**Rules of Law (lite edition)**

**A judicial determination of probable cause made with 48 hours of arrest is generally sufficiently prompt.**

**A defendant charged with a crime by information may not be detained for an extended period of time without a judicial determination of probable cause. The Fourth Amendment requires a TIMELY judicial determination of probable cause as a prerequisite to detention (and it need not be adversial).**

**An affidavit that lacks sufficient detail to explain why an informant is reliable and how he came to his conclusions does not provide the necessary probable cause to obtain a search warrant.**

***Spinelli*** and ***Aguilar*** were later overruled and the courts adopted the totality-of-the-circumstances approach.

**Evidence obtained pursuant to a warrant supported only by the beliefs or suspicions of an unidentified informant is not admissible in criminal proceedings.**

**A warrant application satisfies the Fourth Amendment probable cause requirement so long as it establishes a substantial basis for concluding that a search will uncover evidence of wrongdoing.**

**The presence of drugs in a car gives rise to probable cause to arrest any occupant of the car who had knowledge about the drugs and exercised dominion and control over them.**

***Maryland v. Pringle* –** The amount of evidence required to establish probably cause is much lower than the amount of evidence required to support a criminal conviction.

**A person’s mere proximity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person.**

**A search made under an otherwise valid warrant containing a mistake does not violate the Fourth Amendment if the police acted reasonably.**

The Court in ***Maryland v. Garrison*** ruled that there’s some latitude for honest mistakes, as long as the officer’s actions are reasonable.

**Purpose of the particularity requirement:**

**To prevent general searches**

**The Fourth Amendment’s reasonableness requirement incorporates the common law rule that police entering a home must knock and announce their identity and purpose before attempting forcible entry, unless exigent circumstances exist and to do so would undermine law enforcement interest.**

#### *Hudson v. Michigan* altered *Richards* and held that the 4th Amendment’s exclusionary rule doesn’t apply to a violation of the knock and announce rule.

**A search warrant must be voided and any evidence obtained by the warrant excluded from admission at trial when a defendant shows that an affidavit in support of the warrant contains an intentional or reckless false statement and when the affidavit does not support a finding of probable cause in the absence of the false statement.**

**A warrantless arrest is permitted if there is probable cause to believe the person has committed a felony.**

***United States v. Watson –*** Law enforcement officers can arrest a suspect in a public place on probable cause that the suspect has committed a felony offense.

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

***United States v. Robinson*** extended the search incident to arrest exception to minor offenses. It also clarified that arresting officers may open containers found during search, even without probable cause.

**During a lawful arrest, it is reasonable under the Fourth Amendment to search the person being arrested.**

**Exigency is created when suspect is in an accident because dissipating nature of blood plus safety concerns were enough. (also, not a 5th violation to require test)**

**Except with inventory searches and administrative inspections, when probable cause of illegal conduct exists, an officer’s true motive for searching or detaining a person does not negate the constitutionality of the search and seizure.**

***Whren v. United States –*** If officers have probable cause for any traffic infraction, stopping the car is objectively reasonable under the fourth amendment.

**The Fourth Amendment does not prohibit a warrantless arrest for a minor offense.**

***Atwater –*** The Fourth Amendment permits arrests for fine-only misdemeanors, including minor traffic infractions.

**When officers make an arrest for a serious offense that is supported by probable cause and bring the suspect to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee’s DNA is a legitimate police booking procedure that is reasonable under the Fourth Amendment.**

***Maryland v. King*** led to the increasing collection of DNA from arrested persons. Every state now collects DNA from some or all arrestees.

**Police may almost always obtain warrantless blood tests of an unconscious drunk-driving suspect. Exigent circumstances should justify all DUI blood draws.**

**BAC tests are “searches” within the meaning of the 4th Amendment. Breath tests are permissible as SIA, blood not because too invasive.**

**Blood draws cannot be justified as an exigency exception to the warrant requirement, because dissipation of blood standing alone does not outweigh the privacy concern.**

**Absent exigent circumstances, the police may not enter a person’s home to make an arrest without a warrant.**

***Peyton v. New York* –** without a warrant or an exception to the warrant requirement, such as exigent circumstances, officers may not enter a suspect’s home to make an arrest.

