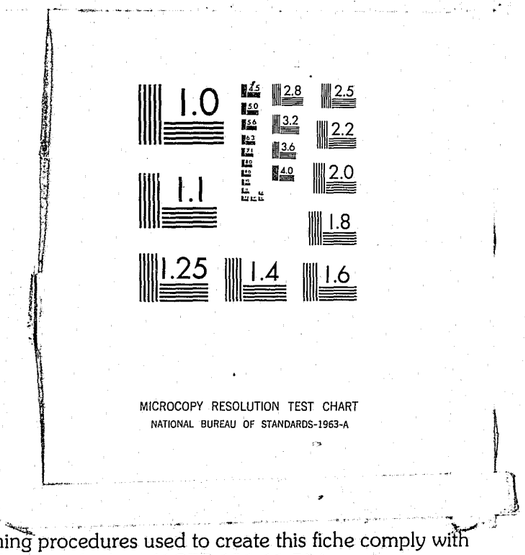

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Federal Bureau of Investigation
United States Department of Justice
Washington, D.C. 20535

William H. Webster, Director

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THE MOTOR VEHICLE EXCEPTION TO THE SEARCH WARRANT REQUIREMENT

(PART I)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The fourth amendment to the U.S. Constitution prohibits "unreasonable searches and seizures." [1] Although there is no explicit warrant requirement in that amendment, the U.S. Supreme Court has held that warrantless searches "are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." [2] Furthermore, "the burden is on those seeking the exemption to show the need for it." [3]

One of the "few carefully delineated and limited exceptions" was first recognized by the Supreme Court in *Carroll* v. *United States,*[4] a 1925 decision issued in the midst of the Prohibition era. The newly arrived-on-the-scene automobile was a natural attraction for the "bootlegger" who required a means of transporting his contraband goods swiftly from one point to another to meet the demands of the market and to evade detection and capture by the authorities.

On December 15, 1921, Federal Prohibition agents were routinely patrolling a road between Grand Rapids and Detroit, Mich., when they observed an automobile occupied by George Carroll and John Kiro traveling from the direction of Detroit toward Grand Rapids. About 2 months prior to the sighting, the same two men, driving the same automobile, had met with the agents (who were acting in an undercover capacity) and agreed to sell them a quantity of whiskey which they indicated would be obtained from the east end of Grand Rapids (in the direction of Detroit). For reasons not apparent in the record, the transaction was not consummated and the whiskey never delivered. However, about a week after the meeting, the agents spotted the Carroll automobile traveling the road from Grand Rapids to Detroit. An attempt to follow the vehicle to determine its destination was unsuccessful.

Because of their knowledge of the area as "one of the most active centers" for smuggling whiskey into the United States, the earlier offer of the same two men (in the same vehicle) to sell whiskey to the agents, and the earlier observation of the vehicle on the same highway, the agents stopped the car and searched it. Beneath the upholstery of the seats they found several bottles of contraband whiskey, some of which was introduced at trial to secure the convictions of Carroll and Kiro for violation of the National Prohibition Act.

Carroll and Kiro appealed their convictions to the U.S. Supreme Court, challenging the legality of the search. It should be noted that the agents did not have a warrant to search the automobile; they did not have the voluntary consent of Carroll or Kiro to conduct the search; and the search was not incidental to an arrest, inasmuch as no arrests occurred until after the search uncovered the contraband.

Nevertheless, the Supreme Court upheld the search and affirmed the convictions. In so doing, the Court acknowledged the general requirement that a warrant be obtained prior to conducting a search, but concluded

Special Agent Hall

that historically, the fourth amendment had been construed as recognizing:

> ". . . there is a necessary difference between a search of a store, dwelling house, or other structure in respect of which a proper official warrant readily may be obtained, and a search of a ship, motor boat, wagon, or automobile . . . where it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought." [5]

While recognizing that there is a "necessary difference" between the search of a house and the search of an automobile, the Court emphasized that the difference was not enough to place automobiles and other vehicles completely beyond the protections of the fourth amendment. On the contrary, the Court stated:

> "It would be intolerable and unreasonable if a prohibition agent were authorized to stop every automobile *on the chance of* finding liquor. . . . those lawfully within the country, entitled to use the public highways, have a right to free passage without interruption or search unless there is known to a competent official authorized to search, *probable cause* for believing that their vehicles are carrying contraband or illegal merchandise." [6] (emphasis added)

