



# The Hackers Guide to Search and Arrest

by Steve Dunker J.D.

# I. When Can an Officer Legally “Stop” an individual?

A. Voluntary Stops

B. Investigative Stops

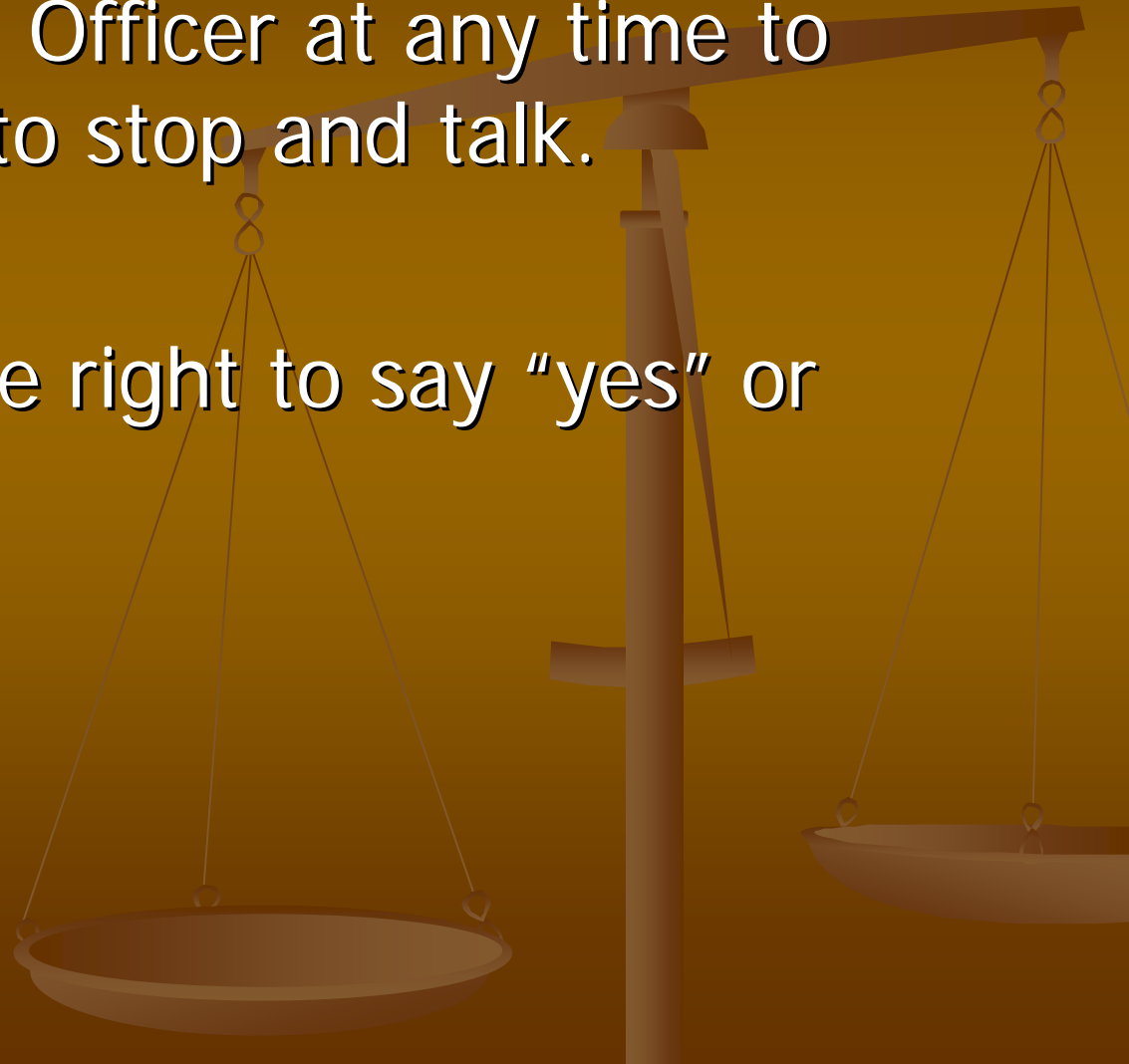
C. Administrative Stops

D. Road Blocks



# Voluntary Stops

- It is legal for an Officer at any time to “Ask” a person to stop and talk.
- A person has the right to say “yes” or “no”.



# Investigative Stops

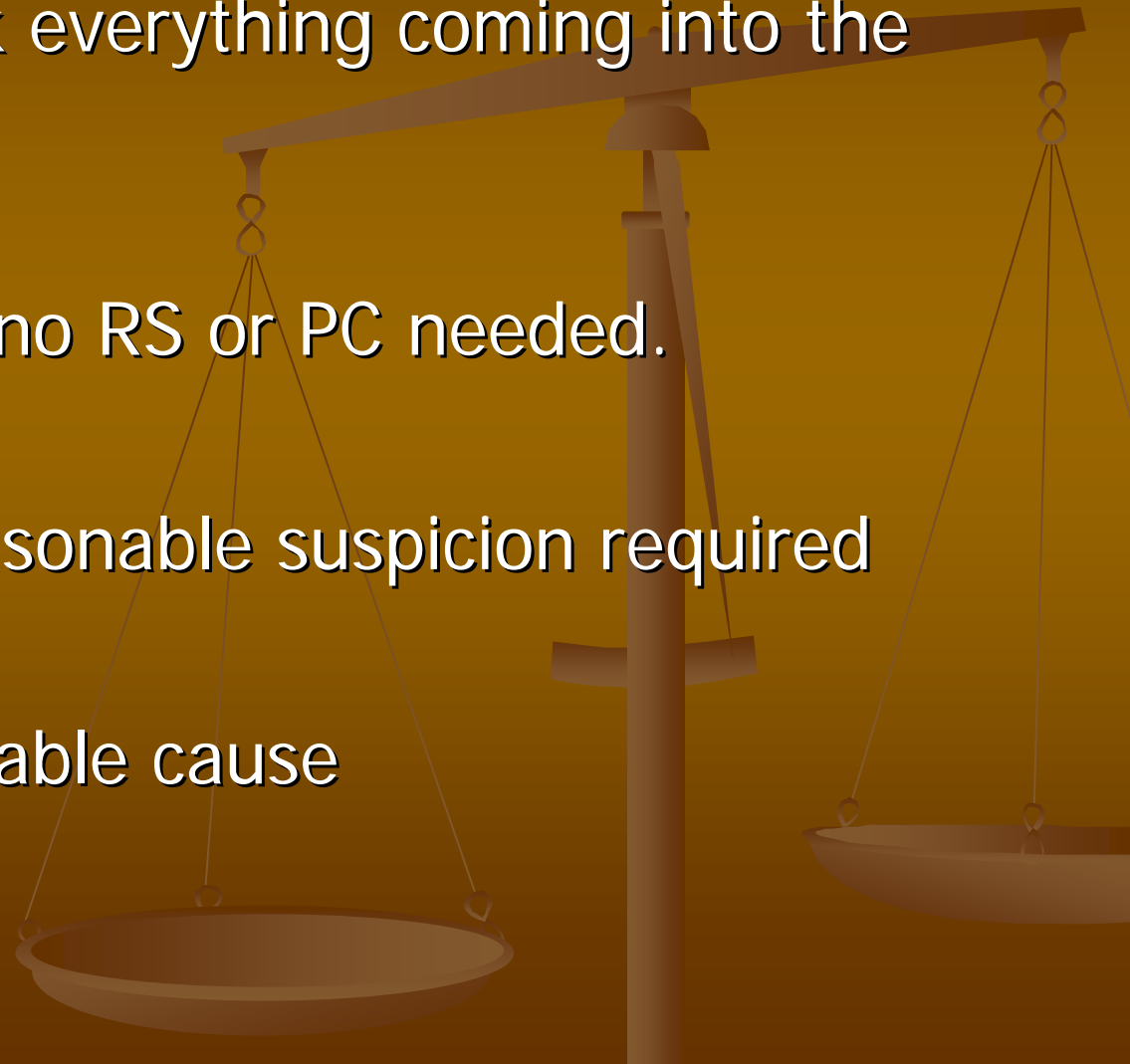
- Reasonable Suspicion required.



# Road Blocks

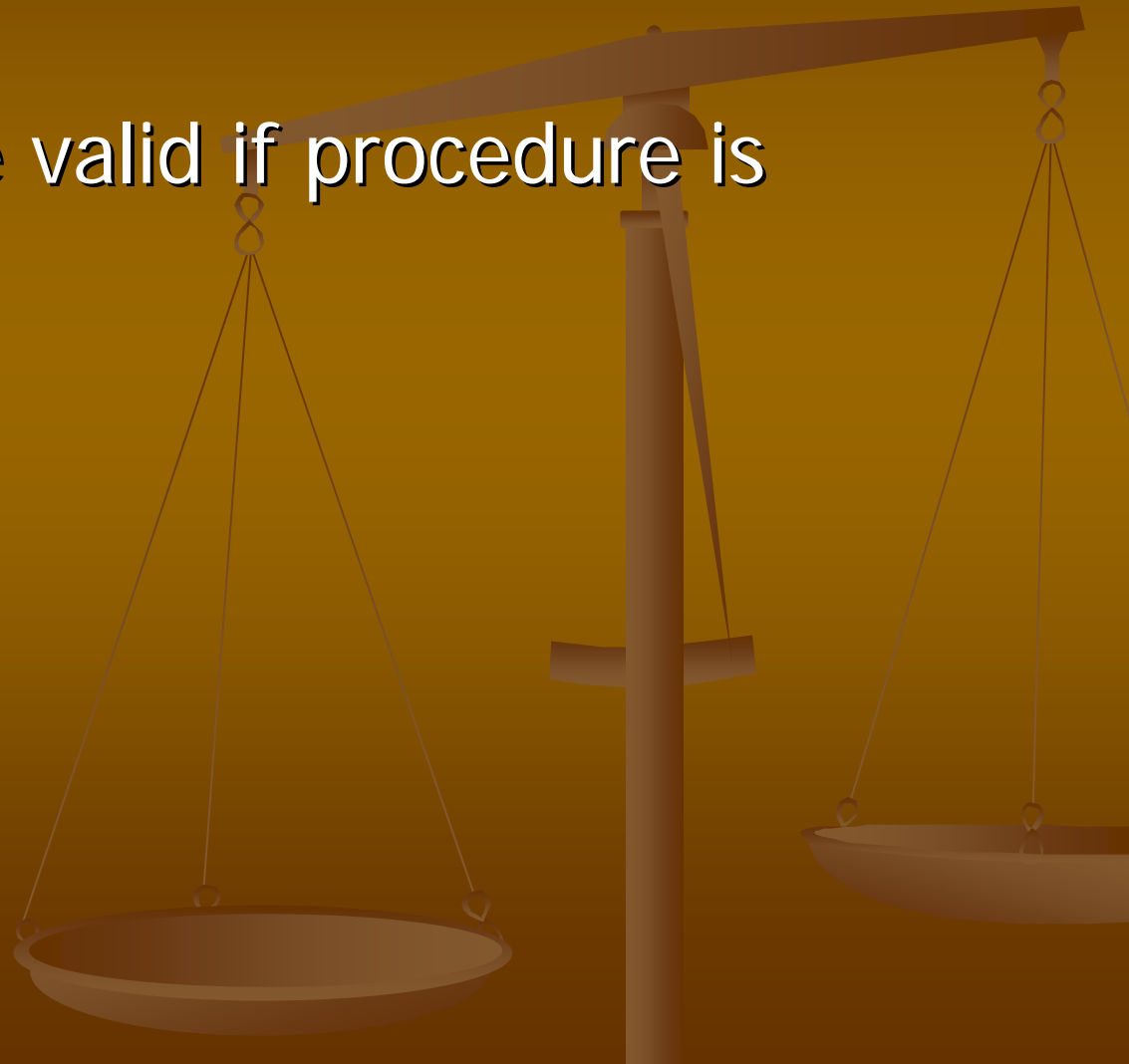
## Border Checkpoints

- Officers can check everything coming into the country.
- Routine searches no RS or PC needed.
- Strip Search: Reasonable suspicion required
- Body Cavity: Probable cause



