application of the exclusionary rule, therefore, may well "generat[e] disrespect for the law and the administration of justice." *Id.*, at 491, 96 S.Ct., at 3051. Accordingly, "[a]s with any remedial device, the application of the rule has been restricted to those areas where its remedial objectives are thought most efficaciously served." *United States v. Calandra, supra*, 414 U.S., at 348, 94 S.Ct., at 670; see *Stone v. Powell, supra*, 428 U.S., at 486–487, 96 S.Ct., at 3048–3049; *United States v. Janis*, 428 U.S. 433, 447, 96 S.Ct. 3021, 3028, 49 L.Ed.2d 1046 (1976).

B

Close attention to those remedial objectives has characterized our recent decisions concerning the scope of the Fourth Amendment exclusionary rule. The Court has, to be sure, not seriously questioned, "in the absence of a more efficacious sanction, the continued application of the rule to suppress evidence from the [prosecution's] case where a Fourth Amendment violation

6. Researchers have only recently begun to study extensively the effects of the exclusionary rule on the disposition of felony arrests. One study suggests that the rule results in the nonprosecution or nonconviction of between 0.6% and 2.35% of individuals arrested for felonies. Davies, A Hard Look at What We Know (and Still Need to Learn) About the "Costs" of the Exclusionary Rule: The NIJ Study and Other Studies of "Lost" Arrests, 1983 A.B.F.Res.J. 611, 621. The estimates are higher for particular crimes the prosecution of which depends heavily on physical evidence. Thus, the cumulative loss due to nonprosecution or nonconviction of individuals arrested on felony drug charges is probably in the range of 2.8% to 7.1%. *Id.*, at 680. Davies' analysis of California data suggests that screening by police and prosecutors results in the release because of illegal searches or seizures of as many as 1.4% of all felony arrestees, *id.*, at 650, that 0.9% of felony arrestees are released because of illegal searches or seizures at the preliminary hearing or after trial, *id.*, at 653, and that roughly 0.05% of all felony arrestees benefit from reversals on appeal because of illegal searches. *Id.*, at 654. See also K. Brosi, A Cross-City Comparison of Felony Case Processing 16, 18–19 (1979); Report of the Comptroller General of the United States, Impact of the Exclusionary Rule on Federal Criminal Prosecutions 10–11, 14 (1979); F. Feeney, F. Dill & A. Weir, Arrests Without Convictions: How Often They Occur and Why 203–206 (1983); National Institute of Justice, The Effects of the Exclusionary Rule: A Study in California 1–2 (1982); Nardulli, The Societal Cost of the Exclusionary Rule: An Empirical Assessment, 1983 A.B.F.Res.J. 585, 600. The exclusionary rule also has been found to affect the plea-bargaining process. S. Schlesinger, Exclusionary Injustice: The Problem of Illegally Obtained Evidence 63 (1977). But see Davies, *supra*, at 668–669; Nardulli, *supra*, at 604–606.

Many of these researchers have concluded that the impact of the exclusionary rule is insubstantial, but the small percentages with which they deal mask a large absolute number of felons who are released because the cases against them were based in part on illegal searches or seizures. "[A]ny rule of evidence that denies the jury access to clearly probative and reliable evidence must bear a heavy burden of justification, and must be carefully limited to the circumstances in which it will pay its way by deterring official unlawlessness." *Illinois v. Gates*, 462 U.S., at ——, 103 S.Ct., at 2342 (WHITE, J., concurring in the judgment). Because we find that the rule can have no substantial deterrent effect in the sorts of situations under consideration in this case, see *infra*, at 3418–3420, we conclude that it cannot pay its way in those situations.

has been substantial and deliberate ...." *Franks v. Delaware*, 438 U.S. 154, 171, 98 S.Ct. 2674, 2684, 57 L.Ed.2d 667 (1978); *Stone v. Powell, supra*, 428 U.S., at 492, 96 S.Ct., at 3051. Nevertheless, the balancing approach that has evolved in various contexts—including criminal trials—"forcefully suggest[s] that the exclusionary rule be more generally modified to permit the introduction of evidence obtained in the reasonable good-faith belief that a search or seizure was in accord with the Fourth Amendment." *Illinois v. Gates, supra*, 462 U.S., at ——, 103 S.Ct., at 2340 (WHITE, J., concurring in the judgment).

In *Stone v. Powell, supra*, the Court emphasized the costs of the exclusionary rule, expressed its view that limiting the circumstances under which Fourth Amendment claims could be raised in federal habeas corpus proceedings would not reduce the rule's deterrent effect, *id.*, 428 U.S., at 489–495, 96 S.Ct., at 3050–3052, and held that a state prisoner who has been afforded a full and fair opportunity to litigate a Fourth Amendment claim may not obtain federal habeas relief on the ground that unlawfully obtained evidence had been introduced at his trial. Cf. *Rose v. Mitchell*, 443 U.S. 545, 560–563, 99 S.Ct. 2993, 3002–3004, 61 L.Ed.2d 739 (1979). Proposed extensions of the exclusionary rule to proceedings other than the criminal trial itself have been evaluated and rejected under the same analytic approach. In *United States v. Calandra, supra*, for example, we declined to allow grand jury witnesses to refuse to answer questions based on evidence obtained from an unlawful search or seizure since "[a]ny incremental deterrent effect which might be achieved by extending the rule to grand jury proceedings is uncertain at best." *Id.*, 414 U.S., at 348, 94 S.Ct., at 620. Similarly, in *United States v. Janis, supra*, we permitted the use in federal civil proceedings of evidence illegally seized by state officials since the likelihood of deterring police misconduct through such an extension of the exclusionary rule was insufficient to outweigh its substantial social costs. In so doing, we declared that, "[i]f ... the exclusionary rule does not result in appreciable deterrence, then, clearly, its use in the instant situation is unwarranted." *Id.*, 428 U.S., at 454, 96 S.Ct., at 3032.