Considering the facts, the Court concluded that there was probable cause to believe that whiskey was in the car. Given the probable cause, the Court considered that the mobility of the vehicle created an exigency rendering the securing of a search warrant impracticable, therefore justifying the warrantless search. In the words of the Court, such searches are reasonable where:

1) ". . . the search and seizure without a warrant are made upon probable cause. . . ." [7] and
2) ". . . it is not practicable to secure a warrant because the vehicle can be quickly moved. . . ." [8]

The Supreme Court's decision in *Carroll* marks the beginning of the "Carroll Rule" or what is more frequently referred today as the "automobile exception." This article traces the development of the exception from its origin in *Carroll* to the present day and examines the manner in which it has been applied by the courts. Specifically, judicial interpretation of the *probable cause* and *exigent circumstances* standards as applied to vehicles will be reviewed in an effort to assist the law enforcement officer in judging when this exception can be used to justify a warrantless vehicle search. Two points are worthy of emphasis before proceeding.

First, the commonly accepted phrase "automobile exception" is somewhat misleading because the rule is not limited in application to automobiles. As noted above in *Carroll*, the Court suggested that the same characteristics which distinguish automobiles from houses are applicable to a "ship, motorboat, wagon" or "other vehicle." [9] Indeed, in subsequent cases, the exception has been applied by the courts

". . . the exception to the warrant requirement recognized in *Carroll* is distinct from, and should not be confused with, one of the other major exceptions to the warrant requirement—the search incidental to arrest."

to sustain warrantless searches of a variety of vehicles, including boats,[10] aircraft,[11] camper trailers,[12] mobile homes,[13] tractor-trailers,[14] and even a U-haul trailer attached to an automobile.[15] Therefore, throughout this article, the phrase "vehicle exception" is used in lieu of "automobile exception," inasmuch as the rule clearly is intended to embrace mobile vehicles in general.

The second point to be emphasized is that the exception to the warrant requirement recognized in *Carroll* is distinct from, and should not be confused with, one of the other major exceptions to the warrant requirement—the search incidental to arrest.

The latter is dependent upon a lawful custodial arrest,[16] regardless of the probability that weapons or evidence would in fact be found,[17] and encompasses the arrestee's person and the area within his immediate control,[18] an area which the Supreme Court has quite recently construed to mean the passenger compartment (but not the trunk) [19] of an automobile following the arrest of its occupant(s), including any containers, opened or closed,[20] found therein.

Conversely, the validity of a search conducted pursuant to the vehicle exception is *not* dependent upon the right to arrest [21] but *is* dependent on the reasonable cause (probable cause) the officer has for belief that the contents of the automobile offend against the law.[22] Furthermore, while the search may extend beyond the passenger compartment to other parts of the vehicle where the evidence or contraband sought can reasonably be located—*including the trunk*—it may not extend into separate containers, such as suitcases, found in the vehicle "unless the container is such that its contents may be said to be in plain view," [23] either because the contents can be inferred from the very nature of the container or because the container itself is not closed.[24]

The foregoing may tempt the reader to concur with a recent observation of Supreme Court Justice Rehnquist that "the decisions of this Court dealing with the constitutionality of warrantless searches, especially when those searches are of vehicles, suggest that this branch of the law is something less than a seamless web." [25] But if it illustrates the complexities of search and seizure law relating to vehicle searches today, it also emphasizes the need for law enforcement officers to possess a workable knowledge of that law.

Developments

At the time of its conception, and for many years thereafter, the vehicle exception to the warrant requirement of the fourth amendment created hardly a ripple in State and local law enforcement circles. Although the Supreme Court had occasion to recognize its holding in *Carroll* on at least four other occasions between 1925 and 1970,[26] not one of those cases involved State prosecutions. There were two obvious reasons. First, the case which gave rise to the new rule involved a warrantless search conducted by Federal officers under the authority of a Federal statute. But more importantly, the fourth amendment itself—with its proscription of unreasonable searches and seizures, its Warrant Clause, and its judicially devised Exclusionary Rule—had not yet been applied to the States. In a word, the authority possessed by State and local officers to search for and seize evidence was defined essentially by the legislatures and courts of the respective States.

