



SMITH RODGERS

ATTORNEYS AT LAW, PLLC

LEGAL CONSULTANTS TO LAW ENFORCEMENT



Sample Client Calls - Tactical Legal Assistance

From Smith Rodgers Website - www.policehelp.net

Each Call Was Received Immediately and Handled in Real-Time by a Smith Rodgers Attorney

Representative Calls from our 24-Hour Call Center!

- 2:55 pm **Live Solicitation Dispute at Mall** Mall security was insisting that local municipal officers detain customers for photography (ban list) even though no criminal charges were being brought.
- 7:29 pm **Child Abduction on Friday Night** Complicated facts confronted Sgt. where putative “father” left with six-month-old child, his biological status as father uncertain. He told mother (after dropping off another minor at Burger King, where mom worked) that she would not see this child again unless [a specified condition was met]. “Father” is not on birth certificate, there is no paternity test, and mother states there is 50-50% chance he is real father. These facts resulted in legally complex set of law enforcement options; and to further complicate the analysis, child and “suspect” were located in another jurisdiction, with two separate agencies failing to reach agreement on “what to do.” Smith Rodgers quickly formulated a workable strategy. [Liability for client agency avoided.]
- 8:14 am Sunday **Probable Cause for Arrest – What Charge?** In a crime that was somewhat Ferguson-esque, a young man leaped over a convenience store counter, desperate for cigar rolling papers. Thrice had suspect pleaded with clerk to sell him the items, which she refused as he lacked identification for the purchase of tobacco products. After announcing that he would come back and “rob the store” for the rolling papers, he did indeed return, and took them by force (i.e., by jumping the counter), but left \$1.25 for the clerk as he departed the store with his girlfriend.
- 8:01 pm Sunday **Involuntary Commitment Order, Company Police** Agency had uncertainty about the scope of the Company Police Act, and G.S. §122C-251.
- 8:41 pm Sunday **Homicide, Interview, Seize Cell Phone?** Sgt. wished to confirm his authority to seize a phone from relative of homicide suspect; brother came to police department voluntarily, information existed to believe text messages related to homicide would be found on phone.
- 4:57 pm Sunday **Disclosure of Medical Information Permissible?** Inquiry required an analysis involving HIPAA, NC Gen. Stat. 130A-143, and NC Admin. Code 10A 41A.0101
- 5:49 pm Sunday **Search Warrant Language** Detective requested guidance on drafting of search warrant for house divided into three separate units; victim and suspect both lived at premises, search would focus on only part of the address.
- 10:54 am **Forcible Entry, IVC** Alcoholic 21-year-old slammed apartment door on parents; incompetency/guardianship paperwork not yet served, parents now en route to seek involuntary commitment order. Officers on front porch seek guidance for forcible entry into premises with IVC.

- 12:48 pm **Field Unarrest? Shooting Suspect in Hospital** Arrestee collapsed from overdose following warrantless arrest on shooting charge, ended up in hospital prior to service of felony warrant or presentation to magistrate. Client had question about timing of warrant service, effect of possibly treating the suspect as “not yet in custody” for various procedural advantages.
- 8:31 pm Saturday **Weekend Estate Dispute, Aunt Died** Woman aged 94 passed away, leaving survivors (including two persons semi-living in her house) in a dispute about ownership of various assets, including the home. An uncle was throwing family “treasures” out into the yard to get them out of “his” house. Sgt. on the scene called SR for immediate assistance in determining what if any action to take.
- 9:13 am **Search Teacher’s Classroom?** An investigation ensued following allegations of a teacher’s abuse of pupils. The school principal gave officers consent to search the classroom. Captain called SR from the scene to discuss proper contours of such a search based on consent.
- 11:14 am **Involuntary Commitment, 17-Year-Old Female** Lt. wished to discuss legal implications of no longer remaining with respondent in order to have officers return to patrol after 13-hour-wait for hospital bed to open up.
- 2:21 pm **Search Warrant Out-of-County** Detective called SR with this conundrum: No superior court judge was immediately available for his search warrant which required a search in a different county. SR immediately provided two legal options by which the detective could proceed immediately.
- 5:59 pm Saturday **Misdemeanor Warrantless Arrest** Cpl. and his squad faced uncertainty about theories for warrantless misdemeanor arrest for larceny/concealment offenses not committed in their presence. SR immediately answered questions and forwarded resource statutory materials.
- 4:18 am **Shooting Victim Transported out of Jurisdiction** Sgt. faced pre-dawn legal conundrum: Detectives at hospital in distant county were in the process of seizing clothing, cell phone, from victim (who was also a suspect) when they found themselves in 4th Amendment trouble-spot. SR immediately provided guidance, and a solution to cure an error already committed.
- 9:58 pm **Armed Robbery, Shooting, Specialized Court Order** Detective requested assistance with special court order to retrieve phone records, compliance with federal law.
- 6:02 pm **Shooting, Arrest Probable Cause and Search Warrant** A dispute (gang related?) led to a shooting. Victim’s ambiguous (?) suspect identification statement at scene (followed by “silence” and then “recanting” in emergency room) led to practical difficulties in formulating probable cause for arrest, plus development of search warrant to seize firearm. Complicating the live situation, suspects were orbiting outside the premises where gun was possibly hidden following the shooting, and officers wished to cordon off the premises awaiting arrival of search warrant, the issuance of which depended upon resolution of the probable cause difficulties referenced above.
- 8:46 am **Mocking Toilet** A forty-year-old property line dispute (Neighbor A’s placement of an outdoor toilet at disputed property line, painted with a smiling face directed at Neighbor B – lid opened each morning) led to legal guidance on Sheriff’s role (non-role) in placating the warring parties.
- 11:16 am **Gun on School Grounds, Law Enforcement Parent** A disgruntled parent (who also happens to be an “on-duty” State officer) arrived on campus to speak with teacher. Officer had uncertainty about the permissibility of a gun on campus with these facts.
- 1:58 pm **Detain 50B Defendant to Await Arrival of Papers?** Municipal Officers faced legal uncertainty on the scene of a domestic call where defendant wished to leave before a Sheriff’s Deputy could arrive to serve a Protective Order (anticipated arrival – 15 minutes). Agency asked Smith Rodgers, “What is our authority to physically detain a 50B defendant to allow service of the paperwork on him?”
- 11:16 am Saturday **Search Warrant Assist** Sgt. needed legal guidance on drafting “Item to be Seized” portion of search warrant application where series of vehicle break-ins created problems of specificity.
- 11:07 am Sunday **Donald Trump, Secret Service** Chief of Police requested guidance on formulating plan to deal with protestors upon just learning that Trump had scheduled a campaign stop in his jurisdiction for the following morning.
- 2:07 pm **Forcible Entry, Informant Hiding in Woods with Cellphone** Sgt. needed real-time advice on forcible entry to premises where informant was concealed behind house, providing real-time information on fugitive inside home.
- 4:48 pm **Detective “Driving By Meth Lab Site”** Investigator had real-time questions involving meth lab informant, scope of search warrant, seizure (forfeiture) options.