**Incident to a lawful arrest, a warrantless search of the area in possession and control of the person under arrest is permissible under the Fourth Amendment.**

In ***Chimel***, the Supreme Court clarified the permissible scope of a search incident to arrest.

**The exigent circumstances exception to the Fourth Amendment's warrant requirement applies to an officer-created exigency if the exigency does not arise from the officer's unreasonable or unconstitutional conduct.**

***Kentucky v. King –*** Reasonable officer created exigencies fall within the exigent-circumstances exception to the Fourth Amendment.

**Under the Fourth Amendment, a vehicle that can be readily moved and that has a reduced expectation of privacy due to its use as a licensed motor vehicle may be searched without a warrant provided probable cause exists.**

***California v. Carney –*** the automobile exception applies to warrantless searches of publicly-located, readily mobile motor homes.

**Police may search a vehicle after a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe that crime-related evidence is located in the vehicle.**

***Arizona V. Gant*** narrowed the longstanding interpretation of *Belton* which altered police practices following the arrest of a car’s driver.

**The Fourth Amendment permits warrantless searches of containers found in automobiles provided the police have probable cause that the container contains contraband.**

***California v. Acevedo*** permits warrantless searches of closed containers inside cars, as long as officers have probable cause.

**Where an officer has probable cause to search a car, he may search containers that belong to a passenger in the car if the containers could possibly contain the object of the search.**

***Wyoming v. Houghton*** shows that if a police officer conducts a warrantless search inside a car based on probable cause, the officer may search property belonging to a passenger.

**A police officer’s warrantless inventory search of closed containers inside an automobile, conducted pursuant to an established inventory policy, does not violate the Fourth Amendment to the U.S. Constitution.**

***Colorado v. Bertine*** held that incriminating evidence discovered in closed containers during a standardized inventory search is admissible under the Fourth Amendment.

**Under the Fourth Amendment, the government may not conduct a warrantless search of the contents of a cell phone seized incident to an arrest absent exigent circumstances.**

***Riley v. California*** was lauded by digital privacy advocates as preserving the privacy of personal data on a cell phone.

**When an officer observes unusual conduct that reasonably leads him to assume that criminal activity is afoot and that the people he is interacting with are armed, the police officer may conduct a limited search for weapons.**

# *Terry* was the first time the Court permitted a warrantless search for less than probable cause.

**When the officer lacks information negating an inference that the owner is the driver of the vehicle, the stop is reasonable. It’s a fair and reasonable assumption to make...the person driving the vehicle is likely the owner of the vehicle. This does not violate the 4th amendment.**

**An anonymous tip that a person may be carrying a gun does not justify a stop and frisk under the Fourth Amendment unless there is additional corroboration to ensure that the tip has "sufficient indicia of reliability" to create reasonable suspicion justifying a stop.**

***Florida v. J.L.*** – A mere anonymous tip that a person possesses a concealed firearm is insufficient for a ***Terry* stop** and frisk.

**(1) Under the Fourth Amendment, police officers cannot move a suspect to another location during a *Terry* stop without a legitimate law enforcement purpose, such as ensuring the safety and security of the officers and the suspect.  
(2) Under the Fourth Amendment, a suspect's consent to a warrantless search is invalid if the suspect was illegally detained at the time it was given.**

**The police may request consent to search a person, even if they have no basis for suspecting that individual of illegal activity, and the citizen is not subject to a Fourth Amendment seizure if a reasonable person would feel that he is free to leave.**

***Drayton*** – If officers speak in a nonconfrontational way, don’t display weapons, ask permission to search, the Fourth Amendment doesn’t require officers to inform passengers that they aren’t obliged to cooperate.

**The passenger of a vehicle in a traffic stop is seized within the meaning of the Fourth Amendment.**

***Brendlin v. California*** makes it clear that if a car is stopped by police, anyone in the car may challenge the stop’s constitutionality.

**Under the Fourth Amendment, a police officer may not prolong a routine traffic stop to have a drug-sniffing dog walk around the vehicle.**

***Rodriguez*** held that a dog sniff that prolongs a traffic stop, not supported by at least reasonable suspicion, violates the Fourth Amendment.

**The court must look at the totality of the circumstances in order to determine whether consent to a warrantless search absent probable cause was freely and voluntarily given.**

***Schneckloth v. Bustamonte –*** Courts must assess the **totality of the circumstances** in deciding whether consent was voluntary.

