No. 14-1373

In the Supreme Court of the United States

STATE OF UTAH,

Petitioner,

v.

EDWARD JOSEPH STRIEFF, JR.,

Respondent.

On Writ of Certiorari to the Supreme Court of Utah

BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION AND THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION AND THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

INTEREST OF THE *AMICI CURIAE*[1]

The American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan organization with approximately 500,000 members dedicated to the principles of liberty and equality embodied in the Constitution and this nation's civil rights laws. In furtherance of those principles, the ACLU has appeared in numerous cases before this Court involving the meaning and scope of the Fourth Amendment, both as direct counsel and as amicus. Because this case directly implicates those issues, its proper resolution is a matter of concern to the ACLU and its members.

The National Association of Criminal Defense Lawyers (NACDL), a nonprofit corporation, is the preeminent organization advancing the mission of the criminal defense bar to ensure justice and due process for persons accused of crime or wrongdoing. Founded in 1958, NACDL has a nationwide membership of approximately 10,000 and up to 40,000 with affiliates. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL is dedicated to advancing the proper, efficient, and just

[1] No counsel for a party authored this brief in whole or in part. No person other than *amici* and their counsel made a monetary contribution to its preparation or submission. Letters from both parties consenting to the filing of this brief have been lodged with the Clerk.

administration of justice, including the administration of criminal law.

NACDL files numerous amicus briefs each year in this Court and other courts, seeking to provide assistance in cases that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole. In particular, in furtherance of NACDL's mission to safeguard fundamental constitutional rights, NACDL frequently appears as amicus in cases involving the Fourth Amendment, speaking to the importance of balancing core constitutional search and seizure protections with other constitutional and societal interests.

INTRODUCTION AND SUMMARY OF ARGUMENT

No one denies that the evidence at issue in this case—the fruit of an unlawful *Terry* stop—is subject to the exclusionary rule unless the rule's "attenuation exception" applies. As respondent persuasively demonstrates in his brief, the attenuation exception does not apply here. In light of the close logical and temporal connection between the unlawful stop, the discovery of the warrant, and the search incident to arrest, the taint of the Fourth Amendment violation in this case has not in any sense dissipated. Embedded in the attenuation analysis is a more fundamental question: whether the costs of suppressing the evidence in this case outweigh the benefits. They do not.

Petitioner and the United States both take the position that the only benefit of suppression that matters here is deterrence—but they are wrong. Other rationales underlying the exclusionary rule

also inform the suppression analysis, including safeguarding judicial integrity and restoring the parties to the status quo ante. And in this case, these factors squarely point in favor of suppression.

Viewing this case through the lens of these other justifications for exclusion also clarifies how and why suppression serves the rule's primary purpose of deterring Fourth Amendment violations. Placing a stamp of judicial approval on the use of the evidence collected here would send a message to law enforcement officers that the Fourth Amendment is irrelevant as long as a warrant check turns up an outstanding warrant. By contrast, suppressing the evidence and denying the government the ill-gotten gains of its violation will encourage officers to err on the constitutional side of the line.

The costs of suppression, meanwhile, are minor here in comparison to the benefits achieved. Law enforcement officers would not lose the ability to execute outstanding arrest warrants. Nor would they be unreasonably impeded in their ability to investigate criminal activity. To be sure, some evidence of criminal activity would be kept out of court—but this Court has long recognized that to be a price worth paying to vindicate the guarantee of the Fourth Amendment. It assuredly is here.