- 7:17 pm **Fatal Shooting Just Occurred** Chief Deputy had questions about extent of so-called “Castle Doctrine” – attorney for homeowner arriving at Sheriff’s Office “right now.”
- 3:54 pm Sunday **Weekend Property Dispute** Mother and daughter, former tenants of same premises, look to Sheriff to resolve ownership issues.
- 10:44 am **Natural Death, Recovered Cash, “next-of-kin en route for the money”** Lt. needed immediate guidance on disposition of \$7,500 recovered for safekeeping at home of decedent.
- Midnight **Involuntary Commitment Turns Medical, Nurse Orders Deputy into Ambulance** Central NC Sheriff faced this conundrum: Citizen voluntarily presented at hospital for mental issue, hospital discovered that patient had a medical matter for which he wished to “walk away” rather than proceed to a large teaching hospital elsewhere in the State, as recommended by the hospital. The hospital then procured an IVC, and directed deputies to accompany him for medical treatment far outside their jurisdiction.
- 11:18 am **Weekend Protest in front of Sheriff’s Office** Lt. received legal planning assistance for use-of-force demonstration advertised to occur in front of Sheriff’s Office, which also houses Magistrate’s Office.
- 3:48 pm **Film Shoot Protest** A motion picture being filmed in western North Carolina will attract demonstrators and protesters, says the Chief of Police. Legal guidance provided by Smith Rodgers will support plan to manage protester’s First Amendment rights while not interfering with town’s economic interests.
- 3:54 pm Sunday **Weekend Mother-Daughter Property Contest** Where mother occupied apartment before allowing daughter to “take it over” a dispute arose about ownership of certain furnishings.
- 1:36 pm **Police Force Teen into Parent’s Custody for Visitation?** Local DSS “group home” director requests police to physically force teen client into vehicle for visitation with mom. Captain received immediate legal evaluation and liability-avoidance advice.
- 9:12 pm **Review Search Warrant Issues** A principal issue for the investigator concerned scope of search warrant vis-à-vis a back entrance and lower level of structure, perhaps occupied as a separate premises; strategy for managing that contingency upon arrival with warrant for service.
- 4:42 pm **Breast Milk in Jail** Lt. had legal uncertainty about denying inmate (mother of newborn) “pump and dump” procedure, based on medical staff’s statement of medical non-necessity.
- 2:03 pm **Live at Scene following Foot Pursuit** Suspect paid restaurant with fraudulent credit card, then fled on foot from officers. Sgt. was provided immediate guidance on warrantless search of suspect’s leased vehicle on unique facts.
- 10:19 am **Covert Surveillance Camera** Lt. received guidance on 4th Amendment implications of camera installed to detect suspect returning home with possession of stolen property
- 3:31 pm **Emergency Commitment Jurisdiction Outside County** Chief Deputy received guidance on peculiar circumstance following closure of county’s only hospital; non-IVC order “custody” of combative subject on ambulance going to one of four surrounding counties, emergency commitment criteria satisfied; use of force beyond county-line jurisdiction.
- 3:37 pm **Metal Detector at Alternative School** Agency’s question involved officer participation in search of students arriving at school versus school personnel responsibility for conducting search.
- 4:06 pm **Live from Scene of Vehicle Search** Sgt. received guidance on vehicle search where officers removed (drove) vehicle to secure location following traffic stop where meth was discovered in controlled purchase; vehicle was originally blocking entrance to business.
- 7:14 pm Friday **Taking Juveniles into Custody, Reasonable Force** Lt. requested guidance on enforcement of local “Youth Protection” (curfew) ordinance. Ordinance is written as if juvenile violators will simply get into police car when asked. Reality is much different.
- 5:08 pm Friday **Forcible Entry, or Non-consensual Entry by Third Party with Key?** Officer requested guidance on theories to allow entry to premises where probable cause was lacking. Mental health respondent no longer in house, per neighbors.
- 6:35 pm Friday **Warrantless Arrest, Election of Remedies?** Lt. received guidance on proper warrantless arrest theory following disagreement over larceny versus concealment of merchandise as proper charge(s).

- 6:36 pm Thursday **SWAT Entry Decision, Live at Scene** SWAT Team was assembling when Smith Rodgers was consulted regarding entry, probable cause, involuntary commitment issues. Client was provided immediate liability-avoidance legal guidance on timing and method of SWAT entry.
- 11:47 pm Sunday night **Late-Night Real Estate Trespassing Problem** Three generations of family members involved in a contest regarding “grandson (drug abuser) regularly being present in house to visit grandmother.” Uncertainty over which party has ultimate authority to trespass the grandson analyzed by Smith Rodgers. Grandmother is “fine” with the visits.
- 4:07 pm Memorial Day Weekend Saturday **Non-Court Order Child Custody** Lt. on scene of “family” dispute was provided guidance about Sheriff’s role in returning minor child (or not, in this case) where child ran from father’s “girlfriend’s porch” to mother’s car and voluntarily jumped in; mother planned to leave and take her child to Michigan over father’s objections.
- 12:51 pm Memorial Day Weekend Saturday **Sex Offender** Sheriff’s Captain faced complex legal dilemma involving sex offender statutory compliance, possible felony charge.
- 4:43 pm Memorial Day Weekend Sunday **Carry Concealed Weapon** Lt. requested legal guidance where driver of vehicle was approached at parking lot of club, just as driver approached and unlocked door (marijuana smell attracted officers); two firearms in vehicle beneath front and rear seats.
- 5:06 pm **Live from Scene of Search Warrant** Commanding officer had question about search technique vis-a-vis stolen property to be identified.
- 9:28 am **Live from Front Porch** Captain sought on-the-spot legal analysis justifying forcible entry (kicking in door) to secure scene in advance of drug search warrant.
- 1:32 pm **Live from Trespass Arrest** Chief of Police called to inquire which agency (both police and deputy on scene) had proper basis to arrest former tenant who had arrived back on demised premises following service of Writ of Possession.
- 11:05 am Saturday **Child Custody Dispute** Lt. on-scene received clarification of Sheriff’s role in dispute featuring no court order, argument between mother and paternal grandparent.
- 2:54 pm Sunday **IVC and Felony Custody** Lt. faced Sunday afternoon difficulty with felony detention center inmate who tried to “bite off his tattoos,” and a hospital that sought IVC order after “cleaning him up.”
- 6:43 pm Friday **Forcible Entry** Police Chief encountered Friday evening forcible entry at the home of a local attorney.
- 10:31 am **Return of Child, Adoption Consent Revoked** Woman in Sheriff’s lobby demanded that officers accompany her to retrieve child “given up for adoption upon her statutory revocation of consent.” She also sought to file kidnapping charges. Smith Rodgers straightened this out, provided liability-avoidance strategy.
- 8:1 am **Uniform Commercial Code, or Crime?** Complainant arrived at police headquarters to complain that unscrupulous car dealership repossessed his car for bogus “additional fee,” after all payments made, and without benefit of lien on title. Citizen demands his vehicle be seized from dealer’s fenced-in lot this morning, and seller charged with larceny. Client officer asks, “What do I do?”
- 6:30 am **Live at Scene of Vehicle Search** Suspect nabbed at scene of multiple vehicle break-ins; officer on scene had questions about search of vehicle where “all windows rolled down, heroin needle in plain view, no stolen property seen in vehicle.”
- 9:41 pm **Night-time Business Dispute, Warrantless Arrest?** Business partners (boyfriend and girlfriend) recently “broke up” and have led officers on a weeklong odyssey of repeated 911 “business dispute” calls. Tonight, the contest is a trespass complaint by boyfriend (who holds the lease) against the girlfriend who claims authority through a business license exclusively in her name -- recently arrived to repossess business inventory. Smith Rodgers resolved the issue for the on-scene lieutenant, recommended liability-avoidance strategy.
- 11:02 am **Seizure of Car from Florida** Agency requested guidance on how best to seize a vehicle wanted in a NC crime, upon its discovery in Orlando, FL.
- 7:27 pm **Interrogation of Rape Suspect** Investigator on lengthy car trip back to North Carolina with in-custody rape suspect (extradition waived) received guidance on right-to-counsel issues. It was anticipated that suspect would “begin to talk” (spontaneous utterance) in the car, even though he had invoked Miranda counsel in an out-of-state police interview days earlier, and remained continuously in custody. A proper legal strategy was developed by Smith Rodgers for managing this contingency.

