



SAFETY IN SEARCH & SEIZURE



Presented by

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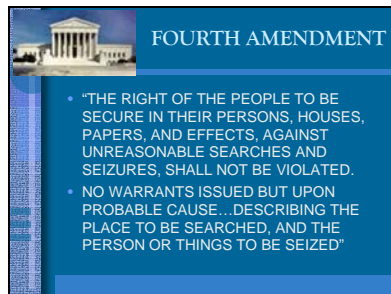
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HOW SEARCHES CONDUCTED

- SEARCH WARRANT
- INCIDENT TO ARREST
- PLAIN VIEW
- CONSENT
- EXIGENT CIRCUMSTANCES
- PROBABLE CAUSE
- IMPOUND-INVENTORY

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HOW SEARCHES CONDUCTED

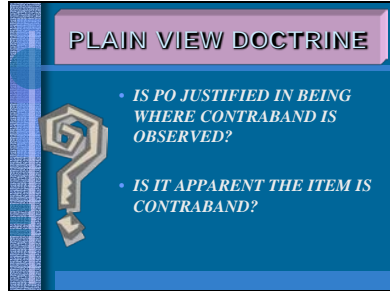
- ABANDONMENT
- BORDER SEARCH
- CONDITION OF SUPERVISION

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THEORY OF SEARCH CONDITIONS

- SPECIAL NEEDS
- COLLECT EVIDENCE FOR ENFORCEMENT PURPOSES
= REASONABLE BELIEF

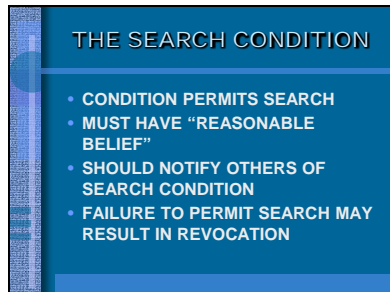
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PLAIN VIEW DOCTRINE

- IS PO JUSTIFIED IN BEING WHERE CONTRABAND IS OBSERVED?
- IS IT APPARENT THE ITEM IS CONTRABAND?

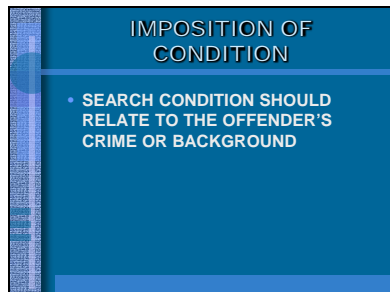
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THE SEARCH CONDITION

- CONDITION PERMITS SEARCH
- MUST HAVE "REASONABLE BELIEF"
- SHOULD NOTIFY OTHERS OF SEARCH CONDITION
- FAILURE TO PERMIT SEARCH MAY RESULT IN REVOCATION

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IMPOSITION OF CONDITION

- SEARCH CONDITION SHOULD RELATE TO THE OFFENDER'S CRIME OR BACKGROUND

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REASONABLE SUSPICION STANDARD

A reasonable suspicion is a reasonable belief based on specific and articulate facts together with rational inferences from those facts. It is more than a mere inchoate and unparticularized hunch.

Maryland v. Buie, 494 U.S. 325, 110 S. Ct. 1093, 1097-1098, 108 L.Ed. 2d at 576, (1990).

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REASONABLE SUSPICION STANDARD

- A BELIEF BASED ON SPECIFIC AND ARTICULATE FACTS-
- MORE THAN MERE HUNCH

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TOTALITY of CIRCUMSTANCES


- DEFENDANT'S BEHAVIOR
- INFORMATION FROM OUTSIDE AGENCY



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OUTSIDE INFORMATION

- ANONYMOUS TIP-CORROBARATED
- PROBATION SEARCH BY POLICE
 - KNIGHTS RE: PROBATION
 - SAMSON RE: PAROLE



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REASONABLE SUSPICION STANDARD

- PREVENT ARBITRARY SEARCH & ABUSE
- SAFEGUARD OFFICER/OFFENDER RELATIONSHIP
- ALLOW OFFICER TO DETERMINE SCOPE OF SEARCH

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WRITTEN APPLICATION?