As cases considering the use of unlawfully obtained evidence in criminal trials themselves make clear, it does not follow from the emphasis on the exclusionary rule's deterrent value that "anything which deters illegal searches is thereby commanded by the Fourth Amendment." *Alderman v. United States*, 394 U.S., at 174, 89 S.Ct., at 967. In determining whether persons aggrieved solely by the introduction of damaging evidence unlawfully obtained from their co-conspirators or co-defendants could seek suppression, for example, we found that the additional benefits of such an extension of the exclusionary rule would not outweigh its costs. *Id.*, at 174–175, 89 S.Ct., at 967. Standing to invoke the rule has thus been limited to cases in which the prosecution seeks to use the fruits of an illegal search or seizure against the victim of police misconduct. *Rakas v. Illinois*, 439 U.S. 128, 99 S.Ct. 421, 58 L.Ed.2d 387 (1978); *Brown v. United States*, 411 U.S. 223, 93 S.Ct. 1565, 36 L.Ed.2d 208 (1973); *Wong Sun v. United States*, 371 U.S. 471, 491–492, 83 S.Ct. 407, 419–420, 9 L.Ed.2d 441 (1963). Cf. *United States v. Payner*, 447 U.S. 727, 100 S.Ct. 2439, 65 L.Ed.2d 468 (1980).

[4, 5] Even defendants with standing to challenge the introduction in their criminal trials of unlawfully obtained evidence cannot prevent every conceivable use of such evidence. Evidence obtained in violation of the Fourth Amendment and inadmissible in the prosecution's case-in-chief may be used to impeach a defendant's direct testimony. *Walder v. United States*, 347 U.S. 62, 74 S.Ct. 354, 98 L.Ed. 503 (1954). See also *Oregon v. Hass*, 420 U.S. 714, 95 S.Ct. 1215, 43 L.Ed.2d 570 (1975); *Harris v. New York*, 401 U.S. 222, 91 S.Ct. 643, 28 L.Ed.2d 1 (1971). A similar assessment of the "incremental furthering" of the ends of the

exclusionary rule led us to conclude in *United States v. Havens*, 446 U.S. 620, 627, 100 S.Ct. 1912, 1916, 64 L.Ed.2d 559 (1980), that evidence inadmissible in the prosecution's case-in-chief or otherwise as substantive evidence of guilt may be used to impeach statements made by a defendant in response to "proper cross-examination reasonably suggested by the defendant's direct examination." *Id.*, at 627–628, 100 S.Ct. at 1916–1917.

[6] When considering the use of evidence obtained in violation of the Fourth Amendment in the prosecution's case-in-chief, moreover, we have declined to adopt a per se or but for rule that would render inadmissible any evidence that came to light through a chain of causation that began with an illegal arrest. *Brown v. Illinois*, 422 U.S. 590, 95 S.Ct. 2254, 45 L.Ed.2d 416 (1975); *Wong Sun v. United States*, *supra*, 371 U.S., at 487–488, 83 S.Ct., at 417. We also have held that a witness' testimony may be admitted even when his identity was discovered in an unconstitutional search. *United States v. Ceccolini*, 435 U.S. 268, 98 S.Ct. 1054, 55 L.Ed.2d 268 (1978). The perception underlying these decisions—that the connection between police misconduct and evidence of crime may be sufficiently attenuated to permit the use of that evidence at trial—is a product of considerations relating to the exclusionary rule and the constitutional principles it is designed to protect. *Dunaway v. New York*, 442 U.S. 200, 217–218, 99 S.Ct. 2248, 2259–2260, 60 L.Ed.2d 824 (1979); *United States v. Ceccolini*, *supra*, 435 U.S., at 279, 98 S.Ct., at 1061.[7] In short, the "dissipation of the taint" concept that the Court has applied in deciding whether exclusion is appropriate in a particular case "attempts to mark the point at which the detrimental consequences of illegal police action become so attenuated that the deterrent effect of the exclusionary rule no longer justifies its cost." *Brown v. Illinois*, *supra*, 422 U.S., at 609, 95 S.Ct., at 2264 (POWELL, J., concurring in part). Not surprisingly in view of this purpose, an assessment of the flagrancy of the police misconduct constitutes an important step in the calculus. *Dunaway v. New York*, *supra*, 442 U.S., at 218, 99 S.Ct., at 2259; *Brown v. Illinois*, *supra*, 422 U.S., at 603–604, 95 S.Ct., at 2261–2262.

The same attention to the purposes underlying the exclusionary rule also has characterized decisions not involving the scope of the rule itself. We have not required suppression of the fruits of a search incident to an arrest made in good-faith reliance on a substantive criminal statute that subsequently is declared unconstitutional. *Michigan v. DeFillippo*, 443 U.S. 31, 99 S.Ct. 2627, 61 L.Ed.2d 343 (1979).[8] Similarly, although the Court has been unwilling to conclude that new Fourth Amendment principles are always to have only prospective effect, *United States v.*

7. "*Brown*'s focus on 'the causal connection between the illegality and the confession' ... reflected the two policies behind the use of the exclusionary rule to effectuate the Fourth Amendment. Where there is a close causal connection between the illegal seizure and the confession, not only is exclusion of evidence more likely to deter similar police misconduct in the future, but use of the evidence is more likely to compromise the integrity of the courts." *Dunaway v. New York*, 442 U.S. 200, 217–218, 99 S.Ct. 2248, 2259–2260, 60 L.Ed.2d 824 (1979) (citation omitted).