ARGUMENT

THE EVIDENCE WAS CORRECTLY EXCLUDED FOR REASONS THAT ARE DISTINCT FROM, BUT RELATED TO, DETERRENCE

A. The exclusionary rule serves purposes other than deterrence alone

Nobody denies that the primary purpose served by the exclusionary rule "is to deter—to compel respect for the constitutional guaranty in the only effectively available way—by removing the incentive to disregard it." *Elkins* v. *United States*, 364 U.S. 206, 217 (1960). In fact, "deterrent value is a 'necessary condition for exclusion.'" *Davis* v. *United States*, 131 S. Ct. 2419, 2427 (2011) (quoting *Hudson* v. *Michigan*, 547 U.S. 586, 596 (2006)). But, this Court has ruled, it is only the beginning of the analysis (*ibid.*); the decision to admit or exclude evidence requires the court to balance the competing costs and benefits: "'[T]o the extent that application of the exclusionary rule could provide some incremental deterrent, that possible benefit must be weighed against [its] substantial social costs.'" *Herring* v. *United States*, 555 U.S. 135, 141 (2009) (quoting *Illinois* v. *Krull*, 480 U.S. 340, 352-353 (1987)). Accord *United States* v. *Calandra*, 414 U.S. 338, 348 (1974) ("application of the rule has been restricted to those areas where its remedial objectives are thought most efficaciously served," entailing a "balancing process").

It is true that application of the exclusionary rule will make conviction more difficult in some circumstances. *Davis*, 131 S. Ct. at 2427. But *declining* to suppress evidence—allowing the entry of tainted evidence into court and permitting the government

to profit from its own wrongdoing—has systemic social costs of its own. The exclusionary rule is an "essential auxiliary" to the Fourth Amendment in part because it forestalls those costs, which must be taken into account along with deterrence in the balancing of costs and benefits. See *Herring*, 555 U.S. at 151 (Ginsburg, J., dissenting).

1. Judicial integrity is an important factor in the balance of benefits and burdens

In its first recognition of the exclusionary rule under the Fourth Amendment, the Court admonished that "[t]he efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the [Fourth Amendment]." *Weeks* v. *United States*, 232 U.S. 383, 393 (1914). Thus, "[t]he tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures * * * should find no sanction in the judgments of the courts, which are charged at all times with the support of the Constitution" and not its violation. *Id*. at 392.

That fundamental and original rationale for the exclusionary rule—preserving the "judicial integrity [that is] so necessary in the true administration of justice" (*Mapp* v. *Ohio*, 367 U.S. 643, 660 (1961))—has been reaffirmed in more recent cases. "[T]he federal courts [should not] be accomplices," the Court has declared, "in the willful disobedience of a Constitution they are sworn to uphold." *Elkins* v. *United States*, 364 U.S. 206, 223 (1960). And there can be no doubt that "[a] ruling admitting evidence in a criminal trial * * * has the necessary effect of legitimizing

the conduct which produced the evidence, while an application of the exclusionary rule withholds the constitutional imprimatur." *Terry* v. *Ohio*, 392 U.S. 1, 13 (1968). It is the "process of inclusion and exclusion," in other words, that reflects judicial "approv[al]" of "conduct [that] comport[s] with constitutional guarantees" and "disapprov[al]" of conduct that does not. *Ibid*.

Preserving judicial integrity is, moreover, a matter of real practical importance. As the Court has noted in other contexts, "[t]he judiciary's authority * * * depends in large measure on the public's willingness to respect and follow its decisions." *Williams-Yulee* v. *The Florida Bar,* 135 S. Ct. 1656, 1666 (2015). That follows from "the place of the judiciary in the government." *Ibid*. "Unlike the executive or the legislature, the judiciary 'has no influence over either the sword or the purse'"; its authority flows from its reason and integrity alone. *Ibid*. (quoting The Federalist No. 78, p. 465 (C. Rossiter ed. 1961) (A. Hamilton)). And it should go without saying that "public confidence in judicial integrity" requires that justice "'satisfy the appearance of justice.'" *Id.* at 1667 (quoting *Offutt* v. *United States*, 348 U.S. 11, 14 (1954)).

Permitting the government to profit from its own wrongdoing—allowing it to secure a conviction on the basis of evidence that all acknowledge was obtained illegally—does self-evident violence to judicial integrity and the appearance of justice. A violation of the Fourth Amendment is bad enough in its own right. But it adds judicial insult to executive injury to permit evidence uncovered as a direct consequence of the violation to turn up in a solemn criminal proceeding as proof of guilt. In every case in which

evidence is seized unlawfully and "used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment" appears to the defendant to have "no value, and, so far as those thus placed are concerned, might as well be stricken from the Constitution." *Mapp*, 367 U.S. at 648 (quoting *Weeks*, 232 U.S. at 393). And to the broader public, the Fourth Amendment seems an "empty promise." *Id*. at 660. Thus, as this Court has acknowledged, judicial approval of "shortcut methods in law enforcement impairs [the] enduring effectiveness" of the criminal justice system. *Mapp*, 367 U.S. at 658.