# Drunk Driving Checkpoints

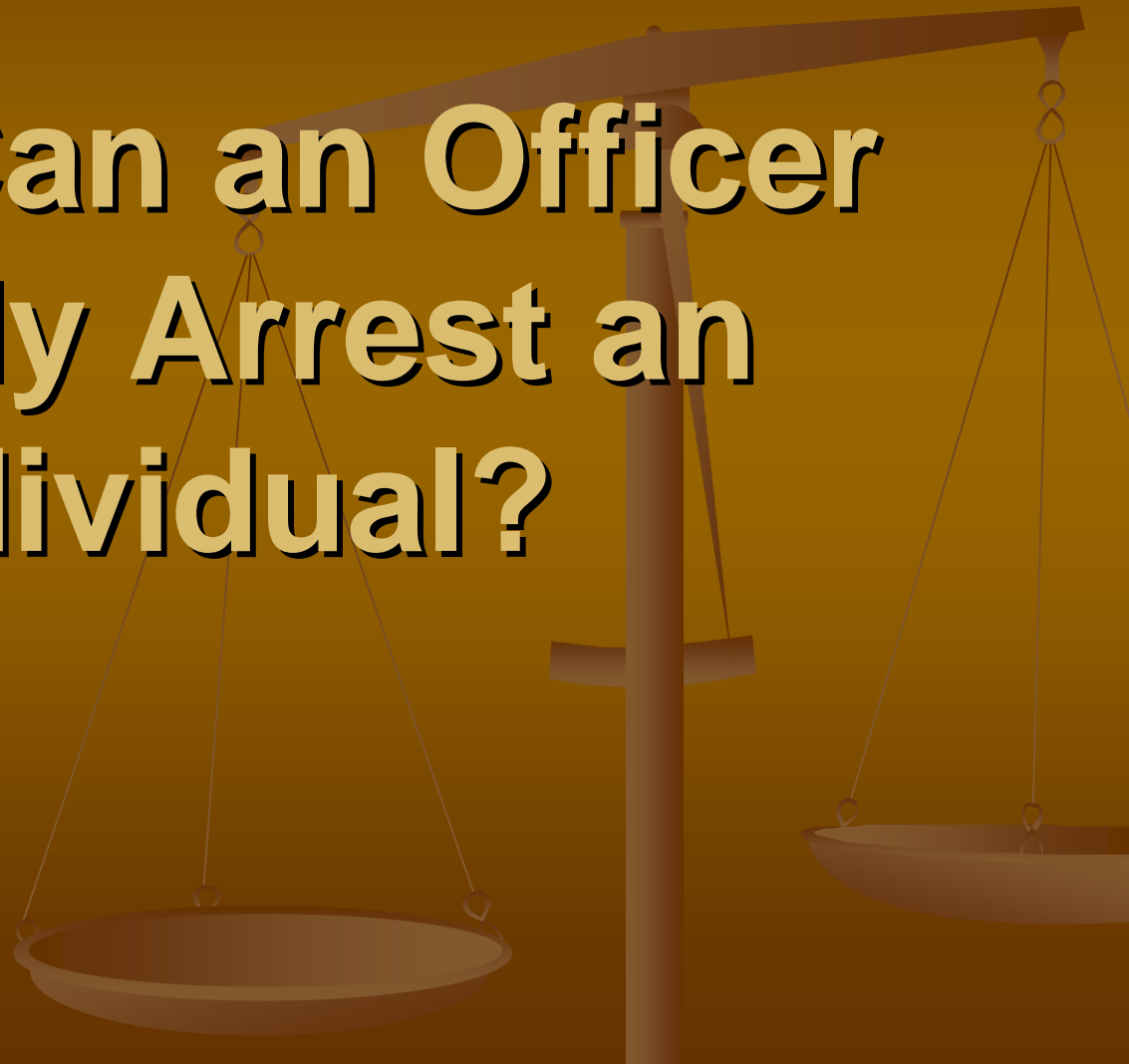
- Checkpoints are valid if procedure is followed.



# Other Roadblocks

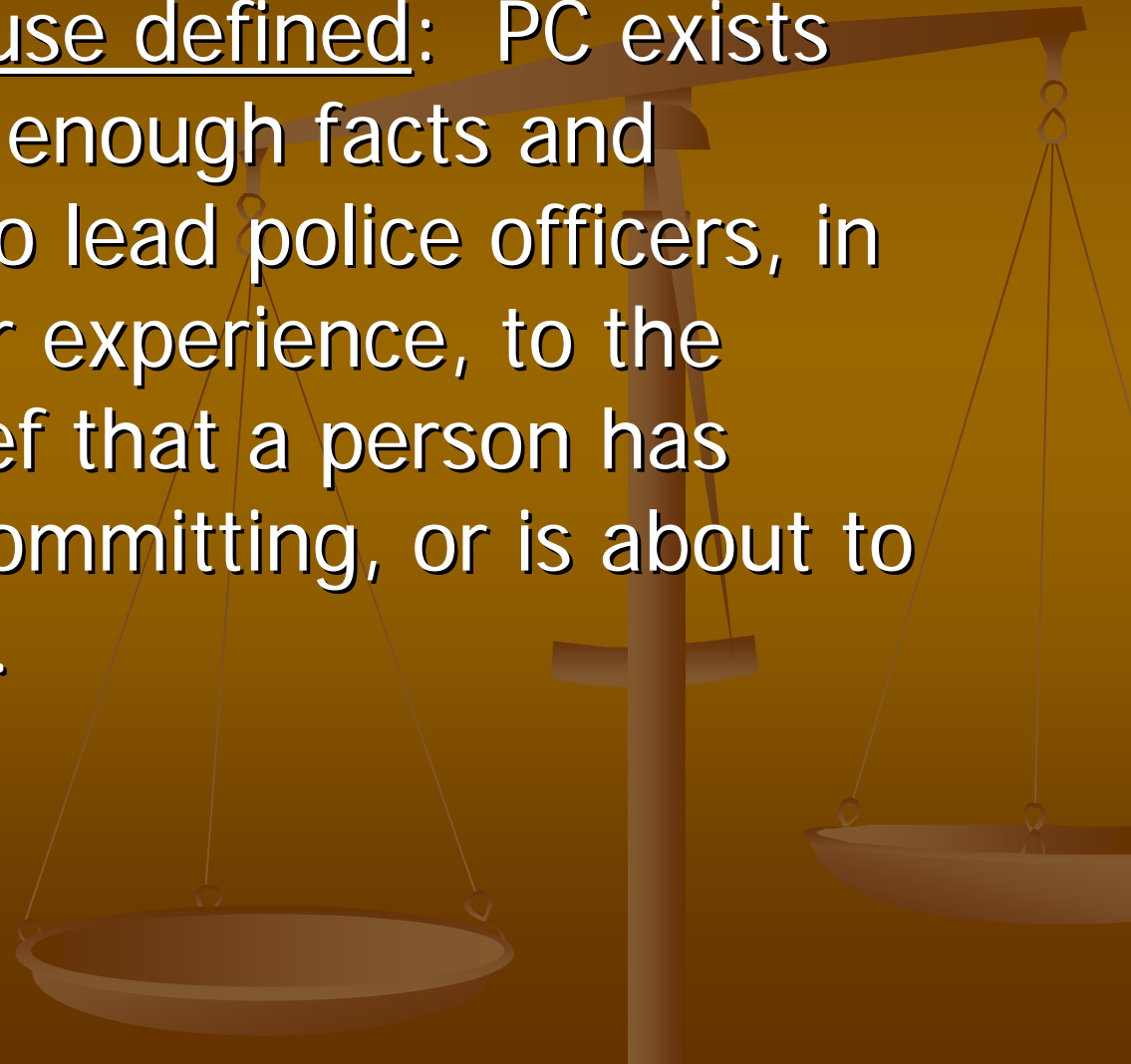
- Drivers license, registration, and Insurance Checkpoints: Valid
  - Fleeing felon Checkpoints: Valid
  - Crime Witness Checkpoints: Valid
  - Security Checkpoints: Valid
  - Weigh Stations for trucks: Valid
  - Game Warden: Valid
  - Agricultural Inspection: Valid
- 

**When Can an Officer  
Legally Arrest an  
individual?**



# *All Arrests must be based on Probable Cause.*

- Probable Cause defined: PC exists when there are enough facts and circumstances to lead police officers, in the light of their experience, to the reasonable belief that a person has committed, is committing, or is about to commit a crime.



# *Arrests in Public Places*

- No warrant required.