8. We have held, however, that the exclusionary rule requires suppression of evidence obtained in searches carried out pursuant to statutes, not yet declared unconstitutional, purporting to authorize searches and seizures without probable cause or search warrants. See, *e.g.*, *Ybarra v. Illinois*, 444 U.S. 85, 100 S.Ct. 338, 62 L.Ed.2d 238 (1979); *Torres v. Puerto Rico*, 442 U.S. 465, 99 S.Ct. 2425, 61 L.Ed.2d 1 (1979); *Almeida-Sanchez v. United States*, 413 U.S. 266, 93 S.Ct. 2535, 37 L.Ed.2d 596 (1973); *Sibron v. New York*, 392 U.S. 40, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968); *Berger v. New York*, 388 U.S. 41, 87 S.Ct. 1873, 18 L.Ed.2d 1040 (1967). "Those decisions involved statutes which, by their own terms, authorized searches under circumstances which did not satisfy the traditional warrant and probable-cause requirements of the Fourth Amendment." *Michigan v. DeFillippo*, 443 U.S. 31, 39, 99 S.Ct. 2627, 2633, 61 L.Ed.2d 343 (1979). The substantive Fourth Amendment principles announced in those cases are fully consistent with our holding here.

Johnson, 457 U.S. 537, 560, 102 S.Ct. 2579, 2593, 73 L.Ed.2d 202 (1982),[9] no Fourth Amendment decision marking a "clear break with the past" has been applied retroactively. See *United States v. Peltier*, 422 U.S. 531, 95 S.Ct. 2313, 45 L.Ed.2d 374 (1975); *Desist v. United States*, 394 U.S. 244, 89 S.Ct. 1030, 22 L.Ed.2d 248 (1969); *Linkletter v. Walker*, 381 U.S. 618, 85 S.Ct. 1731, 14 L.Ed.2d 601 (1965).[10] The propriety of retroactive application of a newly announced Fourth Amendment principle, moreover, has been assessed largely in terms of the contribution retroactivity might make to the deterrence of police misconduct. *United States v. Johnson, supra*, 457 U.S., at 560–561, 102 S.Ct., at 2593–2594; *United States v. Peltier, supra*, 422 U.S., at 536–539, 542, 95 S.Ct., at 2317–2318, 2320.

As yet, we have not recognized any form of good-faith exception to the Fourth Amendment exclusionary rule.[11] But the balancing approach that has evolved during the years of experience with the rule provides strong support for the modification currently urged upon us. As we discuss below, our evaluation of the costs and benefits of suppressing reliable physical evidence seized by officers reasonably relying on a warrant issued by a detached and neutral magistrate leads to the conclusion that such evidence should be admissible in the prosecution's case-in-chief.

III

A

[7] Because a search warrant "provides the detached scrutiny of a neutral magistrate, which is a more reliable safeguard against improper searches than the hurried judgment of a law enforcement officer 'engaged in the often competitive enterprise of ferreting out crime,'" *United States v.*

9. The Court held in *United States v. Johnson*, 457 U.S. 537, 102 S.Ct. 2579, 73 L.Ed.2d 202 (1982), that a construction of the Fourth Amendment that did not constitute a "clear break with the past" is to be applied to all convictions not yet final when the decision was handed down. The limited holding, see *id.*, at 562, 102 S.Ct., at 2954, turned in part on the Court's judgment that "[f]ailure to accord *any* retroactive effect to Fourth Amendment rulings would 'encourage police or other courts to disregard the plain purport of our decisions and to adopt a let's-wait-until-it's-decided approach.'" *Id.*, at 561, 102 S.Ct., at 2594 (emphasis in original) (quoting *Desist v. United States*, 394 U.S. 244, 277, 89 S.Ct. 1030, 1052, 22 L.Ed.2d 248 (1969) (Fortas, J., dissenting)). Contrary to respondents' assertions, nothing in *Johnson* precludes adoption of a good-faith exception tailored to situations in which the police have reasonably relied on a warrant issued by a detached and neutral magistrate but later found to be defective.

10. Our retroactivity decisions have, for the most part, turned on our assessments of "(a) the purpose to be served by the new standards, (b) the extent of the reliance by law enforcement authorities on the old standards, and (c) the effect on the administration of justice of a retroactive application of the new standards." *Stovall v. Denno*, 388 U.S. 293, 297, 87 S.Ct. 1967, 1970, 18 L.Ed.2d 1199 (1967). As we observed earlier this Term,

"In considering the reliance factor, this Court's cases have looked primarily to whether law enforcement authorities and state courts have justifiably relied on a prior rule of law said to be different from that announced by the decision whose retroactivity is at issue. Unjustified 'reliance' is no bar to retroactivity. This inquiry is often phrased in terms of whether the new decision was foreshadowed by earlier cases or was a 'clear break with the past.'" *Solem v. Stumes*, 465 U.S. ——, ———, 104 S.Ct. 1338, 1343, 79 L.Ed.2d 579 (1984).

11. Members of the Court have, however, urged reconsideration of the scope of the exclusionary rule. See, *e.g.*, *Stone v. Powell*, 428 U.S. 465, 496, 96 S.Ct. 3037, 3053, 49 L.Ed.2d 1067 (1976) (BURGER, C.J., concurring); *id.*, at 536, 96 S.Ct., at 3072 (WHITE, J., dissenting); *Illinois v. Gates*, 462 U.S., at ——, 103 S.Ct., at —— (WHITE, J., concurring in the judgment); *Brown v. Illinois*, 422 U.S. 590, 609–612, 95 S.Ct. 2254, 2264–2266, 45 L.Ed.2d 416 (1975) (POWELL, J., concurring in part); *Schneckloth v. Bustamonte*, 412 U.S. 218, 261–271, 93 S.Ct. 2041, 2065–2070, 36 L.Ed.2d 854 (1983) (POWELL, J., concurring); *California v. Minjares*, 443 U.S. 916, 100 S.Ct. 9, 61 L.Ed.2d 892 (1979) (REHNQUIST, J., dissenting from denial of stay). One Court of Appeals, no doubt influenced by these individual urgings, has adopted a form of good-faith exception to the exclusionary rule. *United States v. Williams*, 622 F.2d 830 (CA5 1980) *(en banc)*, cert. denied, 449 U.S. 1127, 101 S.Ct. 946, 67 L.Ed.2d 114 (1981).