To be sure, the Court's most recent exclusionary-rule decisions have focused increasingly on deterrence as the chief underpinning for the exclusionary rule. But the Court has never repudiated the many earlier cases recognizing judicial integrity as another core justification for the rule. *E.g.*, *United States* v. *Peltier*, 422 U.S. 531, 539 (1975) ("considerations of either judicial integrity or deterrence of Fourth Amendment violations" can support suppression); *Harrison* v. *United States*, 392 U.S. 219, 224 n.10 (1968) ("it is not deterrence alone that warrants the exclusion of evidence illegally obtained—it is 'the imperative of judicial integrity'") (quoting *Elkins*, 364 U.S. at 222). Thus today, as ever before, the suppression question must turn on "considerations of deterrence *and* of judicial integrity." *Brown* v. *Illinois*, 422 U.S. 590, 599 (1975) (emphasis added).

At the very least, then, judicial integrity has an important role to play in the courts' balancing of benefits and burdens. Concern for judicial integrity recognizes that there are social costs on both sides of the scale—the cost of having "to ignore reliable, trustworthy evidence bearing on guilt or innocence"

(*Davis*, 131 S. Ct. at 2427) on the one hand, versus the cost of infecting a judicial proceeding with constitutionally tainted evidence (*Mapp*, 367 U.S. at 648) on the other. Concern for judicial integrity weighs strongly in favor "'closing the doors of the federal courts to any use of evidence unconstitutionally obtained.'" *Brown*, 422 U.S. at 599 (quoting *Wong Sun* v. *United States*, 371 U.S. 471, 486 (1963)).

2. Restoration of the status quo ante is likewise an important consideration

A second concern similarly warrants close consideration separate and apart from deterrence: recognition that the exclusionary rule is meant to restore the status quo ante, "giv[ing] to the individual no more than that which the Constitution guarantees him," and giving "to the police officer no less than that to which honest law enforcement is entitled." *Mapp*, 367 U.S. at 660.

Restoration of the status quo ante is a fundamental aim of the Anglo-American legal tradition. Jerry E. Norton, *The Exclusionary Rule Reconsidered: Restoring the Status Quo Ante*, 33 Wake Forest L. Rev. 261, 284 (1998). For example, while it is surely a critical purpose of tort law to deter others from acting without due care, tort law is aimed first and foremost at restoring the plaintiff to the position he would have been in if the tort had not occurred. *Id*. at 285.

The exclusionary rule has historically been intended to achieve the same objective: to "restore[] the situation that would have prevailed if the Government had itself obeyed the law." *Harrison*, 392 U.S. at 224 n.10. It is precisely that consider-

ation that explains the "inevitable discovery" exception to the rule: "Fairness can be assured by placing the State and the accused in the same positions they would have been in had the impermissible conduct not taken place," but "if the government can prove that the evidence would have been obtained inevitably and, therefore, would have been admitted regardless of any overreaching by the police, there is no rational basis to keep that evidence from the jury in order to ensure the fairness of the trial proceedings." *Nix* v. *Williams*, 467 U.S. 431, 447 (1984). In the absence of inevitable discovery, however, fairness and equity demand putting the parties in the same position as if the unlawful conduct had never taken place.

It is a common objection to this reasoning that "exclusion puts the police in a *worse* position than they would have been in had they followed the rules because they can never go back and re-search." Craig M. Bradley, *Murray v. United States: The Bell Tolls for the Search Warrant Requirement*, 64 Ind. L.J. 907, 913 (1989). Thus, it is argued, "[t]he frequent impact of the exclusionary rule is that evidence which could have been legally obtained is excluded due to police error." *Ibid.*

That objection has no force here. In the mine run of cases, the evidence uncovered in the search would never have been detected by the police in the first place. The offense for which the warrant has issued is typically a minor offense like failure to appear in traffic court, and the evidence obtained in the search incident to arrest is ordinarily relevant to an offense unrelated to the offense of arrest. Comment, *Discovering Arrest Warrants: Intervening Police Conduct and Foreseeability*, 118 Yale L.J. 177, 183 &

n.29 (2008). Absent a search incident to the arrest on the unrelated warrant, the evidence would not have been lawfully obtained by other means. Thus, suppression returns the police to where they were before the encounter began; they are no worse off than if the illegal detention had never taken place.