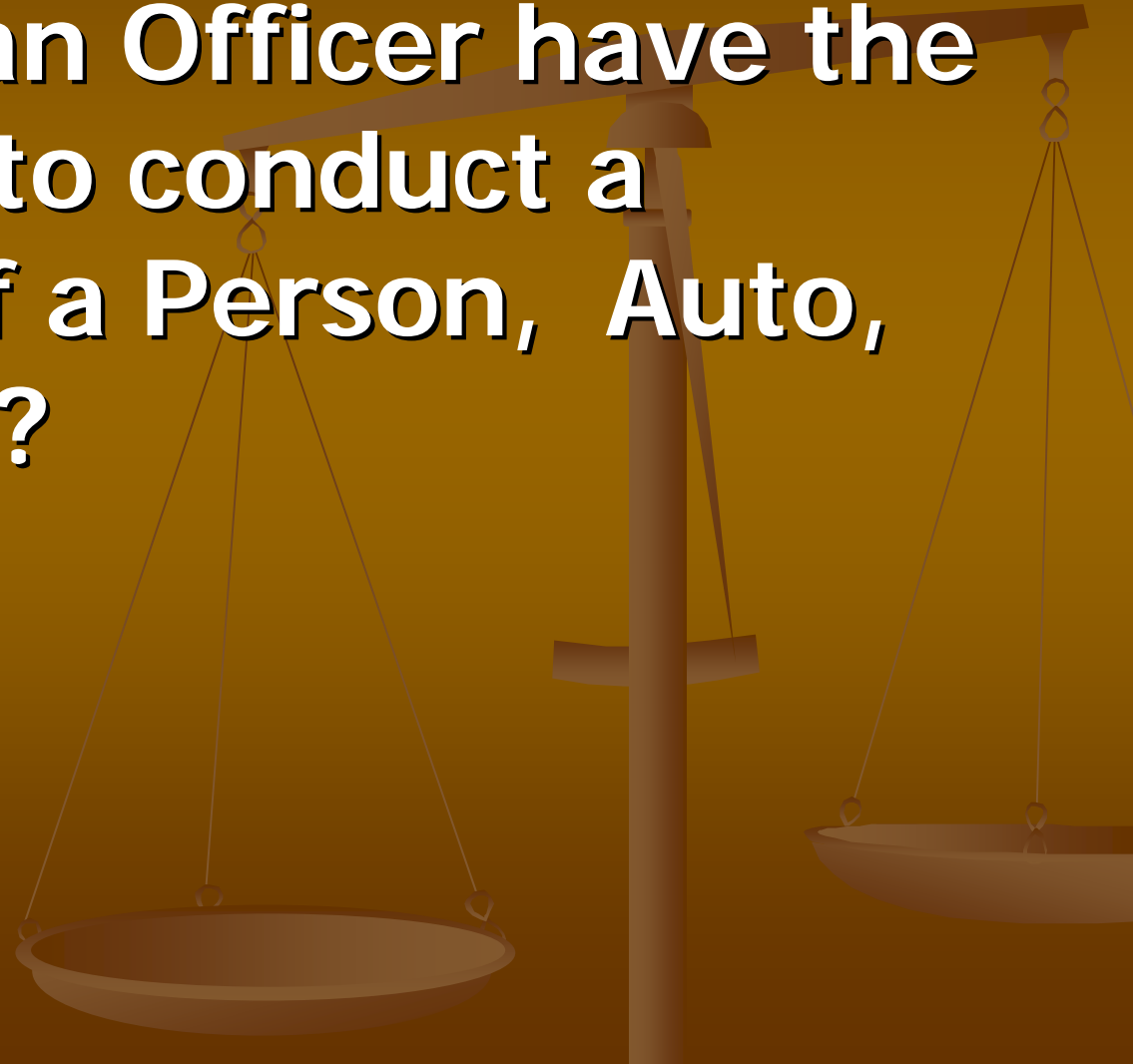
# *Arrests in a person's own home.*

- Arrest requires a warrant or emergency circumstances.



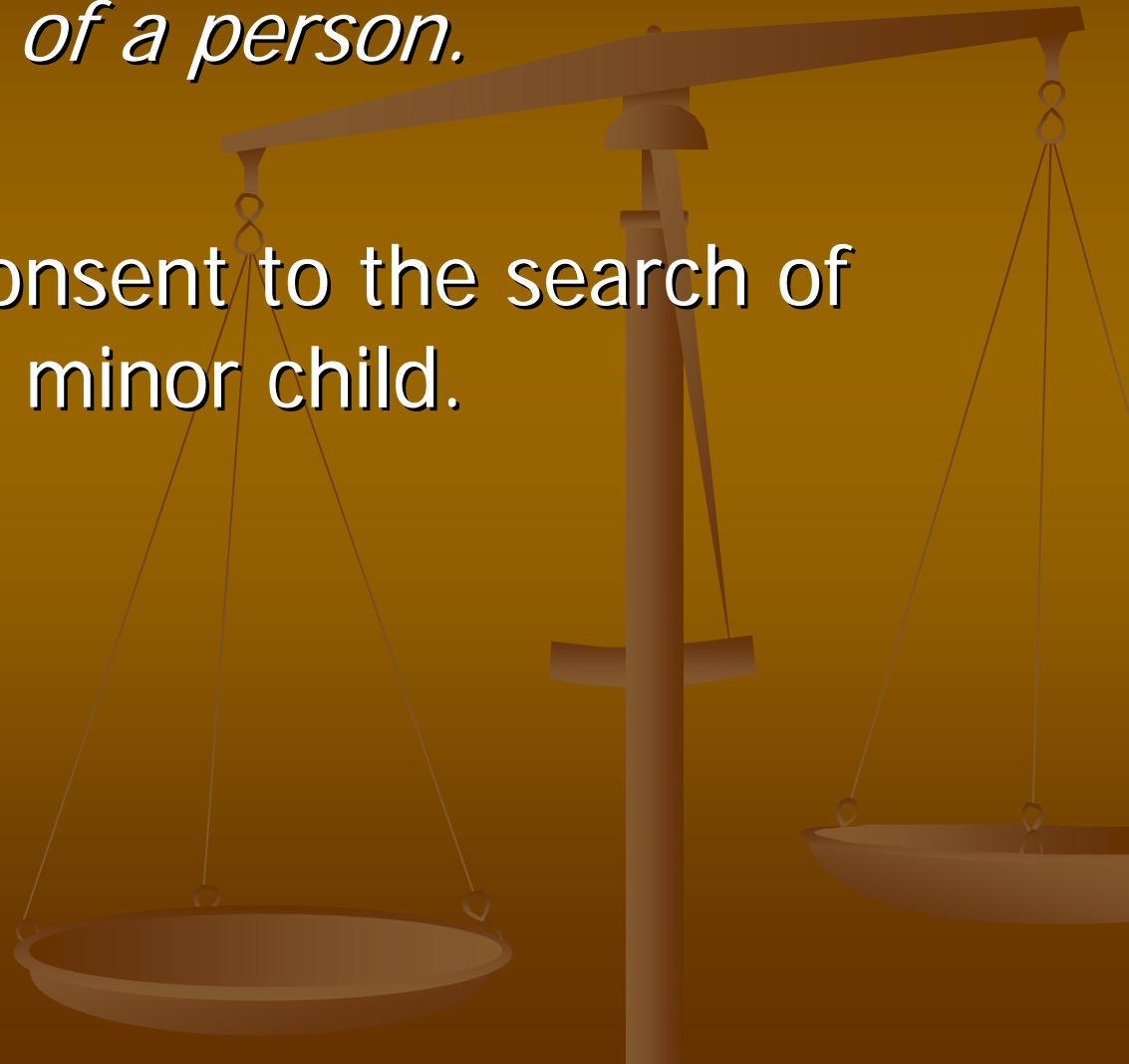
# Searches

**When does an Officer have the legal right to conduct a "Search" of a Person, Auto, or Building?**



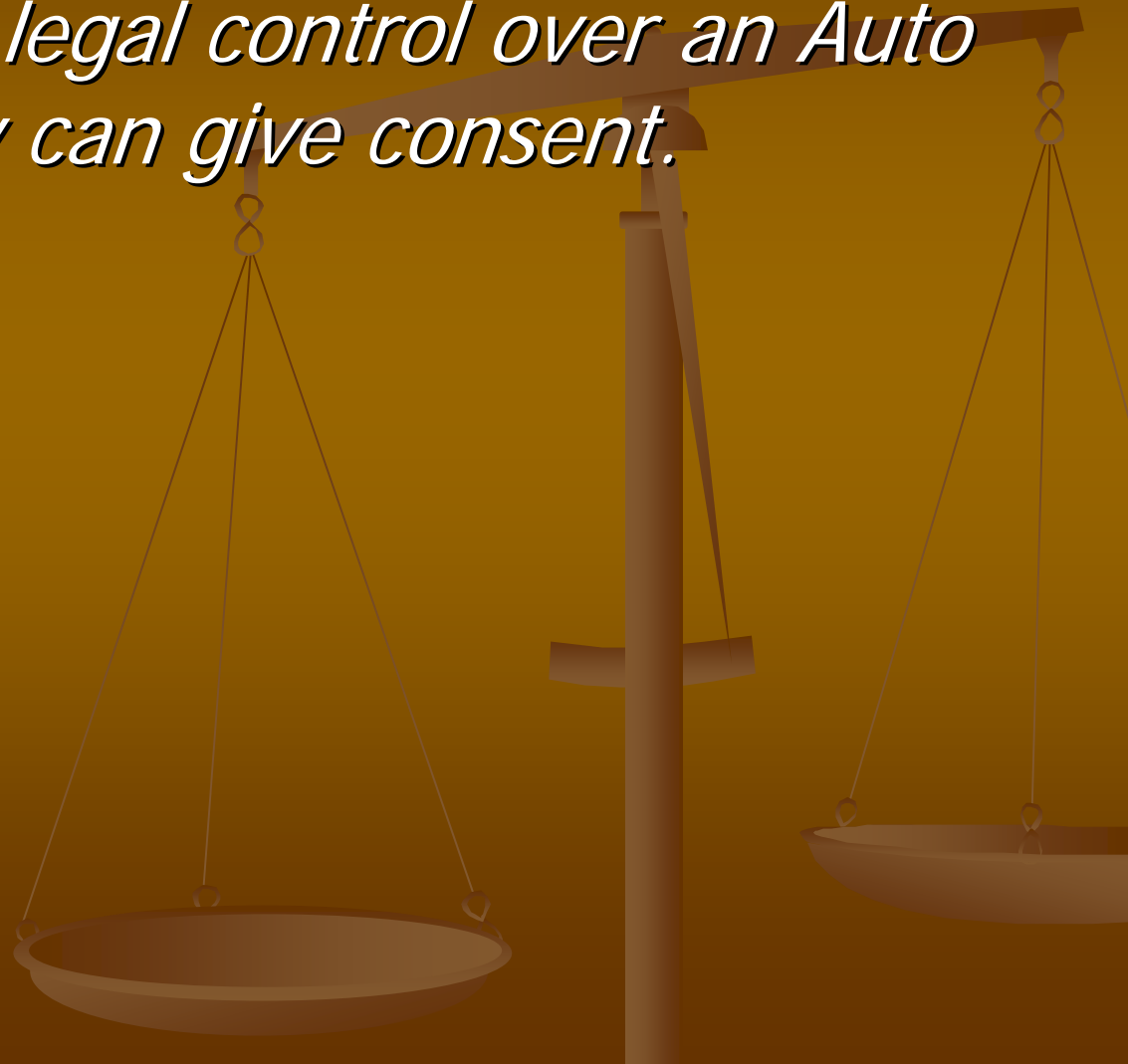
# “Consent” Search

- *Consent Search of a person.*
- Can only give consent to the search of yourself or your minor child.

