# TEN YEARS OF CASE LAW IN A SNAP
# SIGNIFICANT SUPREME COURT DECISIONS
# 1997-2007

## Fourth Amendment

### Exclusionary Rule

***Minnesota v. Carter*** **(1998)** – **Visitors to an apartment** for the sole purpose of engaging in a commercial (drug) transaction have not established a significant connection to the premises. They are to be considered commercial visitors. They have **no reasonable expectation of privacy** in the apartment and, therefore, have no standing to object to an unreasonable search of that apartment (though the lessee would have standing).

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***Pennsylvania v. Scott*** **(1998)** – The **exclusionary rule** prohibits the government's use of unreasonably obtained evidence in its criminal case-in-chief. The government is not prohibited from using this evidence in a **parole revocation hearing**.

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***Hudson v. Michigan*** **(2006)** – It was not appropriate to **suppress evidence** that officers obtained after violating the rule of **"knock and announce"**…this is a subject best left for civil liability.

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***Sanchez-Llamas v. Oregon*** **(2006)** - After the state **arrest of a foreign national**, failure to give **"consular notification" rights** as required by the Vienna Conventions on Consular Relations (VCCR) does not trigger the exclusionary rule to suppress statements made to state law enforcement officers by the foreign national. However, failure to provide the notification can be a factor in determining the voluntariness of a confession.

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### Searches

***Wilson v. Layne*** **(1999)** – The inclusion of parties not associated with the search (such as **journalists and/or television crews**) violates the reasonableness standard of the Fourth Amendment. Reaffirmed in *Hanlon v. Berger* (1999).

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***Bond v. U.S.* (2000)** – A law enforcement officer's **touching, squeezing and manipulating** of a traveler's bag constituted a search because the government was attempting to discern the contents inside through the use of a technique (touching) not accessible to the public.

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***Illinois v. McArthur* (2001)** – It is reasonable to **deprive an occupant access to their home** if a search warrant is actively and presently being sought.

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***Kyllo v. U.S.* (2001)** – The use of a **thermal imaging device** to detect levels of heat emitting from a home amounted to a search because the use of the technology is not readily available to the general public and it allowed the government to decipher events that were taking place inside the home.

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***Groh v. Ramirez* (2004)** – A **search warrant** is invalid that included a description of the property to be searched in the warrant's description of the evidence that was to be seized.

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***U.S. v. Flores-Montano* (2004)** - The removal and search of an automobile fuel tank at **the border** does not require a showing of reasonable suspicion.

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***Thornton v. U.S.* (2004)** - The *New York v. Belton*(1981) bright-line rule, that a lawful, custodial arrest of the "occupant" of an automobile allows a **search of the passenger compartment of that automobile**, is extended to include **"recent occupants."**

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***Illinois v. Caballes* (2005)** - A **drug dog sniff** conducted during a lawful traffic stop does not require reasonable suspicion and does not violate the Fourth Amendment.

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## Seizures

***Whren v. U.S.* (1996)[1]** – Law enforcement officers may conduct otherwise lawful traffic stops, even if this is not the kind of activity they customarily engage in. The Court sanctioned

[1] Yes. This case is more than a decade old. However, it is too critical to ignore.

**pretextual stops** by holding that the subjective intent of the law enforcement officer is not a consideration in determining the reasonableness of the seizure.

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***Maryland v. Wilson* (1997)** – The rule of *Pennsylvania v. Mimms* (which allowed law enforcement officers to order the operator out of a motor vehicle that was lawfully stopped) is extended to passengers. The Court recognized the danger presented by **passengers in the motor vehicle** and noted that this rule applies a minimal intrusion on the passengers.

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***Hiibel v. Sixth Judicial District* (2004)** – Supreme Court upheld a state law requiring a person that has been lawfully stopped (under *Terry v. Ohio*) to properly **identify themselves** to a requesting law enforcement officer.

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***Devenpeck v. Alford* (2004)** - A **warrantless arrest** by a law officer is reasonable, given the facts known to the officer, there is probable cause to believe that a crime has been or is being committed, even if it is **not the one invoked by the arresting officer** at the time of the arrest.

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***Brendlin v. California* (2007)** - When **police stop a vehicle**, the driver and **passengers are effectively seized**, giving the passenger a right to challenge the legality of the stop and the admissibility of evidence discovered as "fruit of the poisonous tree."

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## Suspicions

***Florida v. J.L.* (2000)** – An officer cannot base reasonable suspicion on an **anonymous tip alone**. The officer must be able to particularly articulate something about the suspect to individualize the suspicion.