B. The rule's alternative rationales help explain why suppression would deter violations like the one in this case

Although concern for judicial integrity and restoring the status quo ante are in many respects independent of the deterrence rationale, here they cast useful light on why deterrence requires suppression.

1. Consider the question from the perspective of a pair of officers patrolling a high-crime area on foot. Imagine the officers have a hunch that a pedestrian is carrying contraband, but they lack the articulable suspicion necessary to conduct a lawful *Terry* stop or the probable cause to search his person without consent. The officers decide to stop the pedestrian nonetheless. Going into the encounter, the officers would know three things under Utah's answer to the question presented: (1) if they run a warrants check and the individual has an open warrant, they will surely discover it; (2) if they discover an open arrest warrant, any evidence they seize in the search incident to arrest will be admissible, regardless of whether the initial stop violates the Fourth Amendment; and (3) if they do not discover a warrant, they can release the individual and are no worse off. *Discovering Arrest Warrants*, *supra*, at 183. The officers have nothing to lose, in other words, and much to

gain by conducting a stop even when it is supported by shaky facts.[2]

It would blink reality to say that a legal regime like that would not encourage systematic and recurring violations of the Fourth Amendment. Acknowledging as much is not to impugn otherwise well-meaning and hard-working law enforcement officers. It is instead to acknowledge that Utah's proposed approach is one that provides officers with strong incentive to err on the wrong side of the constitutional line in the name of a "general interest in crime control" (*Terry*, 392 U.S. at 48). This Court previously has advocated avoidance of "rulings resolving unsettled Fourth Amendment questions" that would leave "law enforcement officials [with] little incentive to err on the side of constitutional behavior." *United States* v. *Johnson*, 457 U.S. 537, 561 (1982). But that is just what Utah's proposed rule does here.

The Court's teachings on judicial integrity in this context further inform the analysis. If the judiciary were to lend such a scheme its approval, not only would it make the courts "accomplices" in general disobedience to the Fourth Amendment (*Elkins*, 364 U.S. at 223), but it would have "the necessary effect of legitimizing the conduct which produced the evidence" (*Terry,* 392 U.S. at 13). That matters not only because it casts the judiciary in a poor light, but also (and perhaps more importantly) because it sends

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[2] Although an illegal and ultimately fruitless *Terry* stop does not impose a major cost on officers, it "constitute[s] a 'serious intrusion'" for the individual stopped, and "may inflict great indignity and arouse strong resentment." *Dunaway* v. *New York*, 442 U.S. 200, 209 (1979) (quoting *Terry*, 392 U.S. at 20). In other words, the true cost of the stop is a classic externality.

a clear message to law enforcement officers that the courts are willing to overlook a prior constitutional transgression if a warrant is uncovered. After all, when officers find an open arrest warrant under Utah's rule, the unconstitutionality of the initial detention simply falls away. The ends having justified the means, the initial illegality becomes little more than an inconvenient afterthought. That is not a message the Court should endorse.

For their parts, Utah and the United States assert that suppression is warranted only when the violation at issue is "flagrant" and "purposeful," and that deterrence is not served by suppressing evidence in cases involving mere "misjudgments" or "good faith" mistakes. Pet. Br. 28; U.S. Br. 32-33. That is a strange contention. No party here disputes that the fruits of an unlawful *Terry* stop generally must be suppressed, regardless whether the violation was flagrant. The only question is whether the discovery of an outstanding warrant attenuates the taint of the illegal stop, allowing for the admission of any evidence obtained. Whether the violation was glaring or a close call makes no difference under the Court's attenuation cases.

More broadly, the Court has expressly rejected the idea that flagrant Fourth Amendment violations are the only violations deterred by the exclusionary rule. It reaffirmed in *Herring* and *Davis*, for example, that the exclusionary rule is capable of "'meaningful deterrence'" when applied not only to deliberate misconduct, but also to "'recurring or systemic negligence.'" *Davis*, 131 S. Ct. at 2428 (quoting *Herring*, 555 U.S. at 144). It likely did so with cases such as this in mind.