This picture began to change in 1949[27] when the Supreme Court applied the 4th amendment to the States through the Due Process Clause of the 14th amendment and followed up that decision by imposing the Exclusionary Rule in 1961.[28]

The cumulative effect of these developments was to focus greater attention on the few carefully delineated and limited exceptions to the warrant requirement, particularly the little-known and rarely used vehicle exception. In the midst of a persistent stream of cases from the Supreme Court in recent years in which the warrant requirement has been emphasized and extended,[29] the vehicle exception may be said to have flourished, with its most remarkable period of growth beginning in 1970 and continuing virtually without pause to the present. During this 11-year period, there have been more than 12 cases[30] decided by the U.S. Supreme Court alone which have recognized the rule, almost all of them involving searches of vehicles conducted by State and local officers and some of them broadening the application of the rule. Contrasting the past 11 years of its life with the first 45 confirms the view that the vehicle exception has emerged from the decade of the 1970's as one of the most effective search and seizure tools available to the modern law enforcement officer. It is this renewed vitality which compels a closer look at the rule.

The vehicle exception, by definition, envisions the law enforcement officer on the scene making the initial judgment as to its applicability. There are two threshold questions which must be answered. Is there probable cause to believe evidence or contraband is in the vehicle? If so, are there exigent circumstances which would justify a warrantless search?

The Probable Cause Requirement

> "In enforcing the Fourth Amendment's prohibition against unreasonable searches and seizures, the Court has insisted upon probable cause as a minimum requirement for a reasonable search permitted by the Constitution."[31]

In *Carroll*, the Supreme Court provided one of the most frequently cited definitions of probable cause:

> ". . . facts and circumstances within their knowledge, and of which they had reasonably trustworthy information. . . . sufficient in themselves to warrant a man of reasonable caution in the belief. . . ."[32]

Most law enforcement officers today can quote some variation of that definition. On the other hand, any discussion of probable cause is likely to generate a comment to this effect: "I can't tell you what it is, but I know it when I see it." While the statement is generally meant to be amusing, it, nevertheless, expresses an important point—probable cause is a concept more conducive to illustration than to definition.

The following cases will perhaps serve to illustrate the *quality* and *quantity* of information deemed necessary by the courts to establish probable cause to believe evidence or contraband is in a vehicle. It will be noted that the facts and circumstances which give rise to probable cause may come from a variety of sources and may be acquired through the firsthand experiences of an officer or through secondhand (hearsay) sources. More often than not, it is a combination of the two. A review of some examples of probable cause as determined by the courts will enhance our ability to "know it when we see it."

> As the Supreme Court has stated: "In dealing with probable cause . . . we deal with probabilites. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act."[33]

FIRSTHAND INFORMATION

Personal Knowledge

Personal knowledge is obviously one of the most common sources of information establishing probable cause. The *Carroll* case itself is illustrative. The Federal agents personally participated in negotiations with Carroll and his partners to purchase whiskey from them, they also personally observed Carroll's vehicle on two occasions traveling a road known to the agents as one commonly used by bootleggers, and they had personal knowledge of the area's reputation as a center for the illicit whiskey business.

In *Brinegar* v. *United States*,[34] an investigator for the Alcohol Tax Unit was parked in a car in northeastern Oklahoma near the Missouri-Oklahoma State line when he observed Brinegar drive past from the direction of Joplin, Mo. He had arrested Brinegar in the recent past for illegally transporting liquor, had personally observed him loading liquor into a vehicle in Joplin, Mo., on at least two occasions in the recent past, and knew him to have a reputation for hauling liquor. In addition, the vehicle appeared to the officer to be heavily loaded. The Supreme Court concluded that this information was sufficient to establish probable cause to search Brinegar's automobile for liquor.

A particularly interesting case involving an officer's personal knowledge and observations is *United States* v. *Matthews*,[35] decided by the U.S. Court of Appeals for the 10th Circuit. Military officers on a military base observed a civilian car with military license plates. Their suspicions were aroused further because the car did not have a military decal and the officers knew that it should if it were an authorized military vehicle. When Matthews was asked for identification, he

"The plain view sighting of evidence or contraband in a vehicle not only subjects them to seizure but may provide probable cause to conduct a search of the vehicle for other such objects."

produced an apparently altered registration form for a Chevrolet, even though the car in question was a Ford. Matthews was unable to produce his military log book, which the officers knew military vehicles carry. The court determined that "the facts of this case indicate that there was probable cause to search the vehicle for evidence pertaining to its theft." [36]

Another case to illustrate the importance of an officer's personal knowledge is *United States* v. *Gomori.*[37] A West Virginia State trooper stopped a rental truck in the northern panhandle of the State, based on a departmental communication advising that such vehicles were being used to transport stolen goods. At the time of the stop, the trooper noticed the truck was heavily loaded and resting on overload springs. The operator of the truck produced a lease agreement which indicated he was carrying a load of furniture. However, when asked the nature of his cargo, the operator stated the truck was empty. The trooper requested to search the truck by consent, which was twice refused, but granted when the trooper stated that he would get a search warrant. The search revealed a truckload of stolen cigarettes.