Chadwick, 433 U.S. 1, 9, 97 S.Ct. 2476, 2482, 53 L.Ed.2d 538 (1971) (quoting *Johnson v. United States*, 333 U.S. 10, 14, 68 S.Ct. 367, 369, 92 L.Ed. 436 (1948)), we have expressed a strong preference for warrants and declared that "in a doubtful or marginal case a search under a warrant may be sustainable where without one it would fail." *United States v. Ventresca*, 380 U.S. 102, 106, 85 S.Ct. 741, 744, 13 L.Ed.2d 687 (1965). See *Aguilar v. Texas*, 378 U.S., at 111, 84 S.Ct., at 1512. Reasonable minds frequently may differ on the question whether a particular affidavit establishes probable cause, and we have thus concluded that the preference for warrants is most appropriately effectuated by according "great deference" to a magistrate's determination. *Spinelli v. United States*, 393 U.S., at 419, 89 S.Ct., at 590. See *Illinois v. Gates*, 462 U.S., at ——, 103 S.Ct., at ——; *United States v. Ventresca*, *supra*, 380 U.S., at 108–109, 85 S.Ct., at 745–746.

[8, 9] Deference to the magistrate, however, is not boundless. It is clear, first, that the deference accorded to a magistrate's finding of probable cause does not preclude inquiry into the knowing or reckless falsity of the affidavit on which that determination was based. *Franks v. Delaware*, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978).[12] Second, the courts must also insist that the magistrate purport to "perform his 'neutral and detached' function and not serve merely as a rubber stamp for the police." *Aguilar v. Texas*, *supra*, 378 U.S., at 111, 84 S.Ct., at 1512. See *Illinois v. Gates*, *supra*, 462 U.S., at ——, 103 S.Ct., at ——. A magistrate failing to "manifest that neutrality and detachment demanded of a judicial officer when presented with a warrant application" and who acts instead as "an adjunct law enforcement officer" cannot provide valid authorization for an otherwise unconstitutional search. *Lo-Ji Sales, Inc. v. New York*, 442 U.S. 319, 326–327, 99 S.Ct. 2319, 2324–2325, 60 L.Ed.2d 920 (1979).

[10–12] Third, reviewing courts will not defer to a warrant based on an affidavit that does not "provide the magistrate with a substantial basis for determining the existence of probable cause." *Illinois v. Gates*, *supra*, 462 U.S., at ——, 103 S.Ct., at 2332. "Sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a mere ratification of the bare conclusions of others." *Ibid.* See *Aguilar v. Texas*, *supra*, 378 U.S., at 114–115, 84 S.Ct., at 1513–1514; *Giordenello v. United States*, 357 U.S. 480, 78 S.Ct. 1245, 2 L.Ed.2d 1503 (1958); *Nathanson v. United States*, 290 U.S. 41, 54 S.Ct. 11, 78 L.Ed. 159 (1933).[13] Even if the warrant application was supported by more than a "bare bones" affidavit, a reviewing court may properly conclude that, notwithstanding the deference that magistrates deserve, the warrant was invalid because the magistrate's probable-cause determination reflected an improper analysis of the totality of the circumstances, *Illinois v. Gates*, *supra*,

12. Indeed, "it would be an unthinkable imposition upon [the magistrate's] authority if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment." 438 U.S., at 165, 98 S.Ct., at 2681.

13. See also *Beck v. Ohio*, 379 U.S. 89, 85 S.Ct. 223, 13 L.Ed.2d 142 (1964), in which the Court concluded that "the record ... does not contain a single objective fact to support a belief by the officers that the petitioner was engaged in criminal activity at the time they arrested him." *Id.*, at 95, 85 S.Ct., at 227. Although the Court was willing to assume that the arresting officers acted in good faith, it concluded that "'good faith on the part of the arresting officers is not enough.' *Henry v. United States*, 361 U.S. 98, 102, 80 S.Ct. 168, 171, 4 L.Ed.2d 134. If subjective good faith alone were the test, the protections of the Fourth Amendment would evaporate, and the people would be 'secure in their persons, houses, papers, and effects,' only in the discretion of the police." *Id.*, at 97, 85 S.Ct., at 228.

We adhere to this view and emphasize that nothing in this opinion is intended to suggest a lowering of the probable-cause standard. On the contrary, we deal here only with the remedy to be applied to a concededly unconstitutional search.

pra, 462 U.S., at ——, 103 S.Ct., at ——, or because the form of the warrant was improper in some respect.

[13] Only in the first of these three situations, however, has the Court set forth a rationale for suppressing evidence obtained pursuant to a search warrant; in the other areas, it has simply excluded such evidence without considering whether Fourth Amendment interests will be advanced. To the extent that proponents of exclusion rely on its behavioral effects on judges and magistrates in these areas, their reliance is misplaced. First, the exclusionary rule is designed to deter police misconduct rather than to punish the errors of judges and magistrates. Second, there exists no evidence suggesting that judges and magistrates are inclined to ignore or subvert the Fourth Amendment or that lawlessness among these actors requires application of the extreme sanction of exclusion.[14]

