

# Searches of Vehicles Incident to to Arrest: Arizona v. Gant (2009)



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- **FACTS:**
  - Gant **arrested for traffic offense** after parking and exiting vehicle in a private driveway;
  - Officers **handcuffed** Gant, searched him, and **placed him in rear of police vehicle.**
  - Officers then searched Gant's car incident to the arrest, finding cocaine and a gun.
  - Gant moved to suppress the evidence, arguing that the SIA was unreasonable.

# Searches of Vehicles Incident to Arrest: Arizona v. Gant (2009)

- Previous cases:
  - Chimel v. California (1969): incident to arrest, police may search the arrestee and areas within his “**immediate control**” for weapons, evidence, and means of escape.

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- Previous cases:
  - New York v. Belton (1981): upon arrest of an occupant of a vehicle, officers may search the passenger compartment of the vehicle and any containers therein.
  - Thornton v. U.S. (2004): same for arrests of “recent occupants” of vehicles.

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- The question:
  - Does Belton allow an SIA of the vehicle any time an occupant (or recent occupant) is arrested, or only when the vehicle is within the arrestee's “**immediate control?**”
  - Most federal circuit courts interpreted Belton to allow an automatic SIA following the arrest
    - **Regardless of the arrestee's ability to access the vehicle**

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Arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search

Passenger compartment and any containers therein, for weapons, evidence, and means of escape

– If arrestee can no longer access the area to be searched, an SIA is no longer justified

- Chimel says *when*; Belton says *where*.

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- But wait, there's more!
- Officers may also search the passenger compartment of the vehicle (and containers therein) incident to arrest **“when it is reasonable to believe that evidence relevant to the crime of arrest might be found in the vehicle.”**

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- What does “reasonable to believe” mean?
  - Reasonable suspicion?
  - Probable cause?
  - Something in between?
- Most likely something less than probable cause, but we can't be certain.



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- How to establish a “reasonable belief” that evidence of the crime of arrest might be in the vehicle?
- **Articulate!**
  - The nature of the crime (drugs vs. suspended license)
  - The age of the information (recent vs. 2007 warrant)
  - Facts known about the arrestee or the offense
  - Facts known about the vehicle
  - Statements from arrestee or others

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## Vehicle SIA: Justification #1