- 2:22 pm Sunday **Tenant “Locked Out”? Or Burglar Breaking Back In?”** Deputy faced delicate legal distinction in determination of probable cause: 21-year-old granddaughter was “informally removed” from premises after violating grandmother’s rules; a week later, she “broke in” to retrieve personal items left behind. [Smith Rodgers’ Conclusion: this was probable cause for breaking & entering, on these unique facts.]
- 12:37 pm **On-Scene Probable Cause** Deputy faced confusing marital separation situation, received precise guidance on domestic criminal trespass elements, and liability-avoidance.
- 10:46 pm **Field Un-Arrest? Medical Liability Avoidance?** Small Piedmont agency faced a front-porch encounter where trespass probable cause dissipated, and subject began to complain of medical problems.
- 3:06 pm Sunday **DWI Medical Complication** Following one-car minor accident, female arrestee who refused intoximeter was taken to hospital for blood draw. Defendant “deteriorated” while at hospital due to unknown medical cause. Deputy was left “holding the search warrant.”
- 9:50 am Sunday **Recovery of Stolen Property Behind Home** Magistrate told western NC agency that a search warrant was not necessary; then reconsidered and recommended that officers “*Call Smith Rodgers.*”
- 2:54 pm Saturday **Vitality of Facially-Valid Search Warrant After ...?** Detective with proper drug search warrant requested guidance from scene after an unexpected discovery directly relevant to the underlying probable cause.
- 11:12 am Saturday **Procedural Questions** A vehicle pursuit from SC resulted in NC crash. Female driver was discovered wanted on outstanding felony warrants in nearby county; then discovered as a murder suspect in another State.
- 10:28 pm Saturday **Breaking & Entering, Consent Search** Lt. faced confusing situation of former long-term guest of tenant returning to premises, “breaking in”; possible heroin inside; landlord giving consent to search.
- 8:58 pm **Live on Scene of Out-of-County Search Warrant** Detective took his proper search warrant to a near-by county in search for stolen property; procedural questions arose (“lack of mutual aid request?”) with service agency.
- 7:50 pm Friday **High Liability “Adoption Custody” Dispute** Cpl. faced a nightmare of confusing facts and competing parties (plus one civil attorney) after a consent for adoption was revoked (or was it??) hours after the courthouse had closed for the weekend. Smith Rodgers rescued the small agency with solid advice based on an obscure General Statute.
- 8:56 pm Friday **Double-Stubbing at Car Wash, Seizure of Evidence** Lt. received clarification on crime search issues: bloody shirt and knives found and recovered.
- 2:00 am **Arson Probable Cause** Investigator on scene with suspect who “got drunk and burned up his vehicle in ditch after getting stuck” received legal advice on question, “What is probable cause for this ‘arson’?”
- 6:15 pm **Search Warrant Complexity** A multi-jurisdictional crime spree spanning two years (over one million dollars in stolen property) required skilled legal attention for probable cause drafting and planning.
- 2:59 am **Forcible Entry and Arrest? IVC “Taken Home”** Officer had uncertainty about his 122C obligation to return Respondent to home following release, there encountering festering landlord-tenant legal dispute where boyfriend “landlord” (?) had “self-evicted” his girlfriend, changed locks, and placed her belongings on porch. Officer believed it was his statutory duty to make entry beyond locked doors, arrest boyfriend for improper eviction.
- 10:02 am **Sheriff Enforcement of Preliminary Injunction?** A long-simmering real estate nuisance dispute resulted in citizens looking to Sheriff to enforce terms of Consent Order at “race track.” Sheriff called Smith Rodgers to inquire, “What is my responsibility in this matter?”
- 11:22 am Sunday **Forcible Entry, Fire Department Request?** Labor Day weekend – fire department was on scene of smoke alarm, but no smoke visible at home, no person would come to door. Fire Department requested law enforcement, Sgt. had questions about forcible entry implications for Sheriff vs. fire department.
- 3:51 pm **Animal Control Officers and “Search Warrant”** Questions arose about Sheriff assisting non-sworn ACO personnel with execution of Administrative Inspection Warrant. ACO told officer to “serve this warrant for us.”
- 5:10 pm Sunday **Criminal Trespassing at Assisted Living Facility?** A weekend nightmare for a patrol Lieutenant: a festering dispute between Assisted Living Management and frequent facility visitor who is “loud and disruptive.” Visitor, however, is Guardian of the Person of his brother (the resident), and the legal intrigue only begins there. Management insists that law enforcement arrest the Guardian for persistent disruptive behavior and “trespass.” Guardian has returned this afternoon with a “film crew” and “elder care advocacy forum,” baiting law enforcement to take him into custody for taping purposes. Among the

Lieutenant's questions: "Isn't this a landlord-tenant situation, isn't eviction proper over trespass? Or is this a 'contract for services'? What right does management have in its contract to regulate visitors; and does Guardian relationship take precedence over all other legal considerations?" Smith Rodgers provided an elegant solution to manage all legal issues, and avoid civil liability; Chief District Court judge in agreement with Smith Rodgers' solution.

- 3:16 pm Sunday **Attempted Murder Labor Day Sunday Morning** Corporal was managing a "slit throat attempted murder" reported at 0630, dealing with crime scene search legal theories (warrant, consent, exigent circumstances; suppression of evidence already seized?). Complex facts.
- 1:19 pm Saturday **Stool Preacher at Town Festival** Sgt. called seeking legal guidance re "Festival organizers complaining to police about 'aggressive' preacher." Organizers want police to remove the preacher from "paid vendor" area; Town has granted preacher limited permission to attend and preach, but uncertainties have arisen about preacher's alleged failure to follow various rules. [First Amendment high liability!] Smith Rodgers provided liability-avoidance strategy.
- 2:29 pm **Trespassing Probable Cause, Commercial Management** Legal questions arose where commercial management wishes to trespass certain persons from shopping complex businesses; second floor of the shopping center is commercially-managed residential real estate. Careful legal analysis required.
- 10:34 am **Confusing "Return of Firearms" Problem** Owner of seized firearm arrived at Sheriff's Office with counsel, demanding return of his gun. Firearm was seized as evidence in a criminal investigation; attorney, however, presents a 50B "Return Firearm" order – *Domestic Violence* not being the legal basis for why his client's firearm was taken. In the meantime, the original criminal case has been expunged, it is learned, further complicating the situation. [Smith Rodgers solved the problem.]
- 12:33 pm **Seizure of Garbage on Curtilage** Investigator sought guidance regarding so-called "trash pulls," possible "leaks of sensitive information" with otherwise cooperative sanitation crews; police encroachment upon curtilage proper to avoid usual sanitation crew involvement?
- 12:26 pm **"Emergency Custody Order," Passport to Cuba** Deputy received guidance on his proper authority to serve Order on facts presented.
- 4:26 pm **No-Knock Search Warrant** Superior Court Judge declined to "sign off" on no-knock provision of search warrant. Investigator called Smith Rodgers to discuss of legal effect of refusal: "Must warrant specify this?"
- 12:28 pm **Peeping Offense, Notify School System?** Charged suspect in felony secret peeping case at private residence (involving use of cameras) was also employee of school system. Detective sought guidance from Smith Rodgers about "notifying school system of the charge, it seems like the correct thing to do." Concern lied with whether making this notification could result in any civil liability against the department.
- 10:14 am **Drugs in Boyfriend's Closet** Departing girlfriend led officer to a closet, disclosing afterward that "this was his room only." Issues addressed for search warrant.
- 5:17 am **Safe Found in House – "Can we open it?"** A narrowly-drawn search warrant led to discovery of an unlooked-for safe. Detective on scene needed guidance about proper scope of warrant as issued.
- 10:41 am **SRT Combat** Days after an SRT operation resulting in a suspect being shot, two administrative questions arose: (1.) Hospital was phoning agency asking for acknowledgement of liability for payment of medical expenses; (2.) Property owner was calling agency re its "liability" to pay for damage to structure. Smith Rodgers provided immediate and cost-saving guidance on both issues.
- 10:32 am **Child Custody "Stack of Papers"** Sgt. called to get immediate guidance on a poorly-drafted child custody order, Smith Rodgers provided definitive guidance on service/enforcement based on "very charitable read of attorney's modest work product."
- 10:59 am **Child Custody, Out-of-Town Attorney and "the Judge"** An attorney and her judge didn't understand why the Smith Rodgers client was *not* going to "enforce" the judge's order. Kevin Smith explained his reasoning to the attorney, and was quite happy to do so.
- 9:42 am **Estate Order – Sheriff to Assist with Inventory?** A deputy and his lieutenant were justified in their uncertainty regarding a court order directing deputy to four separate locations to assist in estate inspection procedure. Smith Rodgers provided an immediate risk-management strategy.