- OFFENDER NAME AND ADDRESS
- CONDITION OR CONSENT
- DESCRIPTION OF PLACE TO BE SEARCHED
- DESCRIPTION OF CONTRABAND OR EVIDENCE SOUGHT
- POTENTIAL DANGERS
- ASSISTANCE TO BE PROVIDED

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REPORTS & DOCUMENTATION

- **MOST AGENCIES REQUIRE-**
 - NARRATIVE REPORT OF SEARCH
 - RESULTS OF SEARCH

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CONDUCT OF SEARCHES

- **CONSIDER SAFETY PRECAUTIONS**
- **ASSISTANCE OF LAW ENFORCEMENT**
- **CONDUCT INITIAL SECURITY SWEEP**

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SCOPE OF THE SEARCH

- **REMEMBER- SEARCHES ARE TO BE CONDUCTED IN A REASONABLE MANNER AND AT A REASONABLE TIME**
- **NO MORE INTRUSIVE THAN IS NECESSARY**



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POs Sued Over Search

Two people filed suit against the county claiming they suffered injuries as a result of negligence by a county probation officer who served a warrant to apprehend a juvenile from a Cass Lake house. The suit claims the PO failed to replace a trap door in the floor of the house after finding the juvenile in the crawl space. As a result, the claimant states she suffered a fractured leg and internal injuries when she fell through the opening.

MN 3/08

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PROVIDE INVENTORY

- GIVE RECEIPT FOR ITEMS TAKEN
- RETURN IF NOT NEEDED OR RELEVANT

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CONSENT SEARCH

- CANNOT EXCEED SCOPE OF CONSENT
- SCOPE LIMITED BY –
 - REASONABLENESS
 - PROVISION OF CONSENT

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SEIZURE CONCERNS

- WHAT TYPE OF EVIDENCE SEIZED?
- HOW WILL EVIDENCE BE PACKAGED?
- WHO WILL MAINTAIN CHAIN OF CUSTODY
- SAFEGUARD CONTRABAND



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**SEARCH TECHNIQUES-
PRE-SEARCH PLANNING**

<ul style="list-style-type: none">• OFFENDER PHOTO & DESCRIPTION• CRIM. HISTORY- WEAPONS AND VIOLENCE.• MENTAL HEALTH• BASIS FOR SEARCH• CONTRABAND SOUGHT• ADDRESS & HAZARDS	<ul style="list-style-type: none">• THIRD PARTIES• LAW ENFORCEMENT• MAPS & DIRECTIONS• SKETCH OF INTERIOR• INFO. ON ASSOCIATES• VEHICLE DESCRIPT. & NUMBERS-THEIRS & ASSOC.
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PRE-SEARCH MEETING

- SEARCH LEADER
- METHOD OF ENTRY
- PERIMETER SECURITY
- EXITS
- WHO WILL CALL OFF SEARCH
- WHAT ARE ASSIGNMENTS AFTER ENTRY
- EVIDENCE TECHNICIAN
- CONTROL OF OFFENDER
- WHO HANDLES 3rd PARTIES



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SAFETY EQUIPMENT

- OC
- FIREARM
- BODY ARMOR
- BADGES
- GLOVES
- ID JACKETS



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SPECIAL EQUIPMENT

- EVIDENCE COLLECTION EQUIPMENT
- DRUG TESTING KITS
- FLASHLIGHTS
- MIRRORS
- EYE PROTECTION
- ENTRY TOOLS

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SPECIAL EQUIPMENT

- CAMERA
- EVIDENCE CONTAINERS
- DRUG TESTING EQUIPMENT
- FLASHLIGHTS

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SPECIAL EQUIPMENT

- FIRST-AID EQUIPMENT
- CELL PHONES
- POLICE BAND RADIOS




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REASONABLE TIMES=



DAYLIGHT HOURS=

6 AM TO 10 PM



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AVOID BEING STALKING HORSE

- CASE LAW HAS STATED YOU CAN USE LAW ENFORCEMENT INFO. BUT SHOULD INDEPENDENTLY CORROBORATE OR SHOW THAT SEARCH WAS INITIATED BY PO

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Knights & Samson

- Knights: The “stalking horse” theory may have suffered a fatal blow in the Knights case.
- The Court declined to consider the question of the officer’s motivation for conducting the search.

EXERCISE-List the advantages and disadvantages of police assistance.

