

# SEARCH AND SEIZURE

## Key Terms

Search Warrant:

Affidavit:

Search Incident to Arrest (SITA):

Protective Sweep:

Consent:

Plain View:

Stop and Frisk

## JUSTIFYING A SEARCH

Prove the search is REASONABLE:

1)

2)

\*A court will consider two things:

1. Did you have an expectation of some degree of privacy?
2. Was that expectation reasonable in our society's view?

# SEARCH AND SEIZURE

## When is a search legal?

There are 2 General Ways a Police Officer can conduct a Search:

A) With a Warrant: Police conduct a Search with a Warrant when they have **Probable Cause**

B) Without a Warrant: Police and government agents can perform a search without a warrant under **Four Conditions**.

1. **Hot Pursuit**:

2. **Incident to arrest**:

3. **Consent**:

4. **Open View**:

## EXCLUSIONARY RULE

What is the exclusionary rule?

Mapp v. Ohio:

Kerr v. California:

## OTHER ELEMENTS OF SEARCH AND SEIZURE PROTECTIONS

Neutral Magistrate:

Private Searches:

Probable Cause:

Search with Consent:

# SUPREME COURT SEARCH AND SEIZURE CASES

Mapp v. Ohio (1961) court extended the E.R. to state cases.

Weeks v. U.S. (1914) starts the E.R., but only used in Federal cases only.

Terry v. Ohio (1968) “stop and frisk” is legal when police have suspicion that a suspect has a weapon.

Coolidge v. New Hampshire (1971) judges issuing search warrants must be neutral and detached (fair and impartial)

Burdeau v. McDowell (1921) 4th Amend. Protection against unreasonable search and seizure by *government agents* not *private individuals*.

Silver Platter Doctrine: federal prosecutors could use evidence obtained by state agents through an unreasonable search if done without their participation; abolished in 1960.

Nathanson v. United States (1933) established probable cause as a necessary requirement for a search warrant.

Franks v. Delaware (1978) a warrant would be null and void if police lied to establish probable cause.

United States v. Matlock (1974) consent can be given by someone who has *shared ownership*.

Boyd v. U.S. (1886) 4th amend. applies to subpoenas as well as searches if they force a person to incriminate themselves.

## **Vocabulary:**

Admissible- acceptable or valid

Belligerent-hostile or aggressive

# **Mapp vs. Ohio 1961**

**Facts.** Three Cleveland police officers arrived at the Ms. Mapp's residence pursuant to information that a bombing suspect was hiding out there and that paraphernalia regarding the bombing was hidden there. The officers knocked and asked to enter, but Mapp refused to admit them without a search warrant after speaking with her attorney. The officers left and returned approximately three hours later with what purported to be a search warrant. When the Mapp failed to answer the door, the officers forcibly entered the residence. The Mapp's attorney arrived and was not permitted to see her or to enter the residence. The Mapp demanded to see the search warrant and when presented, she grabbed it and placed it in her shirt. Police struggled with her and eventually recovered the warrant. Mapp was then placed under arrest for being belligerent and taken to her bedroom on the second floor of the residence. The officers then conducted a widespread search of the residence wherein obscene materials were found in a trunk in the basement. Mapp was ultimately convicted of possessing these materials. The police did admit at the trial that their warrant was not a valid search warrant thus making the search illegal.

**Issue.** Whether evidence discovered during a search and seizure conducted in violation of the Fourth Amendment of the Constitution shall be admissible in a State court?

1. **Why did the officers originally go to Miss Mapp's residence? What was Mapp's reaction?**
2. **Why did the officers forcibly enter her home the second time they returned?**
3. **What was Mapp convicted of?**
4. **Why was the search found to be illegal?**
5. **Do you think evidence obtained from an illegal search should be admissible in a court of law even if it clearly shows the guilt of the accused? Explain.**