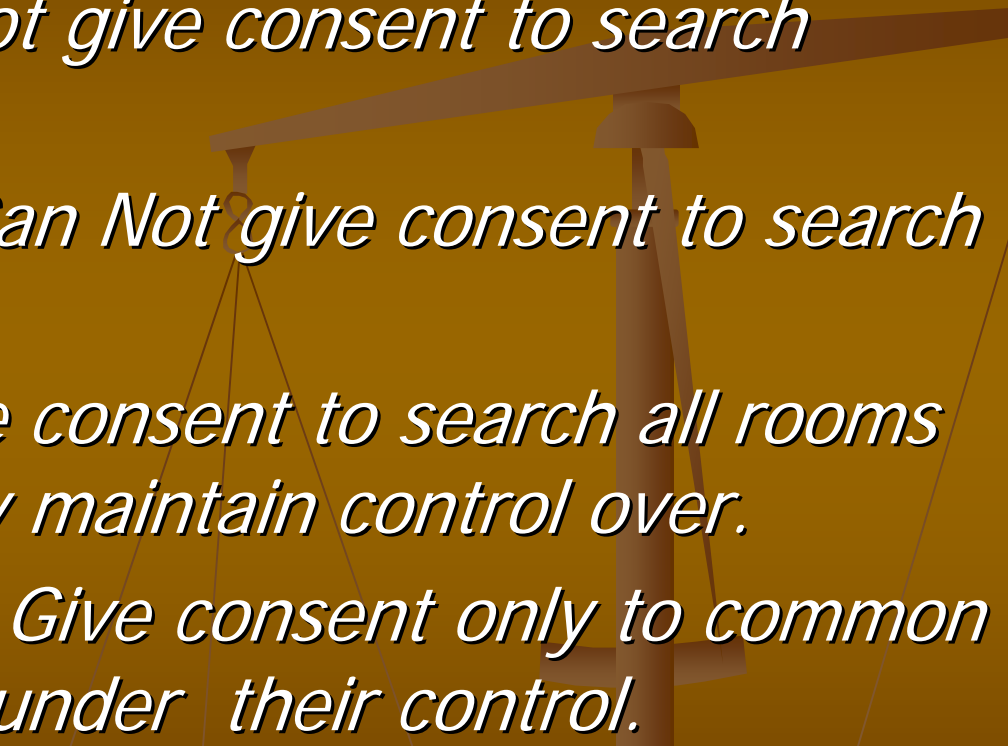


# *Consent to Search Property*

- *If a person has legal control over an Auto or Building they can give consent.*

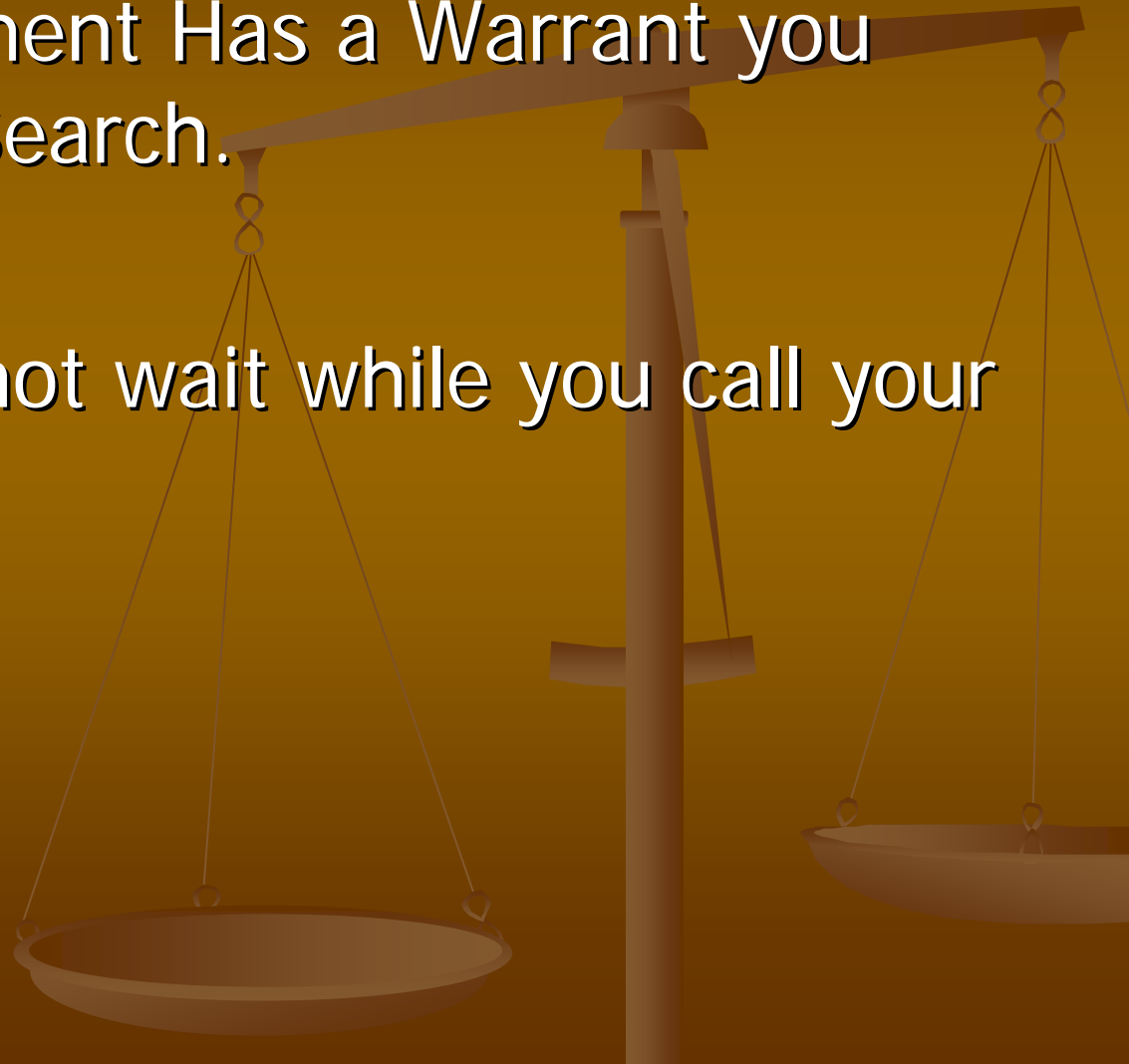


# Who Can Give Consent?

- Landlord: *Can Not give consent to search tenant's property.*
  - Hotel Manager: *Can Not give consent to search tenant's room.*
  - Parents: *Can Give consent to search all rooms of their home they maintain control over.*
  - Roommates: *Can Give consent only to common areas and spaces under their control.*
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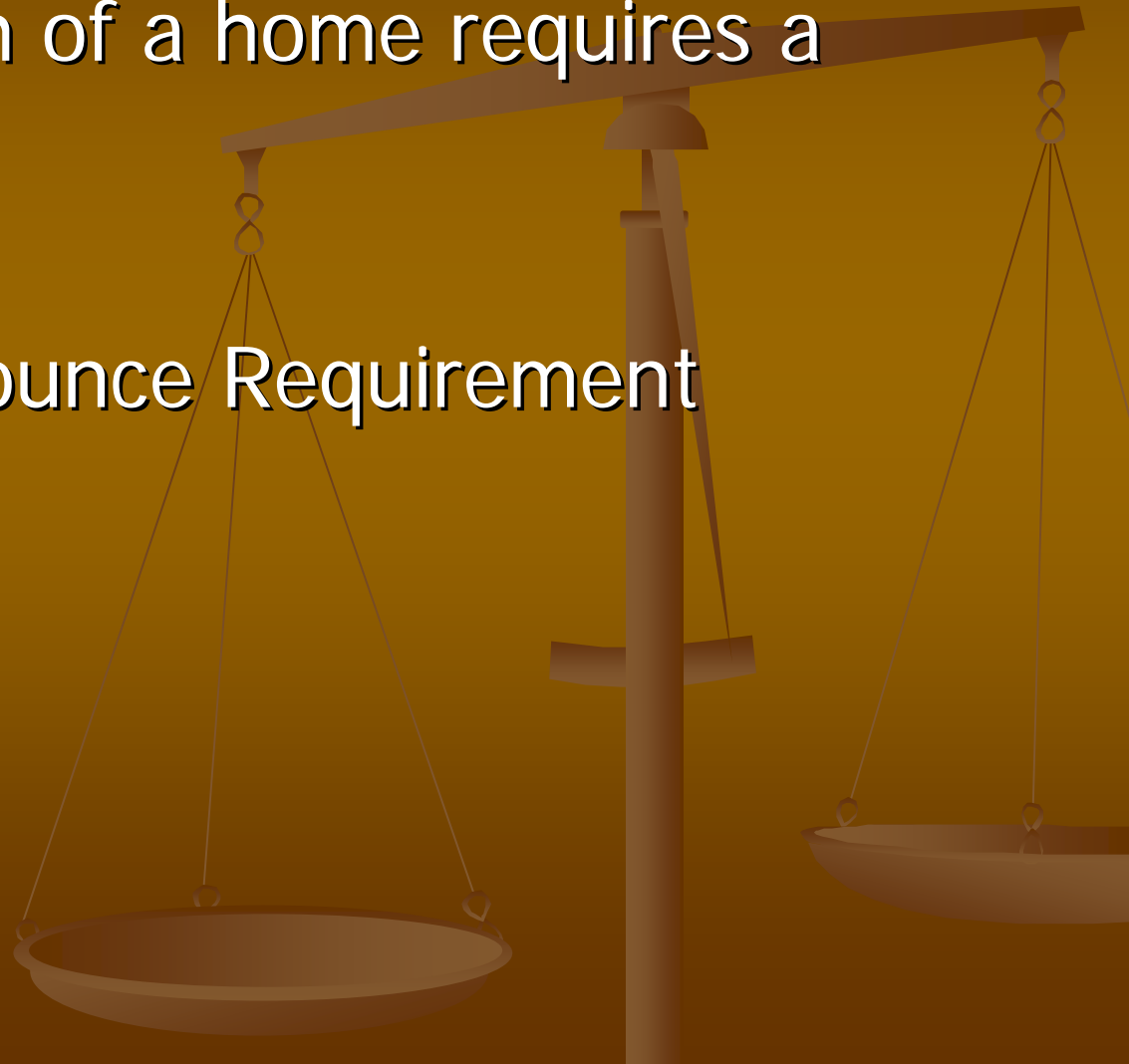
# Warrants

- If Law Enforcement Has a Warrant you must let them Search.
- The Police will not wait while you call your lawyer.