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***Illinois v. Wardlow* (2000)** – A **suspect's flight** from a known drug trafficking area upon seeing law enforcement officers was, in itself, reasonable suspicion to stop the suspect.

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***U.S. v. Arvizu* (2002) - Reasonable suspicion**, a "particularized and objective basis" for suspecting legal wrongdoing, justifies a brief investigatory stop. Whether the detaining officer has reasonable suspicion depends upon the **"totality of the circumstances"** of each case.

Officers may draw upon their own **experiences and specialized training** to make **inferences** from and deductions about the cumulative information available.

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***Maryland v. Pringle* (2003) - Probable cause to arrest all occupants** of a vehicle in which drugs are found depends on the totality of the circumstances. PC exists when an objectively reasonable officer would reach that conclusion.

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## Knock and Announce (18 U.S.C. § 3109)

***Richards v. Wisconsin* (1997)** – Wisconsin's statute that waived officer compliance with the **"knock and announce"** statute anytime officers are searching for **controlled substances** was struck down. Reviewing courts may consider the items sought in determining whether compliance was necessary, but a blanket waiver of the statute was unreasonable. If officers develop reasonable suspicion that compliance with the statute would be (1) dangerous, (2) futile, or (3) inhibit the effective investigation (evidence would be hidden or destroyed), a "no-knock" entry would be permissible.

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***U.S. v. Ramirez* (1998)** – Officers must only establish **reasonable suspicion** that compliance with the **"knock and announce"** statute would be dangerous to make a "no-knock" entry. Destruction of property upon entry does not increase the level of suspicion the officers must establish to make their "no-knock" entry reasonable.

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***U.S. v. Banks* (2003)** – Police officers, armed with a search warrant, were justified in making a **forcible entry** after providing notice under **18 U.S.C. § 3109** and waiting, 15-to-20-seconds.

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***Hudson v. Michigan* (2006)** – It was not appropriate to **suppress evidence** that officers obtained after violating the rule of **"knock and announce"**…this is a subject best left for civil liability.

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## Anticipatory Search Warrants

***U.S. v. Grubbs* (2006)** – The Supreme Court sanctioned the use of anticipatory search warrants, holding that the fact that the evidence is not presently at the place described is immaterial. The government need only establish probable cause to believe evidence will be present when the warrant is executed. Anticipatory warrants require the magistrate to determine (1) that it is now

probable that (2) contraband, evidence of a crime, or a fugitive will be on the described premises (3) when the warrant is executed.

## Persons at the Scene

***Muehler v. Mena* (2005)** – Officers were authorized to use **handcuffs on an occupant** of a residence subject to a search warrant. This **use of force** was reasonable due to the governmental interest in minimizing the risk of harm to both officers and occupants, which outweighed the marginal intrusion. Also, the need to detain multiple occupants made the use of handcuffs all the more reasonable.

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***Los Angeles County v. Rettele* (2007)** – Officers acted reasonably in ordering unclothed persons out of their bed during the execution of a search warrant despite the fact that they were clearly not the individuals involved in the crime. Also, Supreme Court removed any and all doubt that the ***Summers* doctrine** may be employed in situations in which the officers are seeking **contraband other than controlled substances**.

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## Notice of Entry and Seizure

***City of West Covina v. Perkins* (1999)** – Law enforcement officers **removing private property** under the authority of a search warrant are only required to take **reasonable steps to provide notice** that such property has been removed. The government is not required to leave instructions on legal remedies available to the owners.

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## Mobile Conveyances

***Maryland v. Dyson* (1999)** – Whether the officer had time to obtain a warrant to search a mobile conveyance is immaterial. The officer was lawfully justified in conducting the **search upon probable cause** and that the item he sought was located in a **mobile conveyance.**

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***Wyoming v. Houghton* (1999)** – Law enforcement officers are entitled to **search anywhere in a mobile conveyance** that could contain the items they seek, to include the containers of passengers.

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***City of Indianapolis v. Edmond* (2000)** – The ***Michigan v. Sitz* rationale,** which permits the government to engage in **check point stops** related to motor vehicle safety, does not extend to **drug checkpoints.**

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***Illinois v. Lidster* (2004)** - Stopping a motorist at **a highway checkpoint** to ask questions about a hit and run the week before is a **"seizure."** Special law enforcement concerns will sometimes justify highway stops without individualized suspicion. In judging reasonableness of a highway checkpoint stop, the Court looks to "the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty."