Gomori challenged the search, contending that the consent was not voluntarily given. The U.S. Court of Appeals for the Fourth Circuit bypassed the consent issue, however, and ruled that there was "probable cause for the trooper to believe that the truck was carrying stolen goods or contraband. . . ." [38] Furthermore, the court stated:

> "The lawfulness of the search was not dependent upon the trooper's having probable cause to believe the cargo consisted of stolen cigarettes. It is enough that he had probable cause to believe that the truck was carrying stolen goods or some sort of contraband." [39]

Plain View

In addition to those cases wherein the officers had personal knowledge of criminal activities or personally observed suspicious activities or circumstances, there are cases wherein probable cause may arise because an officer sees evidence or contraband in "plain view." In *Harris* v. *United States,*[40] the Supreme Court stated:

> "It has long been settled that objects falling in the plain view of an officer who has a right to be in the position to have that view are subject to seizure and may be introduced in evidence."

The plain view sighting of evidence or contraband in a vehicle not only subjects them to seizure but may provide probable cause to conduct a search of the vehicle for other such objects.

For example, in *United States* v. *Johnson,*[41] a vehicle was stopped by police at night for a traffic violation. Three male occupants left the vehicle and approached the police car, while a female remained inside. A routine warrant check revealed that one of the men was wanted for assault and battery. He was immediately arrested and searched, whereupon a number of .410-gage shotgun shells were found in his pocket. An officer approached the stopped vehicle, shined a flashlight inside, and saw what appeared to be the butt end of a shotgun wedged between the cushions of the back seat. The officer entered the car and removed a 12-gage sawed-off shotgun. A further search located a .410 sawed-off shotgun in the front seat area. The Federal appellate court upheld the seizure of the first shotgun under the plain view doctrine (including use of the flashlight) and held that the finding of the first shotgun gave probable cause to search the car for other weapons.

Sensory Perception

The rationale of the plain view doctrine has logically been applied to other sensory perceptions, particularly the sense of smell. In *United States* v. *Rumpf,*[42] Federal Drug Enforcement agents in New Mexico observed two vehicles with camper trailers, previously observed in connection with a marihuana transaction, traveling in an area which the agents had learned would be the pickup site for a load of marihuana coming from Mexico. The following morning, the same vehicles were followed from the area of the pickup to a farm where the agents observed marihuana in plain view. In addition, they smelled the odor of marihuana emanating from the trailers. The Federal appeals court sustained the search, stating, ". . . smell alone is sufficient probable cause for a search." [43]

Officer's Expertise

The weight which an officer may attribute to a particular item of information and the inferences which he may draw therefrom are largely the result of the officer's training and experience. The courts are cognizant of that fact and rely upon it in evaluating probable cause.

In *United States* v. *Zurosky,*[44] Federal customs officers observed a boat tied to a fish warehouse loading dock where a large amount of marihuana was discovered. When the officers boarded the vessel, they noticed the decks and hold were wet, despite the absence of rain or high seas. A search of the boat revealed a quantity of marihuana. In sustaining the search, the Federal court of appeals stated:

> "Taking into account the officers' experience it was reasonable for them to believe that an effort had been made to eliminate evidence of marijuana by hosing down the ship and also reasonable for them to believe that a thorough search of it would reveal marijuana." [45]

SECONDHAND INFORMATION

Identifiable Sources

It is probably safe to say that most crimes do not occur in the presence of law enforcement officers. For that reason, the information necessary to establish probable cause must frequently come to the officer from secondhand sources. Typical is information received from victims or witnesses[46] or that which is transmitted to the officer by radio.[47]