**The police may not enter a home without a warrant to search for evidence where they obtain consent from an occupant but a co-occupant is present and objects to the search.**

***Georgia v. Randolph*** – Police officers may not rely on one co-tenant’s consent to search a residence when the other co-tenant objects.

**Although evidence obtained through illegal police conduct must be excluded at trial as it is “fruit of the poisonous tree,” the connection between the illegal police conduct and a relevant piece of evidence can become so attenuated as to dissipate the taint, and such evidence may then be admissible.**

**Incriminating statements made following an unlawful arrest are only admissible if the statements, in light of all relevant facts and circumstances, are “sufficiently an act of free will to purge the primary taint.”**

**An unlawful arrest made without a warrant but with probable cause in a suspect’s home does not require exclusion of statements the suspect subsequently made outside the home.**

**Unconstitutionally seized evidence is admissible if lack of flagrant impropriety, lack of temporal proximity, or an intervening circumstance attenuates the chain between police misconduct and the seizure.**

**Evidence obtained in violation of the Sixth Amendment may be admitted if police would have inevitably discovered it.**

**The exclusionary rule does not apply to violations of the knock and announce rule.**

***Hudson*** showed that sometimes the social costs of excluding evidence outweigh the benefits.

# ***State v. Berrios* (2007)**

**Rule: Both the state and federal constitutions offer protection from unreasonable searches and seizures; the general rule is that a warrantless search or seizure is presumed unreasonable and any evidence discovered subject to suppression. See U.S. Const. amend. IV ("The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . ."); Tenn. Const. art. I, § 7 ("That the people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures . . . .").**

This Court has recognized three categories of police interventions with private citizens: a full scale arrest, which requires probable cause; a brief investigatory detention, requiring reasonable suspicion of wrong-doing; and a brief police-citizen encounter, requiring no objective justification.

**The Fourth Amendment prohibition against unreasonable searches and seizures of physical items extends to recordings of oral statements.**

**The warrantless search of trash left outside on the curb does not violate the Fourth Amendment, because a person has no reasonable expectation of privacy in trash left for collection in a publicly accessible place.**

**The warrantless placement of a GPS tracking device on the undercarriage of an individual’s vehicle in order to track the person’s movements on public streets constitutes an unlawful search in violation of the Fourth Amendment.**

**Using a drug-sniffing dog on a homeowner's porch to investigate the contents of the home is a search within the meaning of the Fourth Amendment.**

**The Fourth Amendment right against unreasonable searches and seizures does not protect people from their misplaced expectations of trust and therefore there is no Fourth Amendment search and seizure when the person the defendant is speaking with is secretly a government agent or an informant wearing a wire and recording what is being said.**

**It does not violate constitutional protections to issue a search warrant for the offices of a newspaper even though the object of the search could be demanded through the issuance of a subpoena duces tecum.**

**A search made under an otherwise valid warrant containing a mistake does not violate the Fourth Amendment if the police acted reasonably.**

**Where the facts and circumstances within police officers' knowledge and of which they** **had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that intoxicating liquor is being transported in the automobile which the officers stop and search, the officers are justified in conducting the search.**

**A police search of closed containers discovered inside a vehicle during a warrantless vehicle search does not violate the Fourth Amendment when probable cause justifies a search of the containers.**

**The United States and federal officials are prohibited from executing unreasonable searches and seizures upon people.**

**It is a violation of the Due Process Clause of the Fourteenth Amendment for state actors to gather evidence through unreasonable searches and seizures, but such evidence need not be excluded from state criminal proceedings.**

**Evidence obtained through an unreasonable search and seizure in violation of the Fourth Amendment is inadmissible in state criminal proceedings.**

**Evidence obtained in reasonable, good-faith reliance on a facially valid search warrant is not subject to the Fourth Amendment's exclusionary rule, even if the warrant is later deemed defective.**

**Where police personnel act negligently, but not recklessly, and lead an officer to reasonably believe an arrest warrant exists, the evidence obtained pursuant to that unlawful arrest remains admissible.**

**The independent-source doctrine does not apply if police officers were subjectively motivated to obtain a search warrant by what they learned during an original warrantless search of the premises, even if the warrant application does not rely on information gained during the original search.**