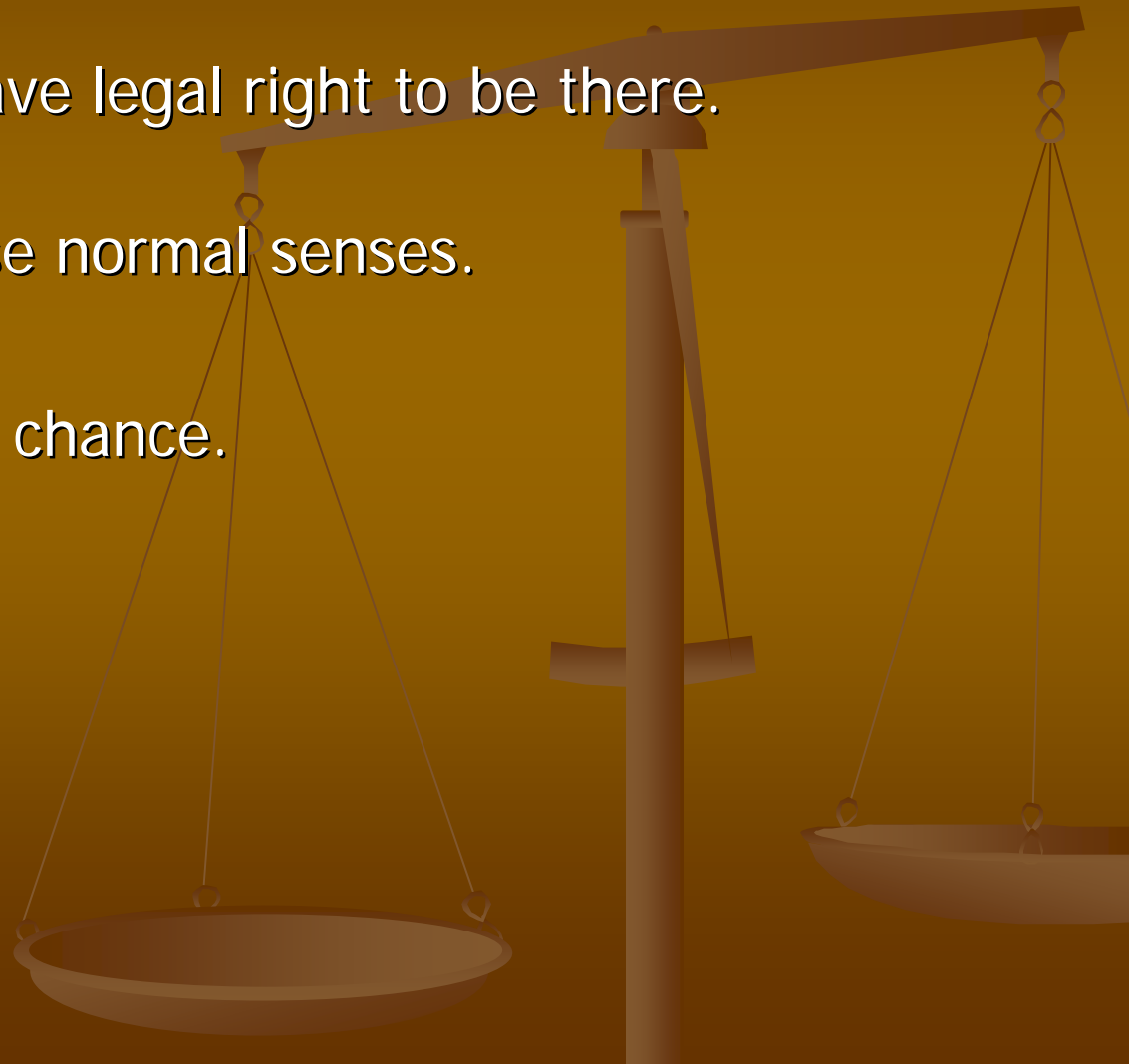
# *Warrant for Home*

- Usually a search of a home requires a Warrant
- Knock and Announce Requirement



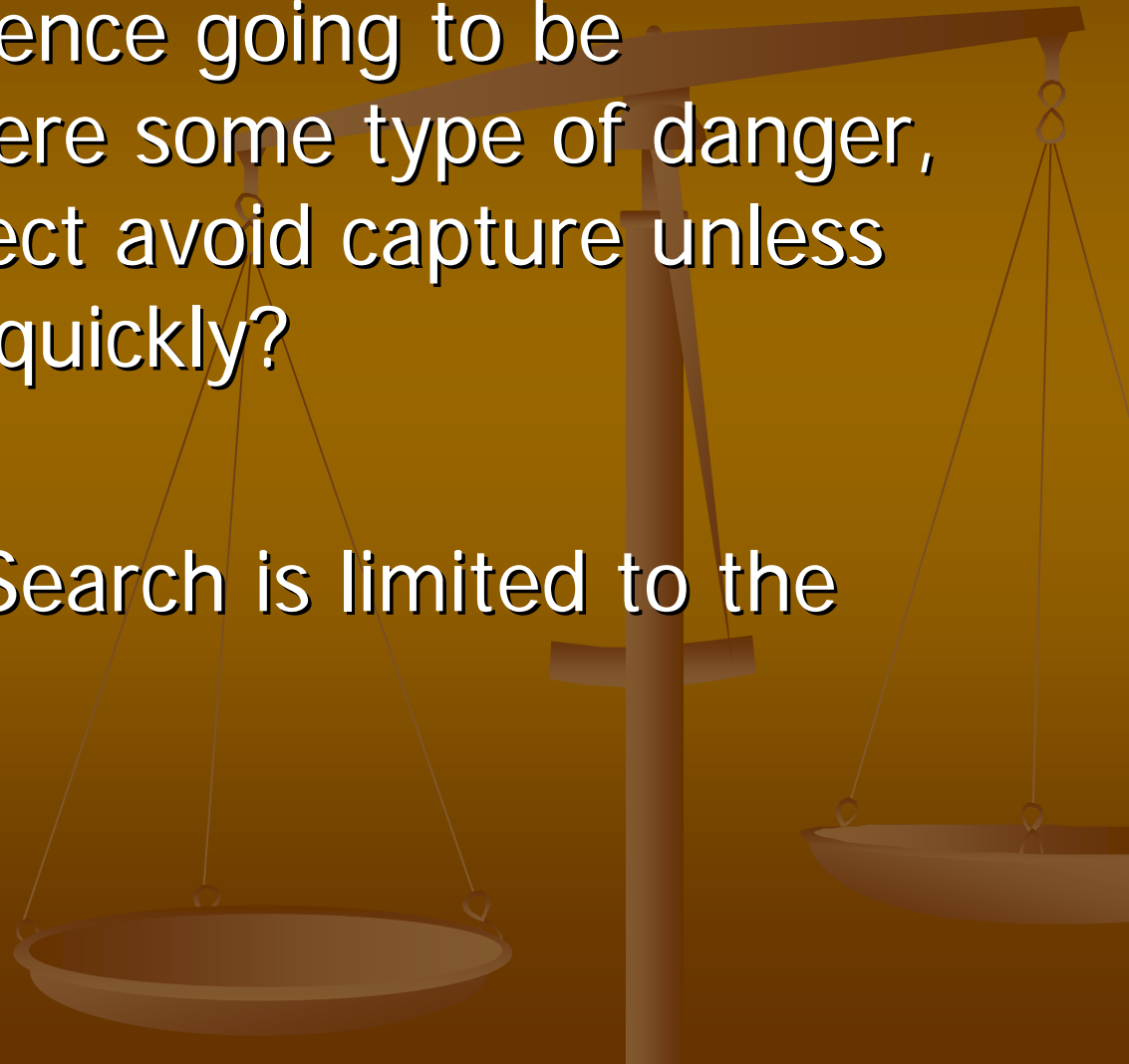
# Plain View, Plain Smell, Plain Hear

- Officer must have legal right to be there.
- Officer must use normal senses.
- Discovery is by chance.

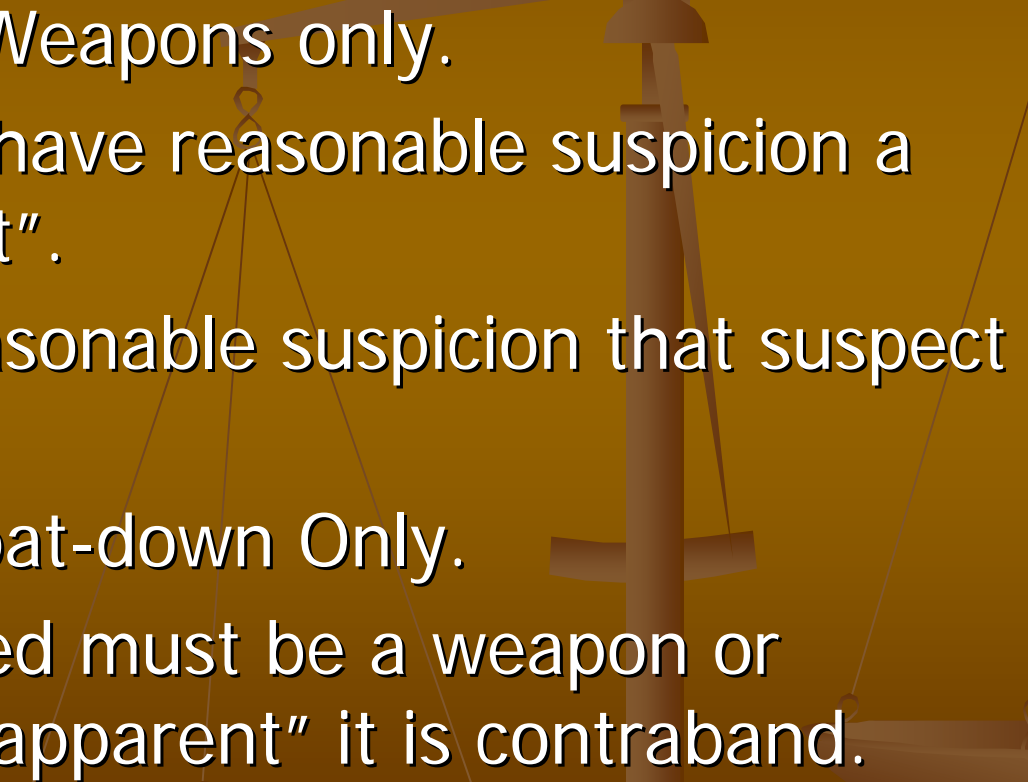


# Emergency Circumstances

- *Ask:* Is the evidence going to be destroyed, is there some type of danger, or will the suspect avoid capture unless the officer acts quickly?
- An Emergency Search is limited to the circumstances.