In addition, information possessed by fellow officers may be attributed to the officer making an arrest or conducting a search under the "collective knowledge" rule. An example is *United States* v. *Hawkins,*[48] in which an officer using binoculars observed Hawkins apparently engaged in peddling marihuana. After one transaction, the officer observed Hawkins carry the money obtained to the trunk of his car. Information concerning the transaction was radioed to another officer, who arrived on the scene and placed Hawkins under arrest. The arresting officer removed marihuana, money, and the keys to the car from Hawkins and then searched the car, where additional evidence was found. Hawkins challenged the search of his car, contending that the supervising officer who ordered the search lacked probable cause. The Federal court of appeals rejected the argument and concluded that probable cause existed. In a footnote to the opinion, the court explained:

> ". . . probable cause may emanate from the collective knowledge of the police, though the officer who performs the act of arresting or searching may be less informed." [49]

Another illustration may be helpful. In *Wood* v. *Crouse,*[50] a county sheriff arrested the occupants of an automobile based on a report that an occupant of a vehicle of precisely the same description had attempted to pass a stolen check. At the time of the arrest, a stolen check was found in the shirt pocket of one of the individuals. The occupants were removed to jail and the vehicle left parked by the highway.

At the sheriff's request, a highway patrolman took the keys, drove the vehicle to the sheriff's office, and searched it, locating 93 additional stolen checks. At the time of the search, the patrolman was aware of a report that some checks had been stolen and of an attempt to pass such checks. He was not present when the arrests were made and was not aware that a stolen check had been discovered on one of the vehicle's occupants.

Nevertheless, the Federal appellate court upheld the search based on probable cause and concluded:

> "In determining whether probable cause existed we must evaluate the collective information of all the officers." [51]

Unidentified Sources—Informants

When the source of information can be clearly identifed, a reviewing magistrate can readily evaluate the information presented in determining whether there is probable cause. Otherwise, it may be impossible to ascertain how credible the source may be or whether the information itself is reliable.

". . . information possessed by fellow officers may be attributed to the officer making an arrest or conducting a search under the 'collective knowledge' rule."

Nevertheless, the necessity for using confidential sources to establish probable cause has long been recognized by the courts. Special rules have been devised to accommodate the competing interests of law enforcement on the one hand, and some assurance that information used to establish probable cause to arrest or search is reasonably trustworthy on the other.

In *Aguilar* v. *Texas,*[52] the Supreme Court established a two-pronged test requiring that a reviewing magistrate be advised of: (1) The underlying circumstances from which the confidential informant concluded the facts supplied were true (i.e., how did the informant acquire the information); and (2) the reason for believing the source. If the confidential informant's tip is to be the sole basis for the probable cause, both prongs of the test must be met. Otherwise, the information must be corroborated by other evidence.

This standard, which governs the issuance of a search warrant, is also applicable when an officer is making a judgment of probable cause to support a warrantless search.

As the following cases demonstrate, when probable cause to search a vehicle is dependent upon an informant's tip, there is usually other evidence to corroborate.

In *Arkansas* v. *Sanders,*[53] a case in which the Supreme Court suppressed the fruits of a warrantless search of a suitcase found in an automobile, the Court nevertheless found that there was probable cause established by an informant's tip and the officers' corroborating observations. The Court said:

> "A previously reliable informant had provided a detailed account of (Sanders') expected arrival at the Little Rock Airport, which account proved to be accurate in every detail, including the color of the suitcase. . . . Having probable cause to believe that contraband was being driven away in a taxi, the police were justified in stopping the vehicle, searching it on the spot, and seizing the suitcase. . . ." [54]

Another illustrative case is *United States* v. *Nocar.*[55] Federal narcotics officers received telephone information from an informant who had previously supplied reliable information that two men and a woman, driving a blue Toyota automobile with Texas license plates, were in Chicago attempting to locate buyers for narcotics. The informant's information included a description of the general area where the three were staying at a motel. The vehicle was located by the officers at a motel in the area indicated by the informant. They confirmed through observation that two men and a woman were occupying the room to which the vehicle occupants were registered.

Through other investigation, the officers learned that the individual to whom the Toyota was registered had a daughter who matched the description of the female in the motel room and who was under indictment in Texas, and that the vehicle had recently been in Mexico. Furthermore, during the period of surveillance, the occupants of the motel were visited by an individual known to the officers as a dealer in marihuana.

