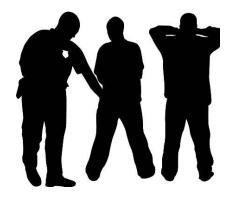


SEARCH & SEIZURE

Unit 2-4



PROBABLE CAUSE

| A single, | is essential to guide police officers, who |
|---------------------------|--|
| have only limited time a | and expertise to reflect on and balance the social and |
| individual interests invo | olved in the specific circumstances they confront. |
| Dunaway v. NY, 442 U.S | 5. 200 (1979) |
| | |
| | OATH OF HONOR |
| On my honor, I will ne | ever betray my badge, my integrity, my character, or |
| the public trust. I will | always have the courage to hold myself and others |

accountable for our actions. I will uphold the

So help me _____.

___, my community and the agency I serve.

GOVERNMENT ACTION

"Evidence discovered and seized by private persons is admissible in a criminal prosecution _____ those private persons obtained it illegally, as long as the government **did not** participate in the search." Ohio v. Meyers, 146 Ohio App.3d 563 (2001)

| PRIVACY EXPECTATIONS = R.E.P. Reasonable Expectation of Privacy |
|---|
| Right to "" - Right to "", "", and "" |
| (NOT TOUCH) |
| |
| PROBABLE CAUSE TO SEARCH |
| The principal components of a determination of probable cause will |
| be the events which occurred leading up to the search, and then the |
| decision whether these historical facts, viewed from the standpoint of |
| an police officer, amount to |
| probable cause. U.S. v. Cortez 1981 |
| |
| TEST FOR PROBABLE CAUSE |
| The focus in determining probable cause is not on the |
| that a crime was committed, but on the of it. |
| • Don't have to be; but, you do have to be |
| |
| EXCLUSIONARY RULE |
| Evidence obtained as a result of an unlawful search and/or seizure is |
| in criminal trials. |
| Fruit of the poisonous tree doctrine |
| Intended to deter misconduct |
| |
| |
| |

TERRY STOPS

| Lo | Looking at the right of police officers to stop a suspect under | | |
|-------|---|--------------------------|--|
| Ci | circumstances in which there was insufficient grounds for an actual | | |
| ar | rrest Requires | | |
| | | | |
| In | , the US Supreme Court upheld the aut | hority of the police to | |
| st | op or detain (or seize) a person where the officer | observes | |
| | conduct which leads the officer rea | asonably to conclude, | |
| in | in light of his/her experience (including training), that criminal activity | | |
| | be <i>afoot</i> . | | |
| | | | |
| Te | erry requires an officer to articulate a | belief that a | |
| SU | spect is armed and poses a threat before the offic | er is permitted to | |
| СО | nduct a "Pat Down" of the suspect's | s outer clothing. | |
| | | | |
| FRISK | KING CONTAINERS | | |
| • | An officer who finds a closed container within lun | ging distance of a | |
| ; | suspect who is being | and, | |
| 1 | may open the container to see if it contains a wea | apon if: in light of the | |
| (| officer's experience and training the item could co | ontain a weapon, and | |
| 1 | the container is NOT locked | | |
| | | | |

- Search or "Frisk" is going to be limited to searching for hard objects...
- That the suspect could use to *hurt* the officer like guns, pocket knives, mace, clubs, etc...
- Not limited to just those things we ordinarily think are weapons...
- It could also be things like car keys or pens because those could hurt an officer as well...

| • | While an officer may want to conduct a frisk for " | | - |
|---|--|---|---|
| | | | |
| | | _ | _ |

- Reasonable suspicion that someone's presently armed and dangerous is just what it sounds like, but most importantly, the officer has to have _____ to support that conclusion.
- If your actions are ______ and executed only to determine whether the suspect possesses a weapon, then the "Terry Frisk" is constitutionally proper
- Terry requires an officer to articulate a belief that a suspect is armed and poses a threat before the officer is permitted to conduct a "Pat Down" of the suspect's outer clothing. Just because I can "Terry Stop" someone DOES NOT automatically give me the right to frisk them for a weapon.