Third, and most important, we discern no basis, and are offered none, for believing that exclusion of evidence seized pursuant to a warrant will have a significant deterrent effect on the issuing judge or magistrate.[15] Many of the factors that indicate that the exclusionary rule cannot provide an effective "special" or "general" deterrent for individual offending law enforcement officers[16] apply as well to judges or magistrates. And, to the extent that the rule is thought to operate as a "systemic" deterrent on a wider audience,[17] it clearly can have no such effect on individuals empowered to issue search warrants. Judges and magistrates are not adjuncts to the law enforcement team; as neutral judicial officers, they have no stake in the outcome of particular criminal prosecutions. The threat of exclusion thus cannot be expected significantly to deter them. Imposition of the exclusionary sanction is not necessary meaningfully to inform judicial officers of their errors, and we cannot conclude that admitting evidence obtained pursuant to a warrant while at the same time declaring that the warrant was somehow defective will in any way reduce judicial officers' professional incentives to comply with the Fourth Amendment, encourage them to re-

14. Although there are assertions that some magistrates become rubber stamps for the police and others may be unable effectively to screen police conduct, see, *e.g.*, 2 W. LaFave, Search and Seizure § 4.1 (1978); Kamisar, Does (Did) (Should) the Exclusionary Rule Rest on a "Principled Basis" Rather than an "Empirical Proposition"?, 16 Creighton L.Rev. 565, 569–571 (1983); Schroeder, Deterring Fourth Amendment Violations: Alternatives to the Exclusionary Rule, 69 Geo.L.J. 1361, 1412 (1981), we are not convinced that this is a problem of major proportions. See L. Tiffany, D. McIntyre & D. Rotenberg, Detection of Crime 119 (1967); Israel, Criminal Procedure, the Burger Court, and the Legacy of the Warren Court, 75 Mich.L.Rev. 1319, 1414, n. 396 (1977); P. Johnson, New Approaches to Enforcing the Fourth Amendment 8–10 (Working Paper, Sept. 1978), quoted in Y. Kamisar, W. LaFave & J. Israel, Modern Criminal Procedure 229–230 (5th ed. 1980); R. Van Duizend, L. Sutton & C. Carter, The Search Warrant Process ch. 7 (Review Draft, 1983).

15. As the Supreme Judicial Court of Massachusetts recognized in *Commonwealth v. Sheppard*, 387 Mass. 488, 506, 441 N.E.2d 725, 735 (1982):

"The exclusionary rule may not be well tailored to deterring judicial misconduct. If applied to judicial misconduct, the rule would be just as costly as it is when it is applied to police misconduct, but it may be ill-fitted to the job-created motivations of judges.... [I]deally a judge is impartial as to whether a particular piece of evidence is admitted or a particular defendant convicted. Hence, in the abstract, suppression of a particular piece of evidence may not be as effective a disincentive to a neutral judge as it would be to the police. It may be that a ruling by an appellate court that a search warrant was unconstitutional would be sufficient to deter similar misconduct in the future by magistrates."

But see *United States v. Karanthanos*, 531 F.2d 26, 33–34 (CA2), cert. denied, 428 U.S. 910, 96 S.Ct. 3221, 49 L.Ed.2d 1217 (1976).

16. See, *e.g.*, *Stone v. Powell*, 428 U.S., at 498, 96 S.Ct., at 3054 (BURGER, C.J., concurring); Oaks, Studying the Exclusionary Rule in Search and Seizure, 37 U.Chi.L.Rev. 665, 709–710 (1970).

17. See, *e.g.*, *Dunaway v. New York*, 442 U.S., at 221, 99 S.Ct., at 2261 (STEVENS, J., concurring); Mertens & Wasserstrom, The Good Faith Exception to the Exclusionary Rule: Deregulating the Police and Derailing the Law, 70 Geo. L.J. 365, 399–401 (1981).

at their mistakes, or lead to the granting of all colorable warrant requests.[18]

B

[14] If exclusion of evidence obtained pursuant to a subsequently invalidated warrant is to have any deterrent effect, therefore, it must alter the behavior of individual law enforcement officers or the policies of their departments. One could argue that applying the exclusionary rule in cases where the police failed to demonstrate probable cause in the warrant application deters future inadequate presentations or "magistrate shopping" and thus promotes the ends of the Fourth Amendment. Suppressing evidence obtained pursuant to a technically defective warrant supported by probable cause also might encourage officers to scrutinize more closely the form of the warrant and to point out suspected judicial errors. We find such arguments speculative and conclude that suppression of evidence obtained pursuant to a warrant should be ordered only on a case-by-case basis and only in those unusual cases in which exclusion will further the purposes of the exclusionary rule.[19]

[15] We have frequently questioned whether the exclusionary rule can have any deterrent effect when the offending officers acted in the objectively reasonable belief that their conduct did not violate the Fourth Amendment. "No empirical researcher, proponent or opponent of the rule, has yet been able to establish with any assurance whether the rule has a deterrent effect...." *United States v. Janis*, 428 U.S., at 452, n. 22, 96 S.Ct., at 3031, n. 22. But even assuming that the rule effectively deters some police misconduct and provides incentives for the law enforcement profession as a whole to conduct itself in accord with the Fourth Amendment, it cannot be expected, and should not be applied, to deter objectively reasonable law enforcement activity.

[16, 17] As we observed in *Michigan v. Tucker*, 417 U.S. 433, 447, 94 S.Ct. 2357, 2365, 41 L.Ed.2d 182 (1974), and reiterated in *United States v. Peltier*, 422 U.S., at 539, 95 S.Ct., at 2318:

> "The deterrent purpose of the exclusionary rule necessarily assumes that the police have engaged in willful, or at the very least negligent, conduct which has deprived the defendant of some right. By refusing to admit evidence gained as a result of such conduct, the courts hope to instill in those particular investigating officers, or in their future counterparts, a greater degree of care toward the rights of an accused. Where the official conduct was pursued in complete good faith, however, the deterrence rationale loses much of its force."