- 10:09 am **NASCAR Jurisdiction Confusion** Investigation involved a NASCAR parts supplier and race team, both based in NC. Two worthless checks totaling \$36,000 had been written at race events in Chicago and Pocono, on a North Carolina bank account. Client inquired, what state(s) have jurisdiction to prosecute?
- 4:35 pm **Warrantless Misdemeanor Arrest** Uncertainty arose in arrest procedure on theory for warrantless misdemeanor arrest for offense committed outside of officer's presence (unfortunately, North Carolina officers must follow a very complex statute provided them by the General Assembly)
- 3:14 pm **Records Retention** Agency "cleaning out old records" needed immediate guidance on record retention requirements.
- 1:01 pm **Writ of Execution** Sgt. had concern following telephone call with debtor's attorney, variance on spelling of name – writ, judgment, complaint, and summons. SR provided immediate solution on return of Writ.
- 2:42 pm **Meth House Exigent Entry?** Probable cause existed for a search warrant, but concerns that drugs would disappear before arrival of search warrant raised questions about knock & talk strategy, exigent entry "freezing the scene" versus "perimeter securing the scene" and 4th amendment reasonableness.
- 4:23 pm **Mom and Daughter Claim "Repo Rights" from Estranged Husband/Father** Captain was faced with justified uncertainty when mom and daughter arrived from South Carolina, bearing vehicle title in daughter's name, identifying mother as lienor, and insisting on police assistance in recovering vehicle from home where husband had recently moved – taking car with him. Issues involved whether this was a legitimate "repo attempt" (in fact, it was *not* – mom was not seeking to enforce a remedy under Article 9 of the UCC, per Smith Rodgers) and in any case, no Writ of Possession had been issued authorizing a law enforcement seizure or entry upon private property. Smith Rodgers provided an immediate and limited strategy for this small client agency, greatly minimizing liability exposure for town.
- 4:48 pm **Search Warrant, Labor Day Friday Afternoon** Detective had last-minute uncertainty about pendency of search warrant, timeliness of PC, and non-availability of a district court judge for warrant issuance on upcoming Labor Day Monday resulting in concern about "stale" information come Tuesday morning.
- 5:19 pm **Child Custody Orders in Conflict** Emergency Child Custody Order awarded custody to mom; dad's DVPO awarded custody to him; both issued simultaneously in adjoining counties; Juvenile Code issues sprinkled on top of the confusion. Smith Rodgers provided the Lt. with an easy strategy and liability avoidance plan.
- 11:17 am **SRO Child Custody Conflict between Parents at School** Out-of-state mom arrived at school with phone message from lawyer insisting she is entitled to leave with her child (but no court order in her possession); father arrived at school shortly afterwards with a court order awarding custody to him, but no lawyer to "speak for him" live by cell phone. Smith Rodgers resolved the confusion for the SRO.
- 2:11 pm **Co-Owners of House in Boyfriend/Business Dispute** Both names on deed, one party left month earlier, has now returned, is sitting on porch seeking re-entry. Other party called police to prevent him from returning, saying "he doesn't feel safe with him back in the house." Smith Rodgers determined this is not a case of domestic criminal trespass, provided officer on scene with strategy.
- 12:52 am **Post-Midnight Forcible Entry** Officer on scene wished to confirm legal basics of arrest-warrant-in-hand forcible entry, probable cause requirements.
- 8:55 am **"Search" of Bedroom by Parents** Uncertainty arose where parents conducted search of adult son's bedroom and turned evidence over to police.
- 4:36 pm **Runaway 17-Year-Old** Sgt. received immediate refresher course in law of undisciplined juveniles, definition, temporary custody, probable cause, and disposition.
- 4:59 pm **Police Canine Vehicle Stop Technique** Sgt. wished to discuss special operation involving canine.
- 10:03 am **Summons on Defendant LLC Owner** Owner of real estate firm resisted service of summons on various grounds, Civil Office spoke with Kevin to develop strategy for proper service under Rule 4.
- 9:04 am **Writ of Execution, Property in Estate Administration** Deputy received Writ for over three million dollars, found herself in the middle of a disagreement by parties' counsel over levy procedure.
- 10:13 am **Subpoena for 911 and CAD** Sgt. received subpoena for a multitude of records, received guidance on compliance.
- 11:18 **Child Custody, Dad's Name not on Birth Certificate** Lt. had uncertainty about Sheriff's role in "recovering" children from estranged dad (at mom's request) where dad refused to turn children over to her. Smith Rodgers provided immediate liability-

avoidance strategy. [Dad was in prison for birth #1; dad came to hospital for birth #2 “raising hell, tearing up room, got thrown out,” and mom left his name off birth certificate out of spite, she explained.]

- 8:52 am **Sex Offender Registration** Sgt. had uncertainty about statutory requirement where offense pre-dated the law; neighbors were complaining about perp’s non-registration.
- 9:43 am **Juvenile Law, SRO Intervention?** SRO supervisor had uncertainty about “duty” to notify parents of incident (possible rape?) of 15-year-old occurring months earlier while on vacation in Florida, as revealed to friend, and ultimately school guidance counselor (but not directly to the SRO).
- 7:01 pm **Medical Examiner Jurisdiction** Captain received guidance in an unattended death scenario.
- 6:06 pm **Juvenile Procedure** Sgt. requested clarification of juvenile petition sequence and responsibility of court counselor in a case requiring immediate secure custody “after the clerk’s office had closed.”
- 2:31 pm **Animal Cruelty?** Investigator requested guidance (and received immediate case law research) where pet owner had “cropped” the ears of Pit Bull puppies to give them a “meaner appearance.”
- 11:08 am **Drug Case** Agency had uncertainty about development of court order for use of investigative software in drug investigation.
- 10:48 am **Dispute over Contract, California Complainant** A lease-to-own purchase agreement of real estate led to a dispute over terms and compliance, and complainant wanted tenant arrested “long distance.”
- 1:49 pm **Cell Phone “Dump”?** Eighteen-year-old with mental disabilities was provided phone by mom subject to certain conditions. Mom wanted Sheriff’s Office to “search” the phone for evidence of drug behavior by son. Sheriff’s investigator called to inquire about necessity of a warrant.
- 12:57 pm **Child Custody Dispute at School** Lt. was summoned to a middle school, mom was present with court order purporting to require the Sheriff to take custody of 12-year-old daughter. Disagreement with parent’s legal counsel re order validity. High liability.
- 5:32 pm **Service of DVPO, Original in Mississippi** Sgt. faced a strange Friday evening situation involving an un-served defendant arriving unexpectedly in NC after “original” 50B process was taken to Mississippi by plaintiff for service there.
- 1:29 pm **Detention Center Issue** Inmate was threatening to sue the Sheriff if denied the opportunity to get married while in jail.
- 11:58 pm **Midnight Suspicious Vehicle** Sgt. requested legal strategy, needed immediate guidance on Chapter 18B elements (open container) as key to maintaining reasonable suspicion for inquiry into unrelated crime.
- 2:55 am **SRT Call-Out** Barricaded gunman, involuntary commitment issue.
- 2:39 pm **Guns at Polling Places** Lt. had planning question regarding voters arriving with concealed carry permit, or open carry.
- 3:07 pm **Cell Phone Search at Scene of High-Risk Vehicle Stop** Lt. had question about exigent circumstance to search phone for purposes of *Riley v. California*.
- 9:42 am **Live on Scene of Search Warrant** Multiple search warrants for various related properties; question arose with respect to additional search warrant based on additional surveillance and “surprise discovery” in the woods.
- 10:00 am **DWI Vehicle Seizure** Issue arose under statutory procedure for seizing impaired driver’s vehicle.
- 9:37 am **Jailed Suspect, Interrogation, Right to Counsel** Detective received clarification on right to approach suspect in jail of adjoining county, on investigation different from nature of in-custody charges.
- 11:52 am **Suspect Fled Officers with Warrant, into House** Lt. called “live” with questions about officers’ right to make forcible entry on strength of outstanding felony warrants (versus applying for search warrant) in NCAWARE, variance between address on warrants and this new location where suspect supposedly “staying”, per citizen tip.
- 1:56 pm **Attempted Suicide, Recovered Business Proceeds** Sheriff’s Office received guidance on disposition of cash found in floorboard of truck, at scene where business owner attempted suicide.
- 6:51 pm **Property Dispute, Family** Officers were called to scene of house where man recently passed away; daughter presented copy of will she contended left property to her, and named her as executor; ex-wife arrived with a separate claim of will, was insistent on leaving the house in possession of various personal property heedless of family protests; Sheriff’s Office was left in the middle of this dispute until promptly resolved by Smith Rodgers.