The following day, the officers followed the three individuals to another location and observed what appeared to be a narcotics transaction. One person was observed removing some white bags from the trunk of the Toyota, at which point the officers moved in, searched the Toyota, and arrested the three occupants upon finding marihuana in the trunk. The probable cause for the search was challenged by the defendants on the ground that the informant's tip did not indicate the basis for the assertion that the persons he mentioned were attempting to sell narcotics (i.e., the first prong of the *Aguilar* test). The court rejected the argument, holding that the informant was credible because he had supplied reliable information in the past, and furthermore, the additional investigation conducted by the officers provided sufficient corroboration.[56]

The foregoing cases illustrate the manner in which the probable cause standard has been applied by the courts to warrantless vehicle searches. They emphasize the necessity of facts and circumstances to establish probable cause and demonstrate the importance of an officer being capable of articulating those facts and circumstances upon which he relied.

They also confirm an important point made by the Supreme Court several years ago concerning the probable cause standard:

> "The long-prevailing standards seek to safeguard citizens from rash and unreasonable interferences with privacy and from unfounded charges of crime. They also seek to give fair leeway for enforcing the law in the community's protection. Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability. . . . Requiring more would unduly hamper law enforcement. To allow less would be to leave law-abiding citizens at the mercy of the officers' whim or caprice." [57]

Once an officer has concluded that probable cause exists to believe that a conveyance contains evidence or contraband, the first requirement of the vehicle exception is met. However, the Supreme Court has cautioned:

> "Neither *Carroll* . . . nor other cases in this Court require or suggest that in every conceivable circumstance the search of an auto even with probable cause may be made without the extra protection for privacy that a warrant affords. . . ." [58]

Part II of this article will discuss the circumstances which, *coupled with probable cause,* invoke the vehicle exception and justify a warrantless search.

FBI

(Continued next month)