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## Emergency Scene

***Flippo v. West Virginia* (1999)** – Law enforcement officers must have a warrant, consent or an exigency (such as an ongoing emergency) before entering a premises. There is no "crime scene" exception to the Fourth Amendment.

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***Brigham City v. Stuart* (2006)** - An **officer's ulterior, subjective motive** for entering a residence is immaterial if the officer has an **objectively reasonable basis** to believe that someone inside is seriously injured or imminently threatened with such an injury.

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## Consent

***U.S. v. Drayton* (2002)** – Defendants were **not coerced** into giving consent when they were free to terminate the encounter with law enforcement officers even though they were **not told they we free to terminate** the encounter.

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***Georgia v. Randolph* (2006)** – The government may not ignore the refusal of a physically present defendant to consent to search and then obtain a valid consent from the defendant's wife. The **consent given by one occupant** is not valid in the face of the **refusal of another** physically present occupant.

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## Other Warrantless Searches

***Chandler v. Miller* (1997)** – The Supreme Court struck down a Georgia statute that required all candidates for elected office to **submit to a urinalysis test.** The Court held that the state was not effectively screening out any **potential safety hazards**, nor was their a significant chance of revealing anyone that engaged in these activities as the state only required a clean urinalysis examination within 30 days of filing notice of intent to seek office. Compare this to *Ferguson* below.

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***Knowles v. Iowa* (1998)** – The Supreme Court unanimously struck down an Iowa statute that had authorized law enforcement officers to search any automobile that had been lawfully stopped for a traffic citation. The holding applied even though the officers could have arrested the motorist and searched the vehicle incident to that arrest. If the officers do not arrest the motorist, they **may not "search incident to citation."**

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***Ferguson v. City of Charleston* (2000)** – The Supreme Court struck down a hospital policy, adopted with assistance of local government officials that set forth procedures for identifying and **testing for prenatal abuse via drug use**. The Court held that the policy was in effect for the singular reason to ferret out criminal activity and, therefore, had to be supported by a warrant, consent or an exigency.

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***Atwater v. City of Lago Vista* (2001)** – The Supreme Court found reasonable an officer's **handcuffing and arrest** of a motorist that faced a fine only for the **traffic infraction.** The statute authorized arrest for the infraction, and the Court refused to apply a case-by-case analysis for officers to engage in on the street.

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# Fifth Amendment

***Brogan v. U.S.* (1998)** – Targets of criminal investigations have a constitutional **right to remain silent—but not to lie.** Once a criminal suspect lies about a material matter in the investigation (such as their own involvement) they are subject to 18 U.S.C. § 1001 **(False Statements).** They are not entitled to immunity from these actions under the "exculpatory no" doctrine, which the Supreme Court dismissed.

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***LaChance v. Erickson* (1998)** – **Government employers** may take adverse actions against employees that make false statements during agency investigations. The employee has **a right to remain silent, not to lie.**

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***Mitchell v. U.S.* (1999)** – Defendants do not waive their right to be free from **self-incrimination** at the **sentencing phase** of a trial if they plead guilty to the offense.

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***NASA v. FLRA* (1999)** – Government employees are entitled to representation during an examination conducted by a "representative of the government." **OIG agents qualify as representatives of the government.**

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***U.S. v. Balsys* (1999)** – An individual can not claim a **Fifth Amendment protection** on the fear that if he or she speaks, statements can be used against them in a **foreign nation.**

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***Chavez v. Martinez* (2003)** - A **coercive interrogation** does not violate the Fifth Amendment self-incrimination clause if the suspect is **not prosecuted** and the **confession is not used** against him in a criminal case. An officer is, in that circumstance, is entitled to qualified immunity to a 42 U.S.C. § 1983 claim alleging such a Fifth Amendment violation.

**Failure to give *Miranda*** warnings is not a Constitutional violation and will not support a civil action under **42 U.S.C. § 1983.**

Conduct so brutal and so offensive to human dignity that it shocks the conscience violates the **Fourteenth Amendment Due Process Clause** and will support a claim for damages under **42 U.S.C. § 1983**. In such a case, qualified immunity will not protect officers.

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***Yarborough v. Alvarado* (2004)** - Although perhaps relevant to the issue of the "voluntariness" of a statement, a **suspect's age or experience** is not relevant to the ***Miranda* custody** analysis.

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***Missouri v. Seibert* (2004)** - The Court struck down the intentional **"question-warning-question" tactic** employed by some law enforcement agencies. By withholding warnings until after a successful interrogation, they become ineffective in preparing the suspect for the follow up interrogation. The Court found this tactic is likely to lead to confusion on the part of the suspect.