- 4:45 pm **IVC Adjoining County, Dispute with Magistrate** Chief Deputy needed clarification on permissibility of crossing into adjoining county to serve IVC Order, and then transporting resident of his county to 24-hour facility.
- 11:10 am **Forcible Entry Warrant in Hand** Capt. Requested guidance on probable cause formulation for non-consensual entry, live at scene.
- 10:21 am **Sovereign Citizen Eviction** Defendant claims “fraud” due to irregularity in foreclosure proceeding.
- 11:57 am **Child Custody, “Remove Children”** Lt. faced a woman in the lobby bearing an unusually aggressive Emergency Ex Parte Order. Uncertainty was with findings of facts, and Uniform Child Custody Jurisdiction and Enforcement Act minimums.
- 1:58 pm **Ebola and Quarantine** Agency had questions about use of force policy considerations.
- 10:36 am **Public Records, Drug Suspect, Eviction** Investigator had question about releasing information from defendant’s investigative file (including his own statement) for landlord’s use in eviction proceeding.
- 10:56 am Saturday **DVO “Eviction” and Dispute with Defendant’s Landlord** Plaintiff was not a “true tenant” under lease; defendant was the proper tenant. When plaintiff obtained DVO relief “evicting” the true tenant, and Sheriff was by terms of order required to “assist plaintiff in returning to the premises,” this created a problem where the trailer’s landlord wished to refuse plaintiff (lacking a key) permission to enter. Deputy Sheriff on scene promptly contacted Smith Rodgers for on-the-spot counsel.
- 3:34 pm **Trespass or Eviction** Woman, owner of property, allowed a man to move in. They lived together happily for over a year. Then she asked (ordered) him to move out after a disagreement, and he left briefly. But he returned shortly thereafter, and said he would “bust the door in” is she did not allow his re-entry. Man has helped with rent, chores, receives his mail there, and has this address on his driver’s license. The Sheriff called Smith Rodgers for immediate counsel.
- 2:18 pm **Homicide Theories, Interrogation Leverage** A domestic altercation became mobile, and ended in fatal shooting, with multiple parties riding in “shots fired” vehicle. These confusing facts led to uncertainty about possible homicide theories for parties in car, including the non-shooters who “came along for the fight.”
- 4:23 pm **Domestic Violence Protection Order** Sgt. had question about charging female plaintiff with violation of her own DVPO, where she was found cavorting with defendant.
- 9:09 pm **Forcible Entry, Live at Scene** Girlfriend believed held against will and being beaten by boyfriend (known violent past); victim was beaten, taped, and placed on railroad tracks within last two weeks, per 911 caller. Once at door, boyfriend refuses to allow officers to see girlfriend to confirm her status without a search warrant.
- 2:15 pm **Tattooed Child** Detective had question about interviewing 11-year-old out of parent’s presence (question arose about whether child had properly consented to tattoo).
- 1:54 pm **Conflicting DVOs, Child Custody** Parents each secured a DVO awarding them custody of child, in two separate counties.
- 1:15 pm **Vehicle Purchase (?) Dispute** Lt. was en route to location where “seller” of car denied there had been any sale at all; “purchaser” had already trailered car, was preparing to drive off; conflicting stories about existence of bill of sale and similar evidence. Lt. wished to confirm his responsibility to have car un-trailered, on facts presented.
- 9:28 am **Repossession, Entry of Garage?** A repo man seeking to recover motorcycle phoned the Sheriff to inquire, “Am I allowed to enter the closed garage to access the bike?” Smith Rodgers provided immediate guidance, stressed the importance of the security agreement’s terms, urged caution to the Sheriff’s Captain about any representations to the caller.
- 2:03 pm **Live Interrogation Conundrum** Investigator had just completed non-custodial (non-Miranda) interview, discovered probable cause more compelling than anticipated. Immediate re-tooling of strategy was required where suspect was “about to leave PD” in furtherance of non-custodial setting.
- 1:39 pm **Juvenile Sex Offense Disclosure** Issue arose for investigator about conversational remark on subject of suspect’s past behavior in a different school, in discussion with victim’s parent of more recent assault at new school.
- 5:55 pm Sunday **Civil Dispute over Dairy Contract(s)** Smith Rodgers provided on-the-scene counsel to deputies confronting an agricultural landlord-tenant dispute (alleged breach of two contracts, removal of livestock, one party physically blocking road, etc.). The dispute continued over the entire weekend.
- 6:50 pm Friday **Child Custody Ex Parte** Municipal agency faced uncertainty regarding its responsibility/authority in child custody “pick-up” order.