| PLAIN FEEL DOCTRIN |
|---------------------------|
|---------------------------|

| The incriminating nature of the contraband must be | | |
|---|---|--|
| <i>"</i> | " If an officer must | |
| <i>"</i> | " the item to figure out it is contraband – it is | |
| lawfully seize | d. | |
| Officer | justify how they are qualified to "immediately" | |
| recognize the | item as contraband. | |
| | | |
| PLAIN VIEW EXCEP | TIONS | |
| view seizure of e | | |
| You lawfully be in a position to observe the item; The incriminating nature of the item be immediately | | |
| apparent;& | | |
| 3. You | have a lawful right of access to the object itself. | |
| CONSENT SEARCH | | |
| 1. The consent _ | be voluntarily given | |
| Consent _ | be coerced, by explicit or implicit means, by | |
| implied th | reat or covert force | |
| 2. Person has | over the place to be searched | |
| An individ | ual the scope of any consent | |

MOBILE CONVEYANCE EXCEPTION

| to believe that | of a |
|--|--|
| in the | to be |
| | |
| | |
| an officer stops a car bearch in order to presere search may be conduc | rve evidence due |
| robable cause justifies tes the search of conceal the | part of the |
| ers are required to e they have t | |
| | |
| on dog alerts" to or " | " the |
| and in automobiles, a po | olice officer |
| | |
| search the automobile | ē |
| search the automobile | <u> </u> |
| search the automobile | |
| | in the" an officer stops a car be earch in order to present search may be conducted to be search of conceal the ars are required to earch of they have the search of |

| "Police officers with | to searc | to search a car | | |
|---|-------------------------|------------------|--|--|
| search a passenger's belongings found in the car that could | | could | | |
| the c | of the search." | | | |
| "The important issue is the | of the | within | | |
| the automobile, the | of the cor | ntainer." | | |
| OHIO v. MOORE (2000) | | | | |
| The smell of marijuana, | , by a person | to recognize | | |
| the odor, is sufficient to establi | ish | to | | |
| conduct a search. | | | | |
| There need be additional | factors to corroborate | the | | |
| suspicion of the presence of _ | · | | | |
| | | | | |
| OHIO v. HOWARD, (2008) | | | | |
| • In Ohio v. Farris, the Ohio Supre | eme Court fleshed out t | he "plain-smell" | | |
| doctrine by holding that the od | or of burned marijuana | in the passenger | | |
| compartment of a vehicle | | | | |
| establish probable cause for a v | | | | |
| vehicle | | | | |
| Here, the officers, who were | and | in | | |
| detecting the odor of | marijuana, both t | testified that | | |
| they had smelled a strong odor | | | | |
| from the car, not just a light oa | | 3 | | |
| 7 www.LEOtrainer.com Courage thro | | | | |

| But, more specifically, e | each officer specif | fically testified tha | t the odor of |
|---|---------------------|-----------------------|---------------|
| the unburned marijuan | a was | from the | of the |
| car. | | | |
| | | | |
| ARIZONA V. GANT (APRIL 2: | 1, 2009) | | |
| Police may search a vehic | le incident to the | : (SIA) (| of an |
| occupant ONLY in two cir | cumstances: | | |
| 1. when the arrestee is _ | and | reach | ing distance |
| of the passenger comp | artment at the ti | me of the search (| the safety |
| rationale); or | | | |
| 2. when it is | _ to believe evide | ence | to the crime |
| might be found in the | vehicle (the evide | entiary rationale). | |
| | | | |
| OHIO V. SMITH, (DEC 15, 20 | 09) | | |
| when the search is | _ necessary to | the saf | ety of law |
| enforcement officers and | | _ | ces police |
| obtain a search _ | for a d | cell phones data | |
| EXIGENT CIRCUMSTANCES | | | |
| Officers do need _ | proof c | of "a likely serious, | life- |
| threatening" injury to inv | oke the emergen | cy aid exception. | |
| | | | |
| | | | |

| • | A hang up call with an | return call from the |
|---|------------------------------|---|
| | dispatcher has been found to | be sufficient to justify an officer's |
| | objectivelyb | elief that someone inside the residence |
| | is in immediate of as | sistance. Hanson v. Dane County, 599 |
| | F.Supp.2d 1046, 1053 (W.D.W | /isc.2009). |

STATE V. RUSSEL (1998)

 Police officers are not simply criminal law enforcers, charged with investigating criminal conduct and developing and maintaining evidence of crime. They have , one of which is their community health, safety, and protection role. Police officers are charged with the duty to prevent crime, preserve the peace, and protect persons and property.

Every human being has... an attendant spirit.... If it does not always tell us what to do, it always cautions us what not to do. ~Lydia M. Child