The *Peltier* Court continued, *id.*, at 542, 95 S.Ct., at 2320:

> "If the purpose of the exclusionary rule is to deter unlawful police conduct, then evidence obtained from a search should be suppressed only if it can be said that the law enforcement officer had knowledge, or may properly be charged with

18. Limiting the application of the exclusionary sanction may well increase the care with which magistrates scrutinize warrant applications. We doubt that magistrates are more desirous of avoiding the exclusion of evidence obtained pursuant to warrants they have issued than of avoiding invasions of privacy.

Federal magistrates, moreover, are subject to the direct supervision of district courts. They may be removed for "incompetency, misconduct, neglect of duty, or physical or mental disability." 28 U.S.C. § 631(i). If a magistrate serves merely as a "rubber stamp" for the police or is unable to exercise mature judgment, closer supervision or removal provides a more effective remedy than the exclusionary rule.

19. Our discussion of the deterrent effect of excluding evidence obtained in reasonable reliance on a subsequently invalidated warrant assumes, of course, that the officers properly executed the warrant and searched only those places and for those objects that it was reasonable to believe were covered by the warrant. Cf. *Massachusetts v. Sheppard*, — U.S. —, —, n. 6, 104 S.Ct. 3424, 3429, n. 6, 80 L.Ed.2d — ("[I]t was not unreasonable for the police in this case to rely on the judge's assurances that the warrant authorized the search they had requested").

C

[18] We conclude that the marginal or nonexistent benefits produced by suppressing evidence obtained in objectively reasonable reliance on a subsequently invalidated search warrant cannot justify the substantial costs of exclusion. We do not suggest, however, that exclusion is always inappropriate in cases where an officer has obtained a warrant and abided by its terms. "[S]earches pursuant to a warrant will rarely require any deep inquiry into reasonableness," *Illinois v. Gates*, 462 U.S., at ——, 103 S.Ct., at 2347 (WHITE, J., concurring in the judgment), for "a warrant issued by a magistrate normally suffices to establish" that a law enforcement officer has "acted in good faith in conducting the search." *United States v. Ross*, 456 U.S. 798, 823, n. 32, 102 S.Ct. 2157, 2172, n. 32, 72 L.Ed.2d 572 (1982). Nevertheless, the officer's reliance on the magistrate's probable-cause determination and on the technical sufficiency of the warrant he issues must be objectively reasonable, cf. *Harlow v. Fitzgerald*, 457 U.S. 800, 815–819, 102 S.Ct. 2727, 2737–2739, 73 L.Ed.2d 396 (1982),[23] and it is clear that in some circumstances the officer[24] will have no reasonable grounds for believing that the warrant was properly issued.

[19–21] Suppression therefore remains an appropriate remedy if the magistrate or judge in issuing a warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth. *Franks v. Delaware*, 438 U.S.

as a justification for the exclusion of highly probative evidence." *Stone v. Powell*, 428 U.S., at 485, 96 S.Ct., at 3048. Our cases establish that the question whether the use of illegally obtained evidence in judicial proceedings represents judicial participation in a Fourth Amendment violation and offends the integrity of the courts

"is essentially the same as the inquiry into whether exclusion would serve a deterrent purpose.... The analysis showing that exclusion in this case has no demonstrated deterrent effect and is unlikely to have any significant such effect shows, by the same reasoning, that the admission of the evidence is unlikely to encourage violations of the Fourth Amendment." *United States v. Janis*, *supra*, 428 U.S., at 459, n. 35, 96 S.Ct., at 3034, n. 35.

Absent unusual circumstances, when a Fourth Amendment violation has occurred because the police have reasonably relied on a warrant issued by a detached and neutral magistrate but ultimately found to be defective, "the integrity of the courts is not implicated." *Illinois v. Gates*, 462 U.S., at ——, n. 14, 103 S.Ct., at 2343, n. 14 (WHITE, J., concurring in the judgment). See *Stone v. Powell*, *supra*, 428 U.S., at 485, n. 23, 96 S.Ct., at 3048, n. 23; *id.*, at 540, 96 S.Ct., at 3073 (WHITE, J., dissenting); *United States v. Peltier*, *supra*, 422 U.S., at 536–539, 95 S.Ct., at 2317–2318.

23. In *Harlow*, we eliminated the subjective component of the qualified immunity public officials enjoy in suits seeking damages for alleged deprivations of constitutional rights. The situations are not perfectly analogous, but we also eschew inquiries into the subjective beliefs of law enforcement officers who seize evidence pursuant to a subsequently invalidated warrant. Although we have suggested that "[o]n occasion, the motive with which the officer conducts the illegal search may have some relevance in determining the propriety of applying the exclusionary rule," *Scott v. United States*, 436 U.S. 128, 139, n. 13, 98 S.Ct. 1717, 1724, n. 13, 56 L.Ed.2d 168 (1978), we believe that "[s]ending state and federal courts into the minds of police officers would produce a grave and fruitless mis-allocation of judicial resources." *Massachusetts v. Painten*, 389 U.S. 560, 565, 88 S.Ct. 660, 663, 19 L.Ed.2d 770 (1968) (WHITE, J., dissenting). Accordingly, our good-faith inquiry is confined to the objectively ascertainable question whether a reasonably well-trained officer would have known that the search was illegal despite the magistrate's authorization. In making this determination, all of the circumstances—including whether the warrant application had previously been rejected by a different magistrate—may be considered.

24. References to "officer" throughout this opinion should not be read too narrowly. It is necessary to consider the objective reasonableness, not only of the officers who eventually executed a warrant, but also of the officers who originally obtained it or who provided information material to the probable-cause determination. Nothing in our opinion suggests, for example, that an officer could obtain a warrant on the basis of a "bare bones" affidavit and then rely on colleagues who are ignorant of the circumstances under which the warrant was obtained to conduct the search. See *Whiteley v. Warden*, 401 U.S. 560, 568, 91 S.Ct. 1031, 1037, 28 L.Ed.2d 306 (1971).