- 6:49 pm Sunday **Shoplifting PC, Searches** An entire squad called for a thorough legal review of arrest/search authority in a variety of shoplifting scenarios.
- 12:07 pm **Found Cell Phone, Search Warrant** Citizen found cell phone, looked through text messages in attempt to ID owner; discovered drug evidence. Investigator had questions about protecting identity of citizen in search warrant affidavit.
- 3:59 pm **Pick-Up Child, Guardianship Legal Dispute** Officer from small western NC agency faced legal uncertainty about police authority to recover child on strength of [alleged] Guardianship appointment, remarks from probate judge. High liability.
- 7:39 pm New Year's Eve **Virginia Emergency Custody Order** Three calls from this Sheriff's Office were received New Year's Eve, over a four-hour period, concerning procedural uncertainty over a Virginia "emergency protective child custody order" with guardian ad litem paperwork and "previous court orders" thrown into the mix. Smith Rodgers immediately reviewed faxed copy of orders and offered expert guidance on such questions as, "These papers are not certified copies from VA, what do we do now?" -and- "Doesn't this paperwork first have to go through our own clerk's office before we can serve?" -and- "What if the defendant doesn't cooperate, what is our duty to take the child by force?"
- 2:50 pm **Live from Vehicle Stop** Lt. had vehicle stopped on side of road, believed stolen by "meth-head" occupants/suspects. Suspects had come upon the vehicle in a field where true owner (having driven there from a distant county) had committed suicide beside the car a day earlier. Suspects decided to steal the car. Client had question about warrantless search of car on probable cause then available.
- 3:42 pm **Child Custody, Leaving with Kids for NY?** A high-liability child custody scenario involved two states, threats of assault, and [step]mother of two children seeking guidance from police agency about immediately leaving the state. Sgt. called directly from the scene re questions about possible kidnapping, parents' legal authority over various children, and text message received from ex-wife in New York regarding instructions for one of the children. Very confusing situation, high-liability avoided for this client.
- 9:32 am **Personnel Law, Fitness for Duty** Chief called to inquire about experienced officer whose conduct was creating concern within the department; discussed need and permissibility of a fitness-for-duty evaluation.
- 2:25 pm **Juvenile Miranda and Presence of Parent** Medium-sized Piedmont agency had uncertainty (together with judge and district attorney) on questioning of 13-year-old who didn't want his mother present. Child was at police station for interview, but was not in custody.
- 4:51 am Sunday **Domestic Homicide, Head Severed** Lt. called early Sunday morning to review status of live investigation vis-à-vis crime scene search, search and seizure of suspect vehicle, interrogation and counsel, other procedural components of investigation.
- 4:57 pm **Right to Counsel, 5th and 6th -- Quick!** Detective faced uniquely confusing and fluid situation with jailed suspect who was having murder and armed robbery charges added to existing felony firearms charge "this afternoon." Suspect had invoked counsel previously, and had 6th amendment right to the firearms charge; how and whether to get 5th and 6th waivers (as instructed by DA's office) required a more careful analysis.
- 6:18 pm **EMT, HIPAA, and Drug Information** Officer had question about HIPAA implication of illegal drug information provided by EMT in course of providing medical care inside home.
- 9:18 am **Search of Bags in Motel Room** Occupants of motel room were variously arrested (one defendant with warrant for Breaking and Entering, other defendant following frisk search yielding drugs and stolen property). Deputy called directly from motel room, stated, "The arrestees have just been removed, but there are four bags left behind, we don't know who they belong to, three appear to belong to females, but there were no females here – *can I search them?*" SR immediately led the officer through proper legal analysis, based on unique facts.
- 9:44 am **Right to Counsel, Re-approach Jailed Inmate?** Investigator had uncertainty about interview of inmate in assault case involving cell phone evidence.
- 11:55 am **Ex Parte Service, Psychiatric Unit** Sgt. called to discuss whether service would be valid on a DVPO defendant currently housed in psychiatric unit of local hospital. SR attorney Kevin Smith discussed Rule 4 (NC Rules of Civil Procedure) requirements for valid service and quickly sent the Sgt. on his way for efficient and correct service.
- 10:28 am **Run & Done Problems** Cpl. in Sheriff's Office had three problematic Run & Done statutory uncertainties (pre-amendment and post-amendment).
- 11:31 am **Neighbor Privacy** Local homeowner complained to Chief of small NC agency, "Neighbor has security cameras, some of them are pointed at my house." Complainant wanted Chief to address privacy issues.
- 2:04 pm **Parenting Agreement, Child Custody** Chief Deputy had question about a so-called "parenting agreement" being signed by a judge. "Is this a different type of court order, with different rules? Can this be enforced according to its terms? How far can we go?"

- 5:26 pm **Missing Juvenile File, Request by Parent(s) to Review “Closed Case”** Question arose about public record status of investigative file, possible litigation pending against third party who gave juveniles place to stay, alcohol and marijuana; Chapter 7B and 132 issues.
- 9:55 am **Return of Firearm to Mental Subject?** Deputies took possession of a firearm from an individual who had fired the gun at “imaginary bad guys” on the street near his house. The gun owner (with IVC history) voluntarily gave the gun to the deputies at the time. Months later (today) he has returned to the Sheriff’s office to retake possession of his firearm. The Sheriff called to discuss procedural and civil liability strategies.
- 11:36 am **6th Amendment Approach, Waiver** District attorney had disagreement and misunderstanding on proper questioning of in-custody suspect following first appearance. SR agreed to speak with district attorney’s office in support of detective’s actions.
- 2:06 pm **Suicide, Investigative File** Police Chief had question concerning family members of suicide victim wishing to review the file: “What is the public records status of this file, now that case is closed, and we are 100% certain this was a suicide? *How do we handle this request?*”
- 12:55 **Suppression Hearing – Quick!** An officer in eastern NC called Smith Rodgers during a court recess, needed immediate case law support for his vehicle stop. Smith Rodgers provided the necessary theory, sent an email to the client’s cell phone with key passage from statute supporting the officer’s action.
- 8:48 am **Power of Attorney, Arrest of Relative?** Where mom had gone to nursing facility after nominating A as “power of attorney,” could A have B (his brother) arrested for making forcible entry into the vacant home after A changed the locks (B was retrieving something for mom at her request)? Sheriff received immediate counsel on law of “principal & agent” and non-criminal implications.
- 8:48 pm Friday **“Missing Child” v. “Child Custody”** Central Piedmont police agency took missing child report (15 year old) as required by statute; whereupon information developed where child was actually located with a grandparent. Complainant was mom, who professed to have custody rights. Lt. wished to clarify what authority or responsibility existed for his officers to return teenage girl to her mother.
- 2:48 pm Saturday **Consent to Search, Custody** A meth suspect was in custody for an hour, in the back of a police vehicle, when asked for consent to search his house (which he provided). Sheriff’s investigators called SR with questions about the validity of consent from a suspect in custody, not Mirandized.
- 7:26 am **Anticipatory Search Warrant PC** Investigator had uncertainty about triggering probable cause event, uncertainty of last-minute location.
- 3:25 pm **SRO, “Father Has Rights to Pick Up Child?”** SRO was put into a difficult spot by school officials: “Are you going to let this father pick up his child?” Father had just been released from seven-year prison stint, had no relationship with his child, mom wants the father “completely out of their lives.” SRO struggled with issue of father being the biological parent, no court order awarding custody exclusively to mother. SR provided the SRO with an immediate strategy.
- 9:45 pm Sunday **Child Custody – Abduction?** A father arrived at the police department with the story of his wife having taken his child to Georgia. Armed with a court order, the father is under the impression that the police department must travel to Georgia to retrieve the child from authorities in that state.
- 10:55 pm **Meth Lab Search Warrant** Investigator wished to review his facts with a Smith Rodgers attorney after a knock & talk produced some unlooked-for visual results.
- 5:11 pm **Non-Service of 50B Papers** Lt. had uncertainty about packet of court papers being delivered to Sheriff, with clerk’s instruction “You do not need to serve these orders, just keep them in your file.” Lt. wished to confirm “why certain papers did not require service, where defendants later pleaded ‘ignorance’ of orders.” Smith Rodgers attorney Kevin Smith discussed the mechanics of Rule 5 (not Rule 4) of the NC Rules of Civil Procedure, to explain this “phenomenon.”
- 7:59 pm Sunday **Moving Deceased Person** Lt. on the scene of a natural death had legal questions about getting the body moved to a funeral home, where VA doctor wasn’t available on a Sunday evening, and funeral home wouldn’t act without the doctor’s permission.
- 8:20 pm Sunday **Blood Search Warrant** Procedural uncertainty prompted a call to Smith Rodgers: A police jurisdiction sits astride a county line. A DWI blood search warrant is more practically acquired from County A than County B, but Lt. wanted to make certain the search warrant “crossing the county line” is proper.
- 12:33 pm Sunday **Deputy Must Ride in Ambulance?** An IVC respondent awaiting 24-hour facility orders at an “area facility” developed a medical condition and required immediate transport to a larger hospital. The hospital contacted the sheriff and said “a deputy must ride in the ambulance to the large hospital in a different county” insofar as the patient was in IVC custody. The sheriff doubted this proposition, and had not been involved in this IVC matter at all. [Smith Rodgers agreed with the sheriff, and shared the supporting legal analysis based on G.S. § 122C-251.]