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Search of Common Areas

- *United States v. Davis, 932 F.2d 752, 758 (9th Cir. 1991)*, the district court held that, to support the search, the officers needed only a “reasonable suspicion” to conclude that the probationer owned, controlled, or possessed an item within the probationer’s residence.

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Search of Common Areas

- In *Pamela J. Hensley v. State of Indiana* the Court ruled that unsubstantiated tips regarding a probationer did not provide reasonable suspicion to believe that a roommate was engaged in criminal activity and thus the seizure of items found in her separate bedroom, under her bed and in a her dresser drawer, violated her Fourth her Fourth Amendment right against unreasonable search and seizure.

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SCOPE OF THE SEARCH

- SCOPE DETERMINED BY ITEMS SOUGHT
- CAN ONLY LOOK IN AREAS WHERE ITEMS CAN BE HIDDEN
- IF OTHER CONTRABAND FOUND AREA CAN BE EXPANDED

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GAINING ENTRY

- WHAT IS YOUR AGENCY POLICY?

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THIRD PARTIES

- WHO WILL DEAL WITH THIRD PARTIES?
- HOW WILL YOU DEAL WITH THIRD PARTIES?
- WILL YOU DETAIN THIRD PARTIES?

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SAFE & EFFECTIVE SEARCH TECHNIQUES

- PRE-SEARCH SURVEILLANCE
 - GAIN INFO. ON DWELLING
 - TYPE OF CONSTRUCTION
 - TYPES OF LOCKS
 - ALARMS
 - EXTERIOR LIGHTING
 - WALLS, FENCES & GATES

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- ENTANGLEMENTS & DEBRIS
- DOGS
- HISTORY OF DOG ATTACKS
- LOOK OUTS-PEOPLE AND EQUIP.
- HAZARDOUS MATERIALS
- INTERIOR FLOOR PLAN
- HISTORY ON OTHERS AT SITE

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APPROACHING THE SITE

- CONDUCT PRE-SEARCH SURVEILLANCE
- VERIFY ADDRESS
- DO DRIVE-BY
- PARK W/ACCESS FOR RETREAT
- POSITION SEARCH TEAM
- DON'T SLAM DOORS
- USE AVAILABLE COVER TO APPROACH POSITION

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WARNING SIGNS/CHANGE APPROACH

- CROWDS OUTSIDE SITE
- LARGE NUMBER OF CARS
- SPECIFIC VEHICLES INDICATING PROBLEMS

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ADJUSTMENTS TO PLAN

- REQUESTING MORE PERSONNEL
- CALL OFF SEARCH/CHANGE LOCATION
- CHANGE APPROACH TACTICS

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ON-FOOT APPROACH

- LOOK FOR PROBLEMS-CAMERAS, WIRES, TRAPS
- LISTEN
- SMELL
- PROPER DOOR POSITIONING

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GAINING ENTRY

- LOOK FOR PROBLEMS-CAMERAS, WIRES, TRAPS
- LISTEN
- SMELL
- PROPER DOOR POSITIONING
- **ARE OTHERS SET**
- **KNOCK IN NORMAL MANNER**

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GAINING ENTRY

- **OBTAIN ENTRANCE**
- **HAVE ENTRY TEAM FOLLOW**
- **MEMBERS TAKE BEST TACTICAL POSITION**

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UPON ENTRY

- **CHECK FOR WEAPONS AND SIGNS OF DANGER**
- **CONSIDER REDUCING NOISE**
- **CONDUCT SECURITY SWEEP**

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United States v. McMilliani,
7th Cir. Decided May 22, 2015

- We agree that the protective sweep violated the Fourth Amendment, because the officers did not reasonably believe "that the area swept harbored an individual posing a danger to the officer or others." *Maryland v. Buie*, 494 U.S. 325, 327 (1990).

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Requirements

- (1) **Lawful entry:** Officers must have a legal right to enter
- (2) **Person on premises:** Officers must have reason to believe there is a person on the premises (other than the subj.) who is hiding or has otherwise not made himself known.
- (3) **Danger:** Officers must have reason to believe that the person poses a threat to them.

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Pointing a firearm at 3rd parties

- *United States v. Walker*, 924 F.2d 1, 4 (1st Cir. 1991), states that: an officer's "concern for his own safety is of paramount importance in assessing the appropriateness of the action taken."
- Furthermore, the court will look at the totality of the circumstances and assess "the reasonableness of the detaining officer or officers' actions in response to developing conditions."