The violation at issue here—an unlawful *Terry* stop involving a routine warrants check—is certain to recur on a systemic basis absent suppression in this case. The rule urged by Utah necessarily encourages officers to be less careful in their adherence to constitutional rules. It teaches that, as long as the officers find an open warrant—and there is a substantial chance that they will in every encounter (see Resp. Br. 1-5)—all will be forgiven. That approach gives powerful incentive to err in favor of violating the Fourth Amendment in borderline cases; it is a clear invitation not for "simple, 'isolated' negligence," *Davis*, 131 S. Ct. at 2438, but for "recurring or systemic negligence." *Id.* at 2428. That is cause for real concern, because "illegitimate and unconstitutional practices get their first footing" in their "mildest and least repulsive form[s]," and "by silent approaches and slight deviations" from previously accepted practice. *Schneckloth* v. *Bustamonte*, 412 U.S. 218, 228 (1973) (quoting *Boyd* v. *United States*, 116 U. S. 616, 635 (1886)).

And the social cost of that invitation will fall disproportionately on communities of color. Many recent studies have shown that the "stop and frisk" tactics employed by many police departments frequently have a disparate impact on members of minority communities—particularly young black and Latino men. See, *e.g.*, N.Y. Civil Liberties Union, Press Release, *Analysis Finds Racial Disparities, Ineffectiveness in NYPD Stop-and-Frisk Program*, May 22, 2013, perma.cc/KS3Z-39WV; Ctr. for Constitutional Rights, *Stop and Frisk: The Human Impact* (July 2012), at 11, perma.cc/9XR2-HHVR ("analysis of stop-and-frisk data clearly indicates that race is the primary factor in determining who gets stopped").

2. In response to all of this, Utah and the United States say that the *Terry* rule itself already provides a "substantial deterrent" to violations, because evidence obtained by an officer in an improper *Terry* stop will generally be inadmissible in cases where a warrant is *not* uncovered. U.S. Br. 29-30; see also Pet. Br. 22. And they assert that it is "not plausible" that officers would initiate unlawful stops in the hopes of discovering an outstanding warrant, given the low likelihood that any particular individual who encounters the police will have an outstanding warrant. U.S. Br. 30.

That again ignores reality. In fact, the likelihood that offers will discover an outstanding warrant is, in some communities, greater than not. See Resp. Br. 1-2 (citing statistics concerning Ferguson, Missouri). Even aside from outliers like Ferguson, outstanding warrants are strikingly common; in some major metropolitan areas, as many as one in three citizens have bench warrants in their names for unpaid parking tickets or trivial moving violations. See *Discovering Arrest Warrants*, *supra*, at 183 n.29; accord Resp. Br. 1-5.

At the same time, officers have little to gain by bringing someone to the station to pay a $20 parking ticket or $100 traffic ticket. The real utility of discovering an arrest warrant is to obtain authorization for a search incident to arrest when the officers otherwise lacks probable cause or consent. *Terry*, taken alone, does nothing to silence that siren song.[3]

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[3] The United States suggests that officers are deterred from making unlawful *Terry* stops by the possibility of Section 1983 or *Bivens* liability. U.S. Br. 30. But as the government knows

The United States also points out that officers can discover whether a person has an outstanding warrant by other, "easier" means, such as following him to his home, car, or workplace, or asking neighbors or coworkers. U.S. Br. 30. That may be so, but the sort of encounter in which the question presented arises does not typically involve an active attempt to serve a known warrant or investigate a known crime—which are, as a practical matter, the only circumstances that might call for "putting a tail" on a suspect. Absent such circumstances, it is not realistic to think that an officer would follow an individual about whom he has a mere hunch simply to learn the individual's name some indefinite period of time later, so that he can conduct a warrants check.