154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978). The exception we recognize today will also not apply in cases where the issuing magistrate wholly abandoned his judicial role in the manner condemned in *Lo-Ji Sales, Inc. v. New York*, 442 U.S. 319, 99 S.Ct. 2319, 60 L.Ed.2d 920 (1979); in such circumstances, no reasonably well-trained officer should rely on the warrant. Nor would an officer manifest objective good faith in relying on a warrant based on an affidavit "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable." *Brown v. Illinois*, 422 U.S., at 610–611, 95 S.Ct., at 2265–2266 (POWELL, J., concurring in part); see *Illinois v. Gates, supra*, 462 U.S., at ——, 103 S.Ct., at —— (WHITE, J., concurring in the judgment). Finally, depending on the circumstances of the particular case, a warrant may be so facially deficient—*i.e.*, in failing to particularize the place to be searched or the things to be seized—that the executing officers cannot reasonably presume it to be valid. Cf. *Massachusetts v. Sheppard*, —— U.S., at ——, 104 S.Ct., at ——.

[22] In so limiting the suppression remedy, we leave untouched the probable-cause standard and the various requirements for a valid warrant. Other objections to the modification of the Fourth Amendment exclusionary rule we consider to be insubstantial. The good-faith exception for searches conducted pursuant to warrants is not intended to signal our unwillingness strictly to enforce the requirements of the Fourth Amendment, and we do not believe that it will have this effect. As we have already suggested, the good-faith exception, turning as it does on objective reasonableness, should not be difficult to apply in practice. When officers have acted pursuant to a warrant, the prosecution should ordinarily be able to establish objective good faith without a substantial expenditure of judicial time.

Nor are we persuaded that application of a good-faith exception to searches conducted pursuant to warrants will preclude review of the constitutionality of the search or seizure, deny needed guidance from the courts, or freeze Fourth Amendment law in its present state.[25] There is no need for courts to adopt the inflexible practice of always deciding whether the officers' conduct manifested objective good faith before turning to the question whether the Fourth Amendment has been violated. Defendants seeking suppression of the fruits of allegedly unconstitutional searches or seizures undoubtedly raise live controversies which Article III empowers federal courts to adjudicate. As cases addressing questions of good-faith immunity under 42 U.S.C. § 1983, compare *O'Connor v. Donaldson*, 422 U.S. 563, 95 S.Ct. 2486, 45 L.Ed.2d 396 (1975), with *Procunier v. Navarette*, 434 U.S. 555, 566, n. 14, 98 S.Ct. 855, 862, n. 14, 55 L.Ed.2d 24 (1978), and cases involving the harmless-error doctrine, compare *Milton v. Wainwright*, 407 U.S. 371, 372, 92 S.Ct. 2174, 2175, 33 L.Ed.2d 1 (1972), with *Coleman v. Alabama*, 399 U.S. 1, 90 S.Ct. 1999, 26 L.Ed.2d 387 (1970), make clear, courts have considerable discretion in conforming their decision-making processes to the exigencies of particular cases.

If the resolution of a particular Fourth Amendment question is necessary to guide future action by law enforcement officers and magistrates, nothing will prevent reviewing courts from deciding that question before turning to the good-faith issue.[26]

25. The argument that defendants will lose their incentive to litigate meritorious Fourth Amendment claims as a result of the good-faith exception we adopt today is unpersuasive. Although the exception might discourage presentation of insubstantial suppression motions, the magnitude of the benefit conferred on defendants by a successful motion makes it unlikely that litigation of colorable claims will be substantially diminished.

26. It has been suggested, in fact, that "the recognition of a 'penumbral zone,' within which an inadvertant mistake would not call for exclusion, ... will make it less tempting for judges to bend fourth amendment standards to avoid releasing a possibly dangerous criminal because

Indeed, it frequently will be difficult to determine whether the officers acted reasonably without resolving the Fourth Amendment issue. Even if the Fourth Amendment question is not one of broad import, reviewing courts could decide in particular cases that magistrates under their supervision need to be informed of their errors and so evaluate the officers' good faith only after finding a violation. In other circumstances, those courts could reject suppression motions posing no important Fourth Amendment questions by turning immediately to a consideration of the officers' good faith. We have no reason to believe that our Fourth Amendment jurisprudence would suffer by allowing reviewing courts to exercise an informed discretion in making this choice.

IV

When the principles we have enunciated today are applied to the facts of this case, it is apparent that the judgment of the Court of Appeals cannot stand. The Court of Appeals applied the prevailing legal standards to Officer Rombach's warrant application and concluded that the application could not support the magistrate's probable-cause determination. In so doing, the court clearly informed the magistrate that he had erred in issuing the challenged warrant. This aspect of the court's judgment is not under attack in this proceeding.

Having determined that the warrant should not have issued, the Court of Appeals understandably declined to adopt a modification of the Fourth Amendment exclusionary rule that this Court had not previously sanctioned. Although the modification finds strong support in our previous cases, the Court of Appeals' commendable self-restraint is not to be criticized. We have now re-examined the purposes of the exclusionary rule and the propriety of its application in cases where officers have relied on a subsequently invalidated search warrant. Our conclusion is that the rule's purposes will only rarely be served by applying it in such circumstances.

[23] In the absence of an allegation that the magistrate abandoned his detached and neutral role, suppression is appropriate only if the officers were dishonest or reckless in preparing their affidavit or could not have harbored an objectively reasonable belief in the existence of probable cause. Only respondent Leon has contended that no reasonably well-trained police officer could have believed that there existed probable cause to search his house; significantly, the other respondents advance no comparable argument. Officer Rombach's application for a warrant clearly was supported by much more than a "bare bones" affidavit. The affidavit related the results of an extensive investigation and, as the opinions of the divided panel of the Court of Appeals make clear, provided evidence sufficient to create disagreement among thoughtful and competent judges as to the existence of probable cause. Under these circumstances, the officers' reliance on the magistrate's determination of probable cause was objectively reasonable, and application of the extreme sanction of exclusion is inappropriate.