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Pointing a firearm at 3rd parties

- In the Robinson case the 9th Circuit went on to state "The development of the law with respect to arrests and detentions now allows us to recognize as a general principle that pointing a gun to the head of an apparently unarmed suspect during an investigation can be a violation of the Fourth Amendment, especially where the individual poses no particular danger."

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UPON ENTRY

- CHECK FOR WEAPONS AND SIGNS OF DANGER
- CONSIDER REDUCING NOISE
- CONDUCT SECURITY SWEEP
- POST SENTRY BY LOCKED DOORS
- USE "QUICK PEEK"
- HAVE THEM COME TO YOU?

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Detaining 3rd Parties

- Who will do it?
- How will it be done?
- Where will it be done?
- What if they want to leave?

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CONDUCTING the SEARCH

- TEAM LEADER DIRECTS MEMBERS
- DIVIDE ROOM INTO QUADRANTS
- BE SYSTEMATIC & THOROUGH
- NOTIFY LEAD OF CONTRABAND
- PHOTOGRAPH EVIDENCE
- TAKE TO EVIDENCE TECHNICIAN
- BE SAFE!

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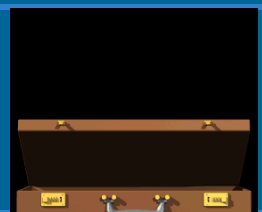
EVIDENCE TECHNICIAN

- RECEIVES ALL CONFISCATED ITEMS
- MAINTAINS AND LOGS EVIDENCE
 - DESCRIPTION
 - LOCATION
 - WHO FOUND IT
 - DATE



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HAVE EVIDENCE COLLECTION KIT



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BE MINDFUL OF SAFETY CONSIDERATIONS!

- USE GLOVES
- HANDLE WEAPONS AS IF LOADED
- AVOIDING PUTTING HANDS WHERE YOU CAN'T SEE
- BE CAREFUL OF SYRINGES
- BE AWARE OF STRANGE ODORS
- WEAR PROTECTIVE EYEWEAR

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SEARCH TACTICS

- RESIDENCE HIDING PLACES



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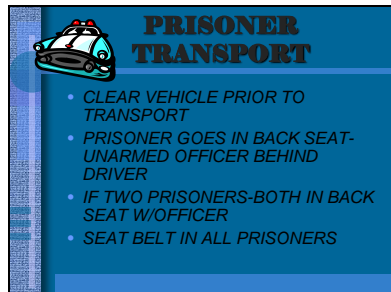
OFFENDER REACTIONS

- COMPLIANT 
- ESCAPE 
- ASSAULT 
- DESTROY EVIDENCE 

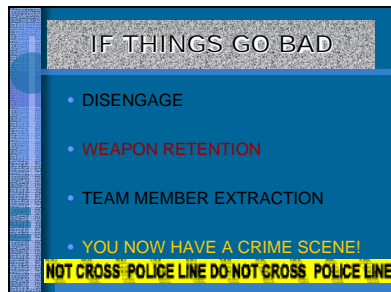
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PRESERVING THE SCENE

NOT CROSS POLICE LINE DO NOT CROSS POLICE LINE

- SECURE ALL WEAPONS
- SECURE THE SCENE
- NO ONE LEAVES
- CONTACT MEDICAL AID
- CONTACT POLICE
- CONTACT ADMINISTRATION
- YOUR RIGHTS

NOT CROSS POLICE LINE DO NOT CROSS POLICE LINE

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HAVE A PLAN FOR:

- WHO RESPONDS TO SCENE?
- WHO DEALS WITH L.E.?
- WHO ASSISTS OFFICERS & KEEPS AWAY PUBLIC?
- WHO CONTACTS FAMILY TO ADVISE OF STATUS?
- WHO TAKES FAMILY MEMBER TO HOSPITAL?
- WHO PUTS OFFICER(S) TO BED?

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THE DEBRIEFING


- REVIEW THE INITIAL PLAN
- HOW DID THE PLAN WORK?
- CHANGES THAT WERE MADE
- EVALUATE THE OFFICERS RESPECTIVE ROLES
- EVALUATE TACTICS



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Remember

"Under stress, in a crisis, you will instinctively revert to the way you have trained"



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Remember

"It's not the tools—it's the tactics"

"It's more than how—it's why and when"