- 5:56 pm **Laptop Seizure, Violation of Court Order?** A husband had been awarded possession (return) of his laptop from his spouse in a domestic separation. The small central NC police department (in a confusing set of circumstances) ended up with the computer, and subsequently, had developed probable cause of criminal activity being in evidence on the laptop. The corporal asked, *“Can we now hold this computer, in ‘violation’ of the court order?”*
- 4:12 pm **Checkpoint “Stolen” Vehicle?** An off-duty firefighter radioed ahead to a police checkpoint to indicate that he was “pursuing” a stolen box truck. In reality, the firefighter was attempting to repossess the vehicle in the company of his son, who had earlier sold the truck to the driver (the firefighter’s phrase “stolen” was unartful and unfortunate, where police must react to such terminology on the spot). Much legal confusion ensued after the truck reached the checkpoint (*“Is this truck stolen? Does the complainant have a legal right to repossess under these circumstances? what do we do with the truck now? etc.”*).
- 1:49 pm **Jones Tracking Order, Vehicle Impounded** Sheriff’s Office wished to confirm compliance with *Jones* Order on facts involving vehicle originally seized for forfeiture purposes.
- 9:14 am **Concealed Carry and Purchase of Firearms** Sgt. called with three unusual fact situations re issues/denial/renewal of permits.
- 12:29 pm **Child Custody** Man arrived at Sheriff’s Office with custody order seeking enforcement, the order was deceptive as drafted by counsel, per Smith Rodgers’ review of same.
- 8:53 am **Personnel Law** A conditional offer of employment raised an unusual legal interpretation problem. Smith Rodgers sensed a Title VII exposure “not yet on the radar” and steered the police client in a safe direction.
- 2:49 pm Saturday **Search Warrant Probable Cause** Officer on scene of “tenant moving out following dispute with roommates” had information about drugs hidden/sold in the premises; this disclosure plus other relevant information raised probable cause questions for the officer (such as, has information gone stale after four days?).
- 10:42 am **Solicitation in Posted Subdivisions – Trespass Arrest?** Sgt. called for guidance on van dropping off young solicitors (magazines, alarm systems, new windows, etc.) in subdivisions posted “No Solicitations.” Questions involved coordination of city permit process with city ordinance, and whether enforcement action by patrol officers was appropriate on various facts. (High liability)
- 10:47 am **Open Carry, Officers Confronting Person(s) with Rifle** Sgt. requested guidance on steps officers can legally take to confirm open carry rifles are not in violation of G.S. 14-409.
- 10:52 am **Bail Bondsman, Forcible Entry, Role of Police** Supervisor needed clarification on law of bail bondsmen, proper police department intervention where bondsman attempted a forcible entry to take bail into custody, resulting in 911 call; various facts.
- 10:09 pm **Dispute Over Vehicle, Sheriff Requested to Recover** A middle-of-the-night dispute over rights to a vehicle resulted in a corporal calling Smith Rodgers for guidance. Complainant (ex-boyfriend) wanted Sheriff to help him retrieve car, properly titled in his name, but paid for by woman who had made all the payments. Two officers were on scene, with parties, potential high-liability.
- 5:35 am Sunday Morning **Campus Rape** Investigator contacted Smith Rodgers early on a weekend morning with a rape involving multiple suspects, various procedural and substantive questions (search warrants, non-testimonial identification orders, evidence, etc.).
- 7:52 pm Saturday **Search Warrant for Cell Phone Recovery** (Pre-Riley Ruling) Evidence of an assault on a female was believed to be on suspect’s cell phone, which following arrest he said “was back at his residence.” Small southern piedmont agency requested assistance with probable cause formulation in affidavit.
- 6:49 pm Saturday **Armed Robbery, Right to Counsel** Detective wished to confirm her thinking on interview strategy of armed robbery suspect. Following arrest, an unrelated warrant was first served on the suspect, at which time he invoked counsel in Miranda interview. Detective now wanted to approach the arrestee on the very robbery charge which had led to his arrest “tonight,” for which he had “not invoked counsel, but had 6th Amendment rights already attached,” per the detective. [SR advised *not* to approach the suspect for additional interview, on facts presented.]
- 5:52 pm **Canine Sniff of Package** A suspicious package was left at a UPS drop-off location. Canine law expert Greg Rodgers provided “rules of engagement” to detective at the scene.
- 2:30 pm **School Resource Officer** Staffing issue and search authority distinctions required interpretation of Court of Appeals ruling.
- 10:51 pm **Child Abuse Investigation** Lt. requested legal analysis on child abuse issue involving parental discipline technique. Cases dating back to the 1800s had to be consulted.
- 3:58 pm **DVPO, Seizure of Firearms, Defendant Deceased** Question arose about need for supplemental court order(s) where defendant died, Sheriff still in possession of seized firearms; estate representative sought to recover firearms under statutory duty.

- 4:02 pm **Vehicle Seizure, Sale** A vehicle seized in a cocaine investigation raised issues of disposition where owner is believed to have fled to Mexico.
- 11:36 am **Court Order to Assist Guardian** The elected Sheriff had concerns about Clerk's Order requiring Sheriff to "assist" in moving two grown men (incompetent wards) from their home to a nursing facility, where family was hostile to the guardian, and the wards were expected to be uncooperative. Smith Rodgers provided liability protection strategy.
- 1:31 pm **Youth Pastor? Crime Committed?** Detective sought guidance on whether a crime had been committed (soliciting sexual photographs, "victim" over 18 years of age).
- 9:05 am **Search Warrant, Wholesale Commercial Theft** Detective sought advice on probable cause, search warrant formulation strategies where wholesaler employee illicitly sold large quantities of shoes (by the case) out of the shipping bay doors to unscrupulous retailers.
- 6:01 pm **Motel Dispute, Customer "Locked Out"** Lt. was on the scene of a dispute between long-term motel "customer," and management, who had locked her out and denied retrieval of her personal property left inside. Smith Rodgers helped agency determine its proper role in settling the dispute (if indeed there was any role at all). Kevin Smith explained the effect of G.S. § 44A-2(b) with these particular facts. Agency was able to clear the call and avoid unnecessary liability exposures.
- 4:52 pm **Homicide, Medical Records** Detective ran into a HIPAA brick wall in an attempt to recover essential medical records. Smith Rodgers intervened with the health clinic, and its legal counsel, to cite 45 CFR 164.512(c)(ii) [p. 778 of the regulation].
- 1:14 pm **Intellectual Property?** Small western police agency faced a complaint from a civil attorney and his business clients re: competitor "stealing" their internet domain name.
- 9:52 am **Utility Access, Trespass?** Police department faced complaint where town utility workers cut fence locks after being "locked out" and denied access to turn off utilities for non-payment.
- 11:56 am **Cannabis Protest, Festival** Sheriff called to discuss his ordinance obligations (sound amplification regulations), neighbor concerns, and off-duty work requests vis-à-vis an upcoming Cannabis Festival on 33 acres of private property, "Coming This Summer."
- 12:16 pm Saturday **Backyard Burial, Neighbor Complaints** Chief Deputy called at lunchtime on Saturday with this problem: "A family is burying their relative in their backyard right now, the neighbors are complaining -- what do we do?" [Potential high-liability!]
- 12:49 pm Sunday **Mother and Son Real Estate Dispute** Following an argument (and the Sheriff having been called to the scene twice) mom locked 19-year-old son (registered sex offender) out of the house, refusing him re-entry. "Son just wants to return inside to his bedroom," and called the Sheriff. Mom is not owner of house, but appears to be lawful occupant together with grandparents and various small children. Son's legal right to be present required special attention.
- 12:33 pm **Sex Offender, Welcomed at Church?** Chief Deputy had question about statutory interpretation on sex offender prohibitions at sites where children's programs are located. Politically and legally sensitive.
- 4:47 am **Shots Fired at Waffle House** Sgt. had suspect in custody following pre-dawn disturbance at breakfast restaurant; multiple shots fired in parking lot in various directions, with various "aiming techniques," including striking a vehicle where an unknown (and very surprised) occupant was sleeping. Sgt. requested help with proper charging theories vis-à-vis various bullets, arbitrary "aiming" techniques, and victims.
- 10:52 am **Juvenile Therapy Files – Sharing?** Confidential juvenile files are often a problem when other agencies request to see them. In a sex offense case involving a 13-year-old suspect ordered to receive therapy, an eastern NC agency called seeking guidance on releasing a portion of the PD's juvenile file to a clinical therapy PLLC.
- 11:24 am **Trespass Arrest? Spouse Banned from Marital Home** Corporal had questions about one spouse "trespassing" the other spouse, where her name was never added to the lease. Following a fight, there was a disagreement about whether she had the right to re-enter the premises, "marriage" being her only "claim" to occupancy of the real estate. The legal principles were discussed in careful detail with the corporal – *the answer to this problem would surprise many persons, including magistrates.*
- 10:39 am **Firearms Seized from Involuntary Commitment Respondent** Police department suddenly has over 25 firearms, seized from scene where respondent was taken into custody. Lt. called to seek guidance on the disposition of the firearms, civil liability, federal law, various issues.
- 10:41 am **Child Custody Dispute, No Custody Order** Parents (not married) were together five years, "split up" six days ago, and verbally agreed to split custody of children 50-50. This morning, dad has left children with his mother, and mom wants Sheriff to "go retrieve them" because grandmother won't let her have them.