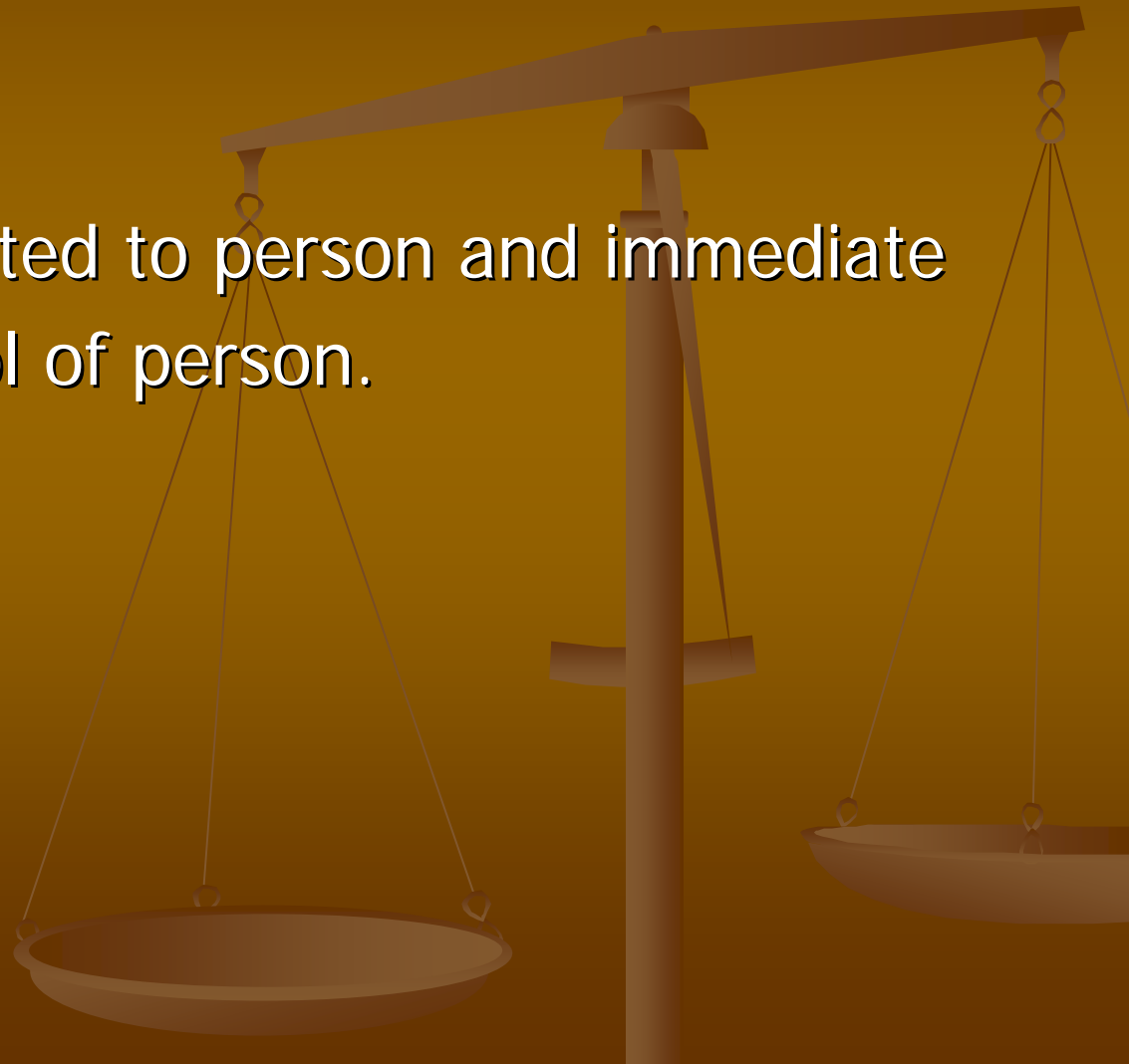


# The Frisk

- A Frisk is for Weapons only.
  - Officer must have reasonable suspicion a crime is “afoot”.
  - Must have reasonable suspicion that suspect is armed.
  - A “frisk” is a pat-down Only.
  - Any item seized must be a weapon or “immediately apparent” it is contraband.
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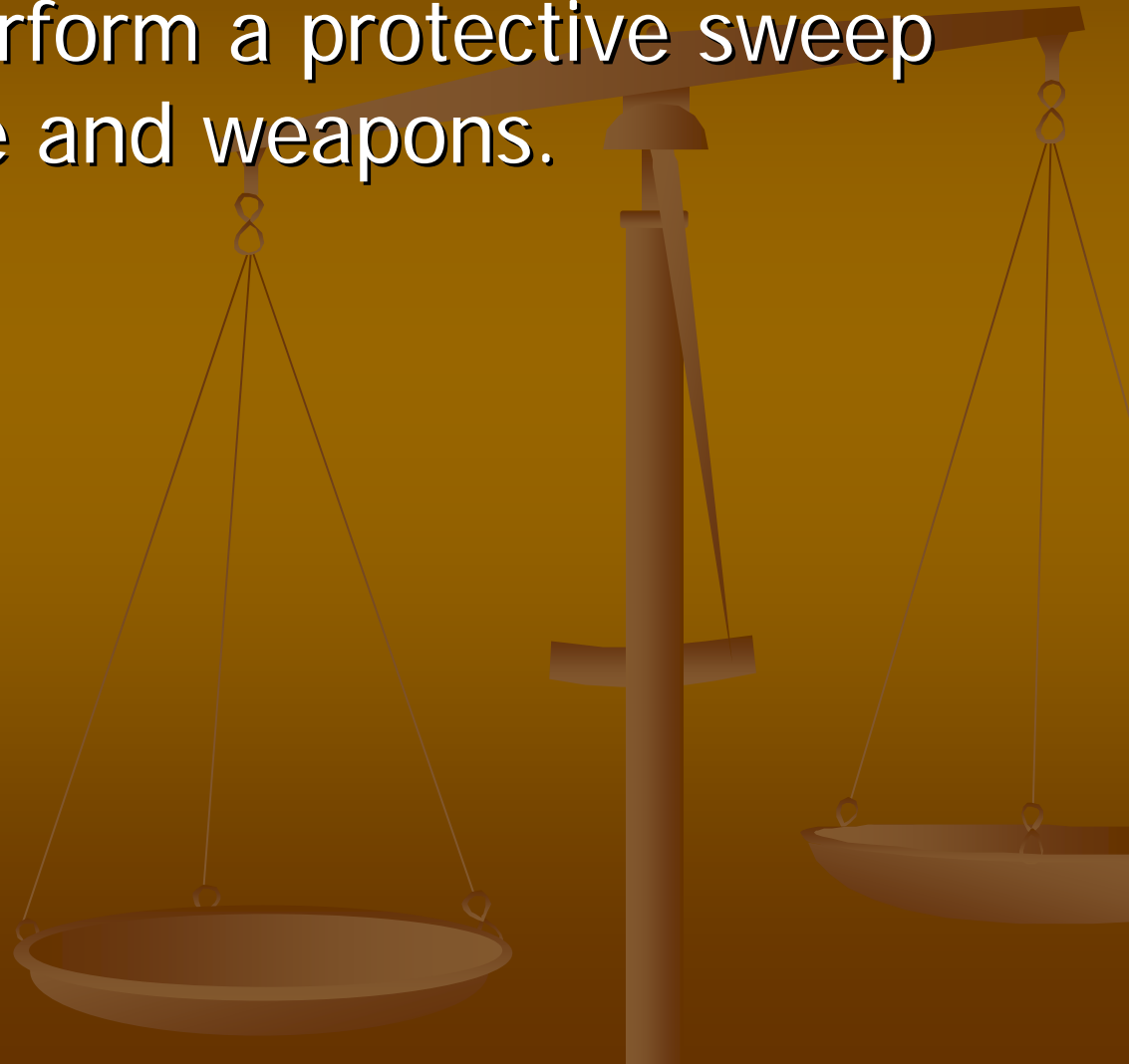
# “Search Incident to an Arrest”

- Requires:
  - - Lawful arrest
  - - Search is limited to person and immediate area in control of person.
- Cars included.



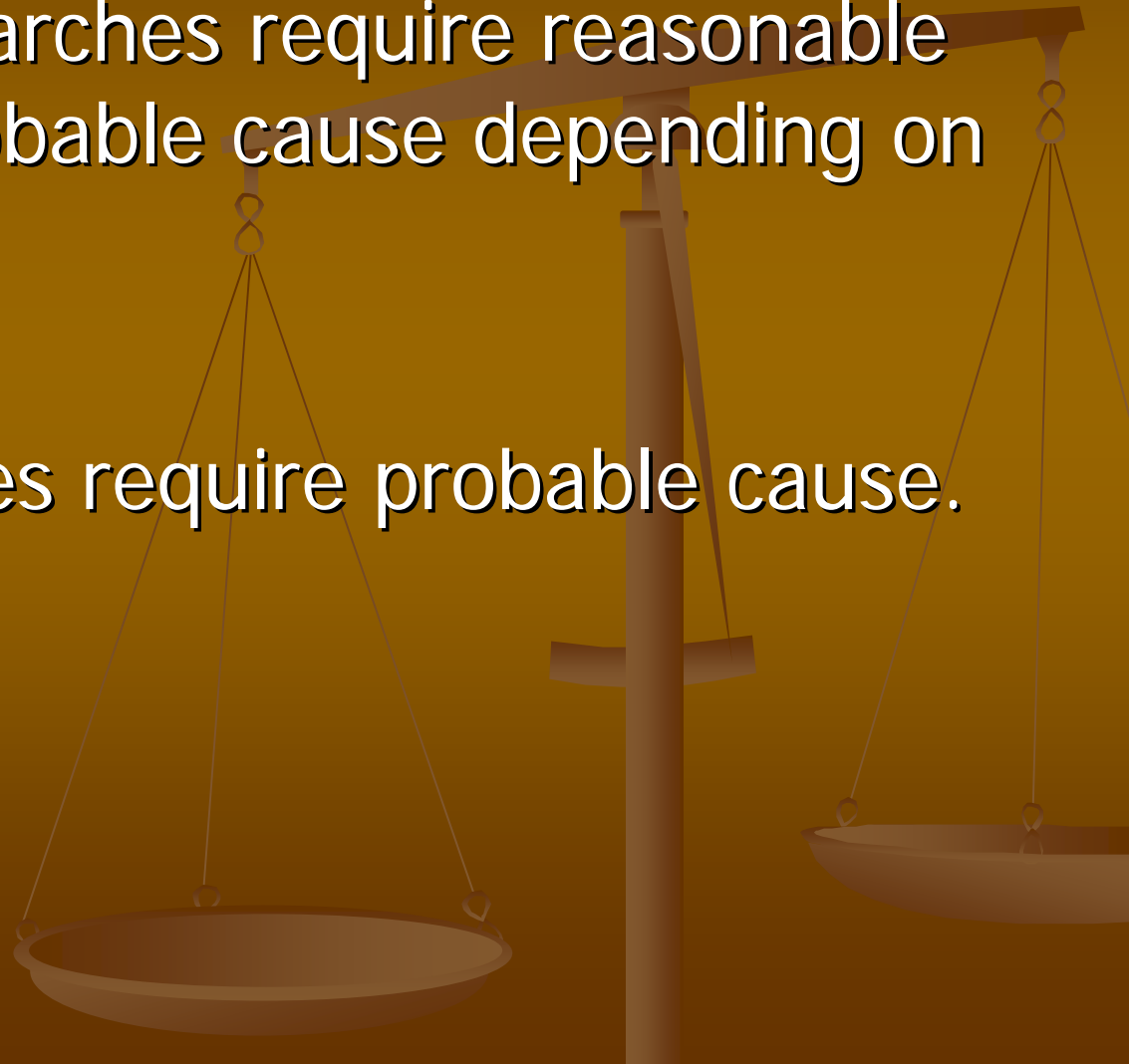
# “Protective Sweeps”

- Officers may perform a protective sweep for other people and weapons.



# Intimate body Searches (Stomach, Cavity, etc.)

- Non surgical searches require reasonable suspicion or probable cause depending on circumstances.
- Surgical searches require probable cause.