Footnotes

[1] The fourth amendment reads as follows: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."
[2] *Katz* v. *United States,* 389 U.S. 347 (1967).
[3] *United States* v. *Jeffers,* 342 U.S. 48, 51 (1951).
[4] 267 U.S. 132.
[5] *Id.* at 153.
[6] *Id.* at 154 and 155.
[7] *Id.* at 149.
[8] *Id.* at 153.
[9] *Supra* note 4, at 149.
[10] *United States* v. *Lee,* 274 U.S. 559 (1927); *United States* v. *Hilton,* 619 F.2d 127 (1st Cir. 1980), *cert. denied,* 101 S.Ct. 243 (1981); *United States* v. *Laughman,* 618 F.2d 1067 (4th Cir. 1980), *cert. denied,* 447 U.S. 925 (1980); *United States* v. *Zurkosky,* 614 F.2d 779 (1st Cir. 1979), *cert. denied,* 446 U.S. 967 (1980); *United States* v. *Weinrich,* 586 F.2d 481 (5th Cir. 1978), *cert. denied,* 441 U.S. 927 (1979); *United States* v. *Hickman,* 523 F.2d 323 (9th Cir. 1975).
[11] *United States* v. *Montgomery,* 620 F.2d 753 (10th Cir. 1980); *United States* v. *Good,* 603 F.2d 122 (10th Cir. 1979); *United States* v. *Brennan,* 538 F.2d 711 (5th Cir. 1976), *cert. denied,* 429 U.S. 1092 (1976).
[12] *United States* v. *Rumpl,* 576 F.2d 818 (10th Cir. 1978), *cert. denied,* 439 U.S. 893 (1979).
[13] *United States* v. *Miller,* 460 F.2d 582 (10th Cir. 1972).
[14] *United States* v. *Forrest,* 620 F.2d 446 (5th Cir. 1980); *United States* v. *Bozado,* 473 F.2d 389 (8th Cir. 1975).
[15] *United States* v. *Gulledge,* 469 F.2d 713 (5th Cir. 1973).
[16] *United States* v. *Robinson,* 414 U.S. 218, 235 (1973).
[17] *Id.*
[18] *Chimel* v. *California,* 395 U.S. 752 (1969).
[19] *New York* v. *Belton,* 29 CrL 3124 (1981).
[20] *Id.*
[21] *Carroll, supra* note 4, at 158–159; see also, *Husty* v. *United States,* 282 U.S. 694, 699 (1931).
[22] *Id. Carroll,* at 159.
[23] *Arkansas* v. *Sanders,* 442 U.S. 753 (1979); *Robbins* v. *California,* 29 CrL 3115 (1981).
[24] *Id. Robbins.*
[25] *Cady* v. *Dombrowski,* 413 U.S. 433, 440 (1973).
[26] *Brinegar* v. *United States,* 338 U.S. 160 (1949); *Scher* v. *United States,* 305 U.S. 251 (1938); *Husty, supra* note 21; *United States* v. *Lee,* 274 U.S. 559 (1927).
[27] *Wolf* v. *Colorado,* 367 U.S. 643 (1949).
[28] *Mapp* v. *Ohio,* 367 U.S. 643 (1961).
[29] E.g., *Steagald* v. *United States,* 68 L.Ed. 2d 38 (1981); *Mincey* v. *Arizona,* 437 U.S. 385 (1978); *Michigan* v. *Tyler,* 436 U.S. 499 (1978); *Marshall* v. *Barlow's Inc.,* 436 U.S. 307 (1978); *Katz, supra* note 2.
[30] E.g., *Robbins, supra* note 23; *Colorado* v. *Bannister,* 66 L.Ed.2d 1 (1980); *Sanders, supra* note 23; *United States* v. *Martinez-Fuerte,* 428 U.S. 543 (1976); *South Dakota* v. *Opperman,* 428 U.S. 367 (1976); *Texas* v. *White,* 423 U.S. 67 (1975); *United States* v. *Ortiz,* 422 U.S. 891 (1975); *Cardwell* v. *Lewis,* 417 U.S. 583 (1974); *Cady, supra* note 25; *Almeida-Sanchez* v. *United States,* 413 U.S. 266 (1973); *Coolidge* v. *New Hampshire,* 403 U.S. 443 (1971); *Chambers* v. *Maroney,* 399 U.S. 42 (1970).
[31] *Id. Chambers.*
[32] *Supra* note 4, at 162.
[33] *Supra* note 26.
[34] *Id.*
[35] 615 F.2d 1279 (10th Cir. 1979); see also, *Orricer* v. *Erickson,* 471 F.2d 1204 (8th Cir. 1973).
[36] *Id. Matthews,* at 1287.
[37] 437 F.2d 312 (4th Cir. 1971).
[38] *Id.* at 314.
[39] *Id.*
[40] 390 U.S. 234 (1968).
[41] 506 F.2d 674 (8th Cir. 1974); see also, *United States* v. *Milhollan,* 599 F.2d 518 (3d Cir. 1979); *United States ex rel. La Belle* v. *La Vallee,* 517 F.2d 750 (2d Cir. 1975).
[42] 576 F.2d 818 (10th Cir. 1978), *cert. denied,* 439 U.S. 864 (1979).
[43] *Id.* at 823; see also, *United States* v. *Ballard,* 600 F.2d 1115 (5th Cir. 1979); *United States* v. *Sigel,* 500 F.2d 1118 (10th Cir. 1974); *United States* v. *Cohn,* 472 F.2d 290 (9th Cir. 1973).
[44] *Supra* note 10.
[45] *Id.* at 790; see also, *United States* v. *Darrow,* 499 F.2d 64 (6th Cir. 1974).
[46] See, e.g., *United States ex rel. Stambridge* v. *Zelker,* 514 F.2d 45 (2d Cir. 1975); *Johnson* v. *Wright,* 509 F.2d 828 (5th Cir. 1975).
[47] See, e.g., *United States* v. *Kemper,* 503 F.2d 327 (6th Cir. 1974); *McNeary* v. *Stone,* 428 F.2d 804 (9th Cir. 1973).
[48] 595 F.2d 751 (D.C. Cir. 1978), *cert. denied,* 441 U.S. 910 (1979).
[49] *Katz, supra* note 2, at 752–753; see also, *United States* v. *Sink,* 586 F.2d 1041 (5th Cir. 1978), *cert. denied,* 443 U.S. 912 (1979).
[50] 436 F.2d 1077 (10th Cir. 1971).
[51] *Id.* at 1078.
[52] 378 U.S. 108 (1964).
[53] *Supra* note 23.
[54] *Id.* at 761.
[55] 497 F.2d 719 (7th Cir. 1974).
[56] See also, *Brewer* v. *Wolff,* 529 F.2d 787 (8th Cir. 1976); *United States* v. *Gomez,* 529 F.2d 412 (5th Cir. 1976); *United States* v. *Anderson,* 500 F.2d 1311 (5th Cir. 1974).
[57] *Brinegar, supra* note 26, at 176.
[58] *Chambers, supra* note 30, at 51.

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