***U.S. v. Patane* (2004)** - Failure to give a suspect ***Miranda* warnings** does not require the **suppression of the physical fruits** of the suspect's unwarned but voluntary statements. Such unwarned statements are suppressed but not the **real evidence** obtained as the result of an otherwise voluntary statement. Real evidence obtained as the result of actually coerced statements is inadmissible.

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## Sixth Amendment

***Texas v. Cobb* (2001)** – The government does not have to provide a **Sixth Amendment right to counsel** for **closely related but uncharged matters** for which the investigators would like to discuss with the defendant.

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***Fellers v. U.S.* (2004)** – The government's **post-indictment conversation** with the defendant in his home amounted to government question without the defendant's attorney present . . . a violation of the Sixth Amendment right to counsel.

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## Liability Issues

***Brosseau v. Haugen* (2004)** - Claims of excessive force are to be judged under the Fourth Amendment "objective reasonableness" standard. Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is **not constitutionally unreasonable to prevent escape by using deadly force.**

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***Hartman v. Moore* (2006)** – Officers are entitled to summary judgment in **wrongful prosecution** cases where the plaintiff is unable to demonstrate a **lack of probable cause** for the arrest.

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***Scott v. Harris* (2007)** – U**se of deadly force must only be reasonable.** (The Court slightly revised its holding in ***Tennessee v. Garner***). A tightly defined set of rules (as those found in *Garner*) can exclude otherwise reasonable uses of force.

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# Immigration / Deportation

***Leocal v. Ashcroft* (2004)** - A Florida conviction for driving under the influence of alcohol (DUI) and causing serious bodily injury is not **a crime of violence** as defined under 18 U.S.C. § 16. Therefore, an alien convicted of such an offense is **not subject to removal** as one who has committed an **"aggravated felony"** as defined in section 101(a)(43)(F) of the Immigration and Nationality Act (INA).

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***Jama v. ICE* (2005)** - An alien who is ordered removed from the United States may be **removed to another country** under 8 U.S.C. § 1231(b)(2)(E)(iv) [INA § 241(b)(2)(E)(iv)] **without the consent** of that country's government.

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***Clark v. Martinez* (2005)** - Under 8 U.S.C. § 1231(a)(6) [INA § 241(a)(6)], the Secretary of the Department of Homeland Security may **detain an inadmissible alien beyond the 90-day removal period**, but only so long as this is reasonably necessary to achieve removal of the alien. After that, the alien is eligible for conditional release if he can demonstrate that there is no significant likelihood of removal in the reasonably foreseeable future. This law applies equally to aliens regardless of whether or not they have been admitted to the United States.

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# Miscellaneous

***Sabri v. U.S.* (2004) - 18 USC § 666** is constitutional even though it does not require proof, as an element of culpability, of a **connection between the federal funds** and the alleged bribe.

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***Small v. U.S.* (2005)** – For 8 U.S.C. § 922(g)(1), **felon in possession**, the term "convicted in any court" encompasses only domestic, not **foreign convictions**.

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***Arthur Andersen, LLP v. U.S.* (2005)** - To convict under 18 U.S.C. § 1512(b), **witness tampering**, the government must prove that the defendant knew his actions were corrupt, and that there was a connection between the corrupt actions and a pending proceeding.

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***Whitfield / Hall v. U.S.* (2005)** - Commission of an **overt act** is not a required element of 18 U.S.C. § 1956(h), **conspiracy to commit money laundering.**

***U.S. v. Booker / U.S. v. Fanfan* (2005)** - 18 U.S.C. §3553(b), which makes the **Federal Sentencing Guidelines** mandatory, is incompatible with the Sixth Amendment right to trial by jury and therefore must be severed and excised from the Sentencing Reform Act of 1984. The Act makes the Guidelines effectively advisory, requiring a sentencing court to consider Guidelines ranges, but permitting it to tailor the sentence in light of other statutory concerns.

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***Cook County v. United States ex rel. Chandler* (2003) -** A local government is a "person" that can be liable under the **False Claims Act** (FCA), 31 U.S.C. 3729 et seq.

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***U.S. v. Recio* (2003)** - A **conspiracy** does not end through **"defeat"** when the Government intervenes, making the **conspiracy's goals impossible to achieve**, even if the conspirators do not know that the Government has intervened and are totally unaware that the conspiracy is bound to fail.