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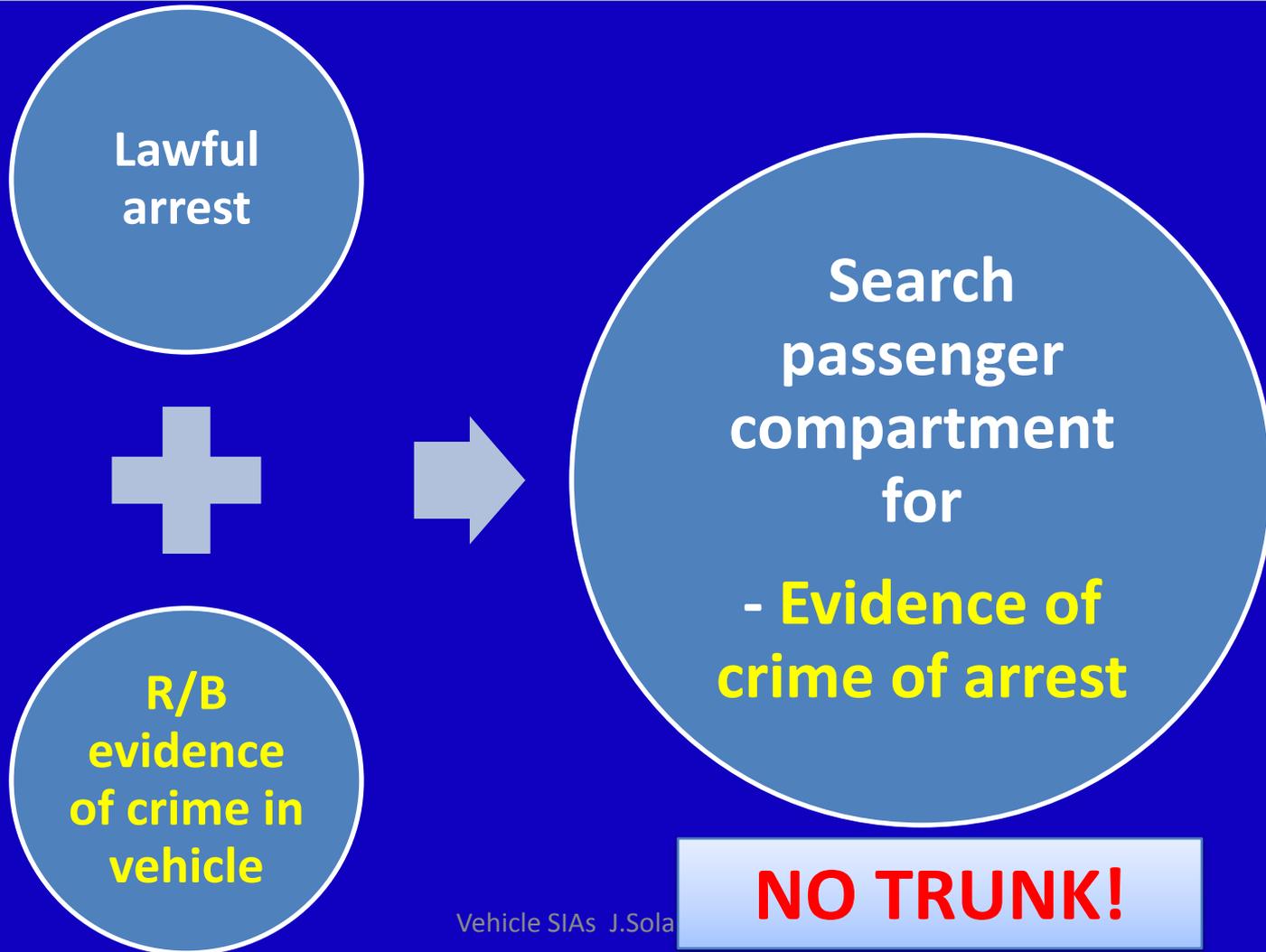
**“Because officers have many means of ensuring the safe arrest of vehicle occupants, it will be the rare case in which an officer is unable to fully effectuate an arrest so that a real possibility of access to the arrestee’s vehicle remains.”\***

**\*Don’t do this on purpose.**

**Searches of Vehicles Incident to  
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**Vehicle SIA:  
Justification #2**

# Searches of Vehicles Incident to to Arrest: Arizona v. Gant (2009)



# Other Vehicle Search Exceptions

- **Terry frisk**: RS occupant is dangerous and may gain access to weapon
- **Carroll doctrine**: PC evidence in a vehicle
- **Protective sweep**: RS vehicle is concealing someone who may pose a danger
- **Consent**: voluntary, from one with authority to give it
- **Inventory**: requires lawful impound

# Impact of Gant on non-vehicular SIAs?

- Gant did not address non-vehicular SIAs,
- But the Court did revisit Chimel to emphasize the limits of its holding.
- “If there is no possibility that an arrestee could reach into the area that law enforcement officers seek to search, both justifications for the SIA exception are absent and the rule does not apply.”

# Impact of Gant on non-vehicular SIAs?

- SIA of the arrestee: **no change.**
- SIA of containers ON arrestee: **no change.**
  - i.e. wallet, purse, cell phone, jacket
- **Search for weapons, evidence, and means of escape.**

# Impact of Gant on non-vehicular SIAs?

- SIA of lunging area and containers therein:

justified only if arrestee could access the area at the time of the search.

- The “evidence of the crime of arrest” justification is for vehicles only.

# Impact of Gant on non-vehicular SIAs?

- How to **articulate** accessibility of lunging area?
  - Distance between arrestee and area
  - Handcuffing (front or back?) or other restraints
  - Display of weapons
  - Number of officers vs. arrestees and other persons
  - Positioning of officers and arrestee(s)
  - Containers: open/closed, unlocked/locked
  - Arrestee's attempts to access lunging area