Accordingly, the judgment of the Court of Appeals is

Reversed.

Justice BLACKMUN, concurring.

The Court today holds that evidence obtained in violation of the Fourth Amendment by officers acting in objectively reasonable reliance on a search warrant issued by a neutral and detached magistrate need not be excluded, as a matter of federal law, from the case-in-chief of federal and state criminal prosecutions. In so doing, the Court writes another chapter in the volume of Fourth Amendment law opened by *Weeks v. United States*, 232 U.S. 383, 34

of a minor and unintentional miscalculation by the police." Schroeder, *supra* n. 14, at 1420–1421 (footnote omitted); see Ashdown, Good Faith, the Exclusionary Remedy, and Rule-Oriented Adjudication in the Criminal Process, 24 Wm. & Mary L.Rev. 335, 383–384 (1983).

S.Ct. 341, 58 L.Ed. 652 (1914). I join the Court's opinion in this case and the one in *Massachusetts v. Sheppard, post*, because I believe that the rule announced today advances the legitimate interests of the criminal justice system without sacrificing the individual rights protected by the Fourth Amendment. I write separately, however, to underscore what I regard as the unavoidably provisional nature of today's decisions.

As the Court's opinion in this case makes clear, the Court has narrowed the scope of the exclusionary rule because of an empirical judgment that the rule has little appreciable effect in cases where officers act in objectively reasonable reliance on search warrants. See *ante*, at 3419–3420. Because I share the view that the exclusionary rule is not a constitutionally compelled corrollary of the Fourth Amendment itself, see *ante*, at 3412, I see no way to avoid making an empirical judgment of this sort, and I am satisfied that the Court has made the correct one on the information before it. Like all courts, we face institutional limitations on our ability to gather information about "legislative facts," and the exclusionary rule itself has exacerbated the shortage of hard data concerning the behavior of police officers in the absence of such a rule. See *United States v. Janis*, 428 U.S. 433, 448–453, 96 S.Ct. 3021, 3029–3031, 49 L.Ed.2d 1046 (1976). Nonetheless, we cannot escape the responsibility to decide the question before us, however imperfect our information may be, and I am prepared to join the Court on the information now at hand.

What must be stressed, however, is that any empirical judgment about the effect of the exclusionary rule in a particular class of cases necessarily is a provisional one. By their very nature, the assumptions on which we proceed today cannot be cast in stone. To the contrary, they now will be tested in the real world of state and federal law enforcement, and this Court will attend to the results. If it should emerge from experience that, contrary to our expectations, the good faith exception to the exclusionary rule results in a material change in police compliance with the Fourth Amendment, we shall have to reconsider what we have undertaken here. The logic of a decision that rests on untested predictions about police conduct demands no less.

If a single principle may be drawn from this Court's exclusionary rule decisions, from *Weeks* through *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961), to the decisions handed down today, it is that the scope of the exclusionary rule is subject to change in light of changing judicial understanding about the effects of the rule outside the confines of the courtroom. It is incumbent on the Nation's law enforcement officers, who must continue to observe the Fourth Amendment in the wake of today's decisions, to recognize the double-edged nature of that principle.

MASSACHUSETTS, Petitioner

v.

Osborne SHEPPARD.

No. 82-963.

Argued Jan. 17, 1984.

Decided July 5, 1984.

Defendant was convicted in a Massachusetts state court of first-degree murder. The Massachusetts Supreme Judicial Court, 387 Mass. 488, 441 N.E.2d 725, reversed, and Massachusetts filed petition for writ of certiorari. The Supreme Court, Justice White, held that where police officers, who were advised by judge that all necessary clerical changes had been made in defective warrant form, took every step that could reasonably be expected of them, there was an objectively reasonable basis for police

exclusionary rule

TALKING POINTS

United States v. Leon

- This decision gives the American people a result we have sought for some time, both through the courts and also in Congress. It will significantly assist the national law enforcement effort by further restoring the balance between law and lawlessness. It protects not only the rights of the accused, but also the rights of victims and the right of society to protect themselves from criminals.

- The so-called exclusionary rule was a judicially-created remedy designed to deter unlawful police conduct. This decision does not abolish the exclusionary rule, but rather focuses it on its only purpose -- the deterrence of police misconduct.

- The decision furthers a line of Supreme Court cases that say the exclusionary rule should not apply where it will not have a deterrent effect. The Court has held today that there can be no deterrence in situations where reasonably well-trained police officers believe that they are acting according to the law. You cannot deter police officers from making mistakes when reasonably well-trained police officers in their positions would have believed that they were acting in accordance with the law.

- Since the decision is keyed to the reasonableness of the police officer's conduct, rather than condone police misconduct, it encourages, and rewards, police officers who are well-trained and who act reasonably.

- The good-faith exception to the exclusionary rule has been used for sometime in two of the federal circuits and has been adopted by a number of state legislatures (including Arizona and Colorado). It has also been endorsed by the Attorney General's Task Force on Violent Crime, the National Association of Attorney's General, and the National District Attorney's Association.

- The good-faith exception represents a victory for the rule of law, and will help restore respect for the criminal justice system because it allows the courts to use some of the most reliable, truthful, and relevant evidence in the fact-finding process. It gives recognition to the principle that the ascertainment of truth is a priority in our criminal justice system.

- We will continue to encourage Congress to enact legislation adopting the good-faith exception to the exclusionary rule. The Court has acted in this area, not because the Constitution required it, but to fill a void. It is Congress who should take the final action in filling this void. (Congress can supply the specificity needed to apply the rule in federal courts and can address fact situations that were not before the Court, e.g., nonwarrant situations.)