- 11:13 am **Theft of Political Signs, Subpoena Question** Candidate appeared at magistrate's office to swear out larceny warrant against a town employee; question arose about magistrate's authority to summon witnesses.
- 12:47 pm **Firearm "Taken as Precaution"** A disoriented female was encountered several days earlier, and a handgun was taken from her as a precaution. She was not committed (no finding she was a danger to herself) and now she wants her handgun returned to her. Central NC agency requested, "Should we require proof of ownership? What liability if we return her firearm?"
- 9:58 am **"Live" from Vehicle Stop, Dispute with Attorney** A supervisor out at a traffic stop encountered a disagreement on a registration violation, motorist called her attorney from the scene. The Lt. called Smith Rodgers. A quick resolution was provided by Kevin to the Lt.
- 9:55 am **Right to Counsel, Re-Approach** Narcotics detective had question about the re-approach of a suspect in custody on larceny warrant, marijuana charges; uncertainty with 5th amendment vs. 6th amendment counsel procedure.
- 3:33 pm **Trespass v. Eviction** Father allowed daughter to move into his trailer on certain conditions (*not* including boyfriend moving in, busting out the windows following an argument – last night), and now he wants daughter put out. Daughter claims she has started paying utilities and "some" of the rent lot, now claims the legal status of a Chapter 42 "tenant" who must be evicted in court proceedings. The Sgt. was at the scene, seeking immediate guidance. Smith Rodgers provided the analysis on the spot.
- 1:41 pm **Canine Search, Vehicle, Search Warrant** Canine officer had question about necessity for search warrant where drug suspect turned himself in for arrest at Sheriff's Office.
- 1:22 pm **Photo Lineup Uncertainty** Investigator had uncertainty about photo procedure (eyewitness ID statute applicable?) re effort to identify subject who was driving a car, which driving was not an illegal act, but obliquely related to developing suspect in B&Es.
- 1:32 am **Estate Dispute After Midnight** A deputy was called to the scene of a "vacant" home where a relative had in fact taken residence during the pendency of an estate administration. Family disagreement ensued about whether the occupant had committed a crime by taking up residence in the decedent's home.
- 7:31 pm **Drug Dealer in Lawn Chair** Neighbors' complaints sent investigators to an apartment front yard where suspect was seated in a lawn chair, a suspicious book bag in the grass. From the scene, the officer requested real-time help on canine issue, PC, SW, and arrest issues.
- 5:18 pm **Bankruptcy Dispute Encountered by Patrol** A young officer was dispatched to resolve a dispute between two parties arguing over a bankruptcy filing's effect on lender's attempt to repossess Art. 9 secured property. [*Where is this taught in BLET?*]
- 9:08 am **Juvenile NTO** Investigator had procedural questions relating to issuance and service of Nontestimonial Identification Order on 15-year-old robbery suspect.
- 2:38 pm **Jones Tracking Order GPS** Investigator was preparing his "first Jones Order" (following Supreme Court's ruling) and requested guidance with phraseology in preparing affidavit.
- 9:12 am **Heroin Investigation, Use of Informant** Investigator had question about proper deployment of informant in context of a peculiar (imagined?) civil liability exposure.
- 5:44 pm **"Status Quo" Custody Order** Sgt. called with uncertainty on legal authority, especially since defendant had not yet been served with order just issued at 4:31 pm "this afternoon" (and related procedural questions).
- 5:00 pm **On-Scene of Search Warrant, Vehicle Stop** House was under surveillance pending issuance of drug search warrant. Suspect (identified in the just-issued search warrant as a target) left the house unexpectedly, was stopped a short distance away by the officer "keeping tabs" on the house. Questions ensued about searching target, his car, and detaining him remote from the address listed on the warrant.
- 2:13 pm Sunday **Murder Suspect, GSR** Following a shooting, question arose about consent for GSR.
- 11:33 am **Gang Affiliation, Clothing** Lt. had question about deputies' role in preventing motorcycle gang member from entering courthouse sporting gang identification regalia.
- 9:32 pm Sunday **Officer-Involved Shooting** Chief Deputy requested guidance on a multitude of legal/procedural issues following use of deadly force on a mental call.
- 12:14 pm **GPS Tracking** Detective had uncertainty about procedure to get a Jones order sealed by the clerk.
- 9:47 am **Forcible Entry on "Hostage" Situation?** Lt. faced very unusual circumstance "on the scene" where forwarded emails (typed in German) arrived unexpectedly to the police department from a subject in Europe. The emails, once translated, detailed that a woman was being held against her will at a particular address.
- 11:58 **Resist Delay Obstruct PC** Questions arose about detention and forcible arrest of trespasser (juvenile).

- 1:15 pm **Search Warrant** Investigator had time-sensitive question about possible error on face of warrant prior to service.
- 5:11 pm Friday **Mechanic Dispute** Late-Friday-afternoon dispute over customer leaving with car. Non-payment raised question about possible criminal charge, proper role of police.
- 7:27 pm Friday **Child Custody Show Cause Order** Sgt. had uncertainty about out-of-county court order (“not certified”) appearing to require officers to take custody of a child, minus findings of fact.
- 9:37 am **Escaped Inmate, Stolen Car Liability** Chief Deputy had questions about actions of escapee, whether a liability exposure was created for a Sheriff’s Office
- 4:22 pm **Child Custody Enforcement** City attorney called seeking information about agency’s role in choosing not to enforce a custody arrangement where no law enforcement provision was included in the order. Smith Rodgers supported the officer’s refusal to enforce.
- 9:40 pm Sunday **Search Warrant** Sgt. had question about proper criminal charge for search warrant in a reported suicide attempt that suddenly no longer appeared self-inflicted.
- 6:16 pm Sunday **Larceny, Plain View, Search of Car Trunk** Larceny suspects fled scene, effectively abandoning their rental car in the parking lot. Officers observed stolen merchandise in the passenger area, had uncertainty about search issues vis-à-vis rental status of this vehicle.
- 11:00 pm Saturday **Juvenile Interviews** Detective wished to interview two children (below age 10) as possible culprits in a sexual assault on an even younger child.
- 9:42 pm Saturday **Trespass Probable Cause, Enforcement of Restraining Order?** Sgt. faced a difficult situation involving an affluent gated community, Chapter 13 Bankruptcy, Temporary Restraining Order, and a large unauthorized party for which Homeowners Association sought intervention by Sheriff on a weekend evening. Smith Rodgers provided an immediate, civil liability avoidance strategy that was effective for the complaint.
- 4:41 pm **Preparation for Deadly Force Decision** A transportation deputy was physically overcome by a highly-dangerous inmate being driven to the jail of a nearby county. Outside these deputies’ jurisdiction, urgent questions arose about deputies’ authority to use deadly force against this escapee in effort to recapture inside the county where escape just occurred.
- 10:29 am **Consent Search** Sgt. had questions about validity of consent search of house where consenting owner was arrested and removed before the search was completed; separate issue about searching bedroom of adult daughter.
- 7:56 pm **Search Warrant Probable Cause** Officers doing knock-and-talk at home of known meth user observe meth evidence through open window two feet from front door.
- 3:29 pm **Mutual Aid** Department had legal questions and misunderstandings during comprehensive departmental review of mutual aid relationships.

NOTE: Call descriptions above are variously modified where appropriate to disguise client identities.