# Abandoned Property

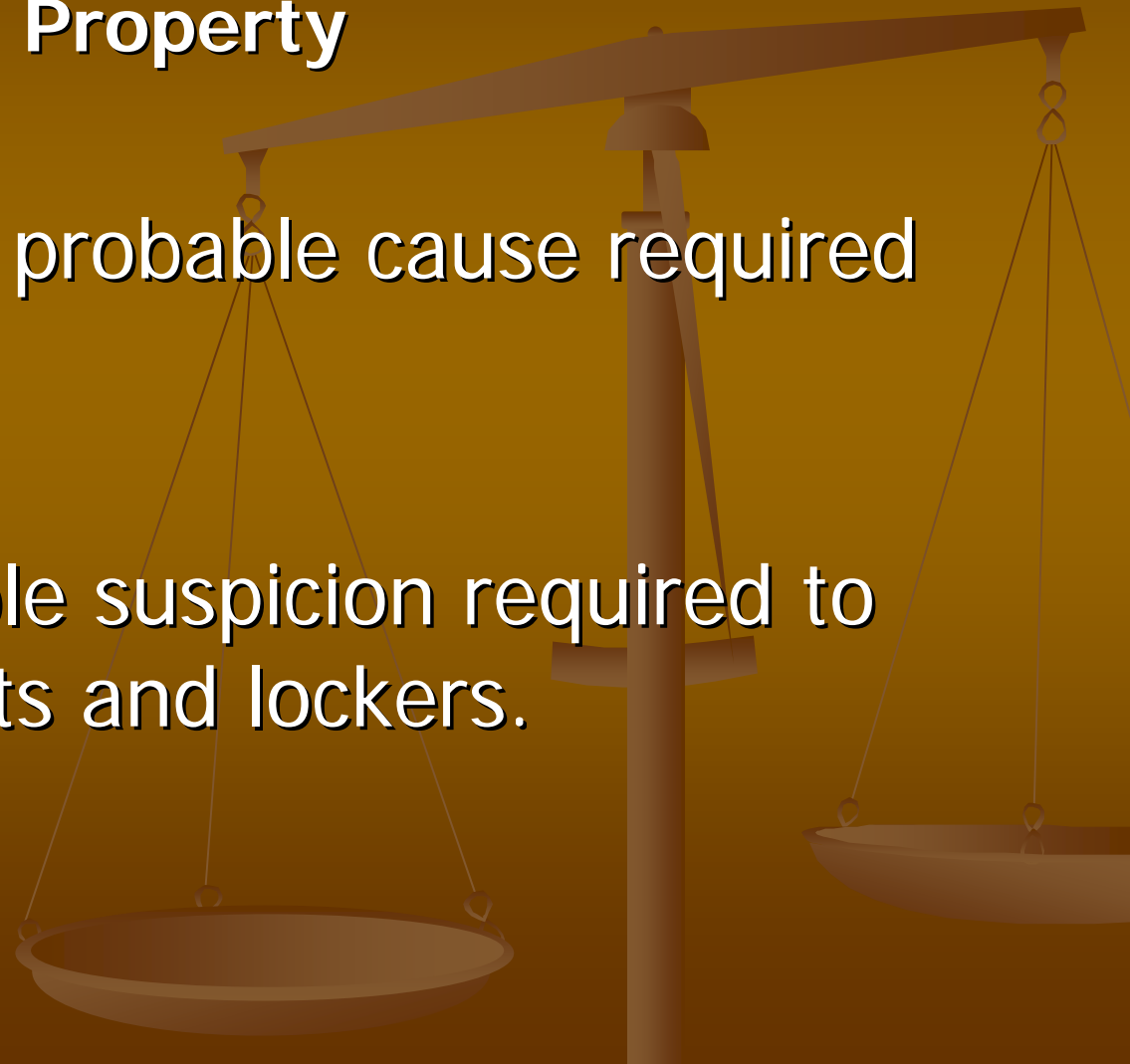


- Any property that is “Abandoned” can be examined and taken by the police.
- Once your trash has been taken to the edge of your property it can be taken by anyone, including the police.

# Student Searches

## On High School Property

- No warrant or probable cause required to run dog.
- Only reasonable suspicion required to search students and lockers.



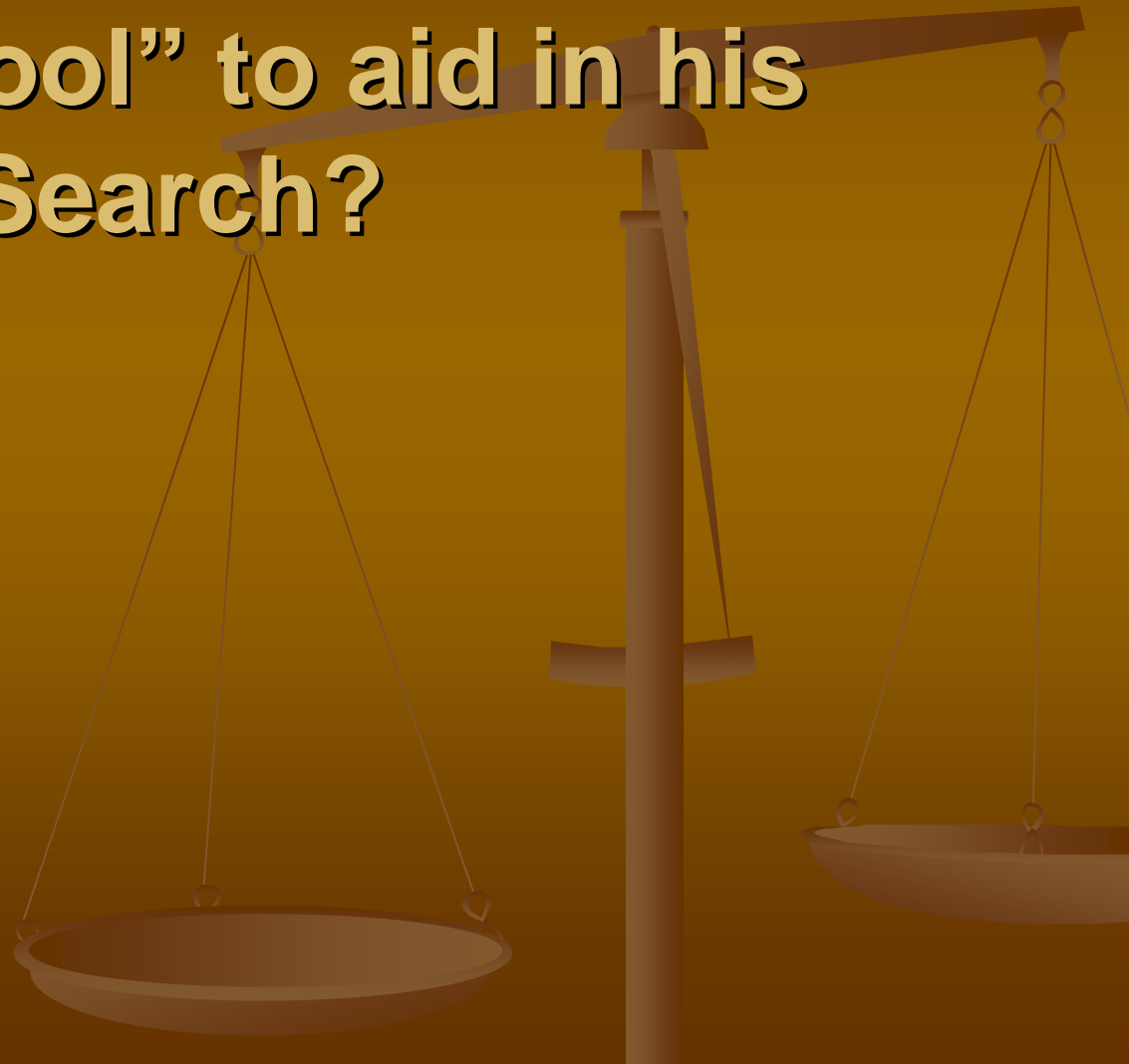
# Student Searches

## On College Property

- Warrant required to search dorm rooms unless for safety or health reasons.

