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William Johnston Authors Article in Reuters and Westlaw Today on the Fourth Amendment Risks of Forensic Image Retention

Bird Marella partner William E. Johnston authored an article featured in *Reuters* and *Westlaw Today* analyzing the Fourth Amendment implications of the government's retention of forensic images when executing search warrants on electronic devices, as highlighted by the release of files from the Department of Justice's investigations into Jeffrey Epstein.

The piece examines how the government's ability to image and retain entire devices, as it did in the Epstein investigations, can enable it to search and seize files beyond the scope of the original search warrant, which raises unresolved constitutional questions about prolonged data retention. Mr. Johnston also discusses recent case law (*Richman v. United States)* addressing when a new warrant is required to revisit stored data and the challenges of obtaining meaningful remedies.

As Mr. Johnston explains, the issue extends well beyond the Epstein matter: every search warrant executed on a modern device produces a forensic image, and every retained image carries the same indefinite risk. He concludes that, in the absence of clear judicial limits, defense counsel should proactively address these risks through warrant scrutiny, negotiated protocols, and, where appropriate, motions seeking return or destruction of forensic images.

Read the article in its entirety on *Reuters* or *Westlaw Today*.