Nor is it an answer to say that the officer can simply ask the individual for his name. An officer who initiates a consensual encounter almost always confirms the individual's identity by asking for identification. See, *e.g.*, *Golphin* v. *State*, 945 So. 2d 1174, 1190 (Fla. 2006) ("a routine police-citizen consensual encounter" ordinarily "include[s] the officer retaining [the individual's] identification for the purpose of running a warrants check"). Many courts have held that an officer detains an individual when he receives and retains the individual's identification. See, *e.g.*, *United States* v. *Lopez*, 443 F.3d 1280 (10th Cir. 2006); *State* v. *Markland*, 112 P.3d 507 (Utah 2005). If that is correct—and we submit

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well, qualified immunity will bar civil damages in nearly all such cases. Cf. *Anderson* v. *Creighton*, 483 U.S. 635, 641 (1987) ("it is inevitable that law enforcement officials will in some cases reasonably but mistakenly conclude that probable cause is present, and we have indicated that in such cases those officials * * * should not be held personally liable").

that it is—then the government's "easier" alternative is no alternative at all.

* * *

In the final analysis, concern for the exclusionary rule's other rationales in this case not only accords better with the rule's history and theoretical underpinnings, but it better ensures that unconstitutional conduct is deterred. Utah's contrary position would mean placing a judicial imprimatur on concededly unlawful conduct; that would both degrade the integrity of the courts and send a self-reinforcing message to law enforcement officers that the courts will look the other way from constitutional transgressions when a warrant is uncovered. In contrast, restoring the parties to the status quo ante sends the message that the State may not profit from the wrongdoing of its agents. Such an approach better preserves judicial integrity and gives law enforcement officers the "incentive to err on the side of constitutional behavior." *Johnson*, 457 U.S. at 561.

C. The social costs of suppression do not outweigh the considerations favoring it

The "'appreciable deterrence'" (*Davis*, 131 S. Ct. at 2426) of Fourth Amendment violations that suppression would yield in this context is more than sufficient to outweigh the costs that suppression would entail. Indeed, the costs of suppression are quite modest in circumstances like these.

As we have explained, suppression here does not deprive the police of evidence that they might have obtained by other, legal means; the evidence suppressed under respondent's rule is evidence that comes to light only by virtue of the unlawful *Terry* stop and the fortuitous discovery of an outstanding

arrest warrant during that stop. Forbidding its collection and use simply denies the police an unjustified windfall.

For similar reasons, suppression of evidence like that at issue here will not hinder criminal investigations. Respondent's suppression rule comes into play only when an officer's suspicion amounts to a unsubstantiated hunch, falling short of "a minimal level of objective justification for making the stop." *Illinois* v. *Wardlow*, 528 U.S. 119, 123 (2000). In situations like that, there is nothing to justify denying suppression that would not also justify denying suppression in the context of an authoritarian dragnet of the kind that even the government disavows. See U.S. Br. 6.

The United States suggests that exclusion in this context would interfere with important arrests, complaining that a rule requiring suppression of evidence in these circumstances "would not distinguish an individual with an outstanding warrant for a traffic violation from an individual with an outstanding warrant for armed robbery." U.S. Br. 34. That is a red herring. The question here is whether evidence uncovered in a search incident to the arrest is admissible in court as evidence of some *other* crime. Holding that the evidence must be suppressed with respect to a separate offense does not hinder the prosecution on the crime of arrest.

The United States also points out that suppressing evidence in these circumstances might deprive the police of "especially critical evidence * * * such as a firearm or drug ledger." U.S. Br. 34. That is unlikely—a study of New York's vast stop-and-frisk policy revealed that 99.9% of pedestrian stops did not turn up firearms. Wendy Ruderman, *For Women in Street Stops, Deeper Humiliation*, N.Y. Times, Aug.

6, 2012, perma.cc/4FLZ-53BM (click "View the live page"). But either way, the same risk exists when a police officer makes a *Terry* stop without reasonable suspicion and the person stopped does *not* have an outstanding warrant. In that circumstance, there is no denying that evidence found in a search attendant to the stop would have to be suppressed, no matter the nature of the evidence uncovered. There is no reason why a different result should obtain when the person happens to have an outstanding warrant for a crime unrelated to the stop; the costs and benefits are the same.

CONCLUSION

The judgment of the Supreme Court of Utah should be affirmed.

Respectfully submitted.

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