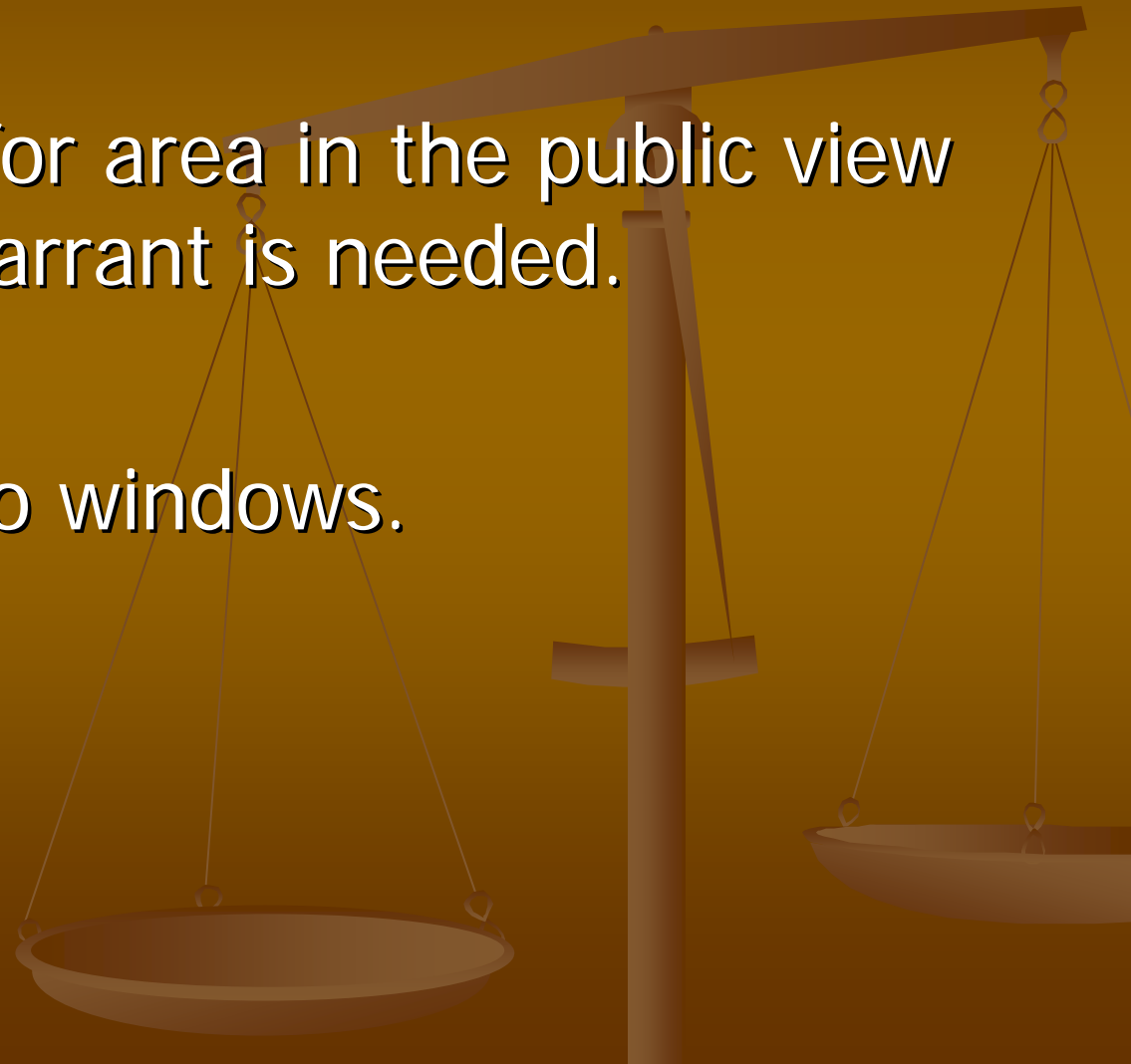


# When and How Can An Officer Use a “Tool” to aid in his Search?

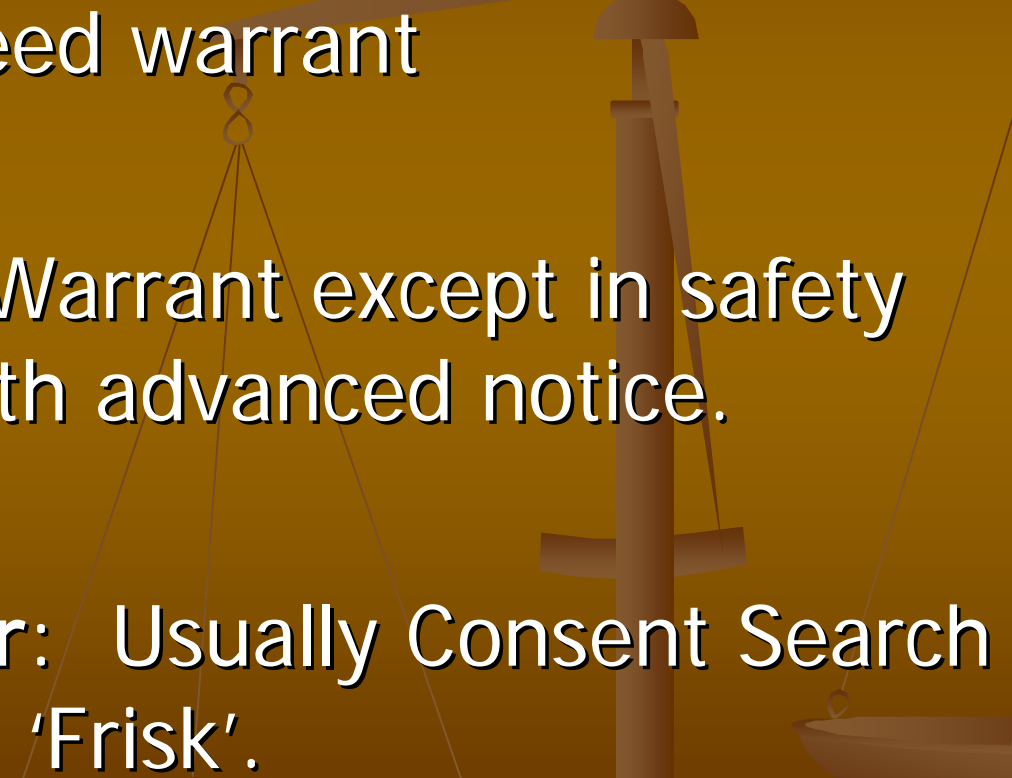


# Vision Enhancers: Binoculars, Night Vision

- Can only use for area in the public view otherwise a warrant is needed.
- Can't peep into windows.



# Hi-Tech Devices

- **Infra Red:** Need warrant
  - **X-Ray:** Need Warrant except in safety related areas with advanced notice.
  - **Metal Detector:** Usually Consent Search that turns into a 'Frisk'.
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# Dogs

- Ask does the officer have "right" to be there?



# Interception of Electronic Data

- **Wire Tapping**
- **Pen Registers**
- **Cordless Phones**
- **Email and other Internet Communications**



# Wire Tapping



- *No wire tap without a warrant.*
- Warrant for Wire tap must show:
  - Crime has been, is being, or is about to be committed.
  - The communications to be intercepted will contain information about the offense.
  - The place monitored is used in the offense.

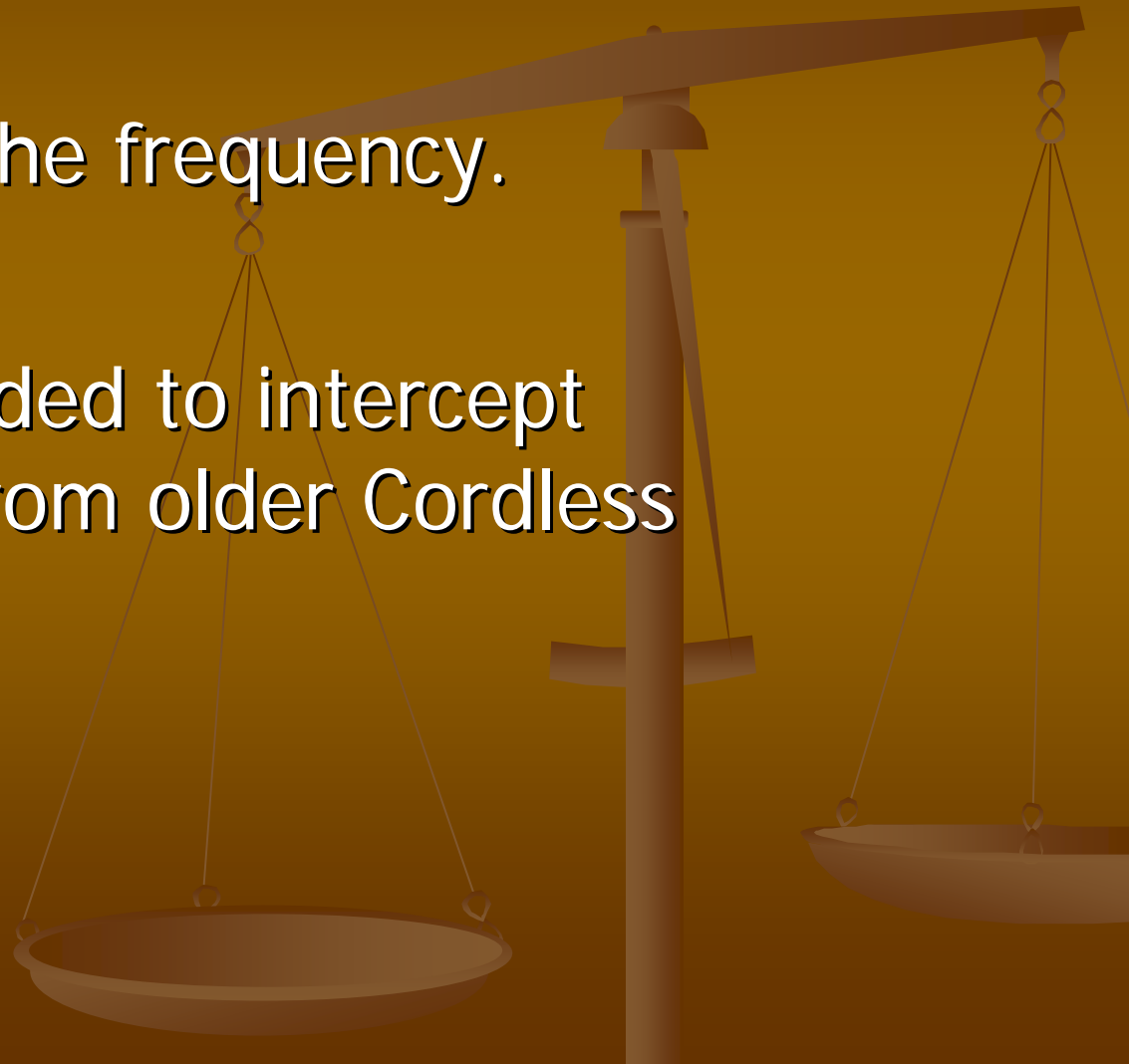
# Pen Registers

- Not A Search. NO Warrant Needed.



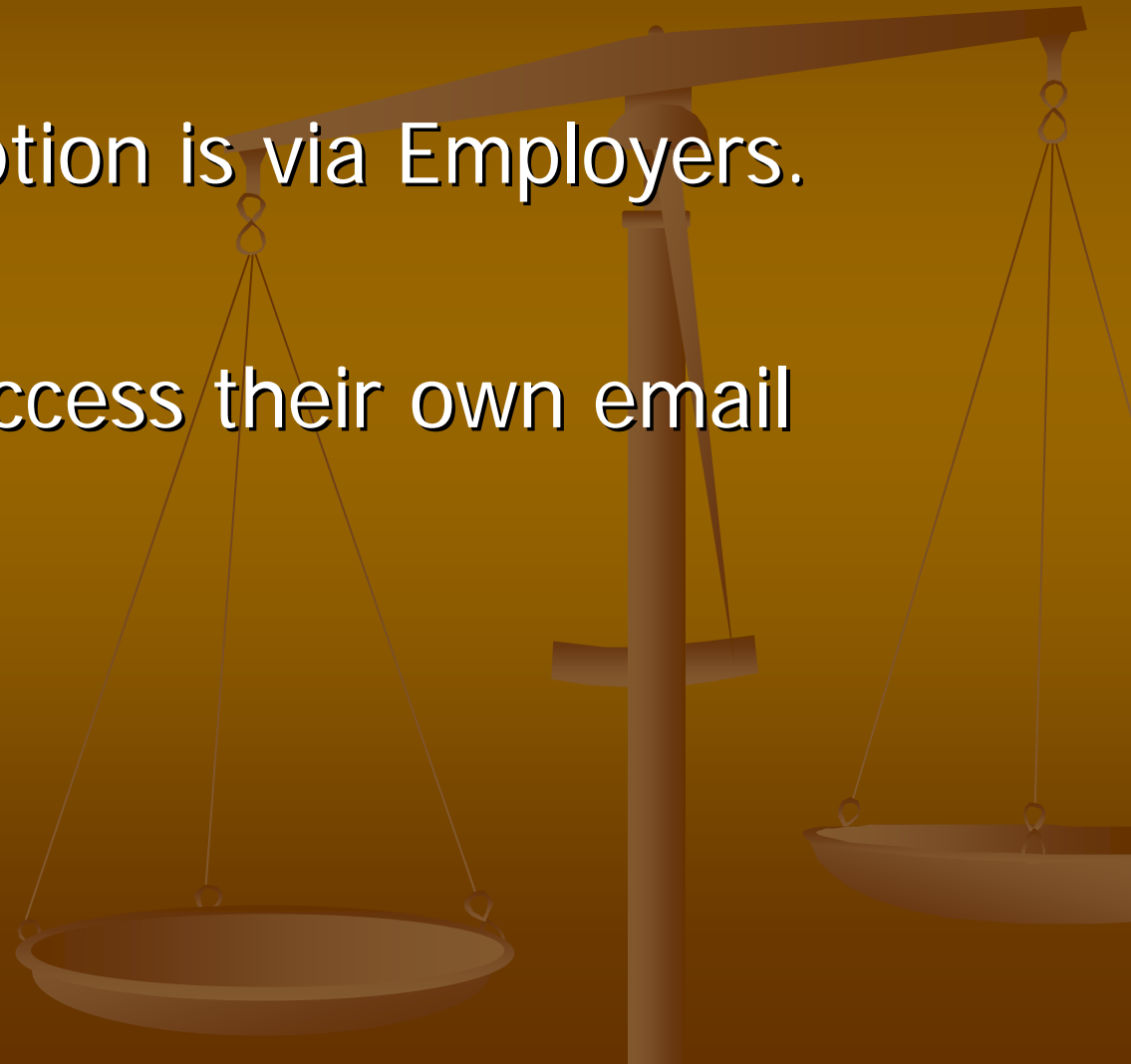
# Cordless Phones

- It Depends on the frequency.
- No warrant needed to intercept conversations from older Cordless telephones.



# Email and other Internet Communications

- Easiest Interception is via Employers.
- Employer can access their own email system.
- Email warrants.



# The Use of “Bugs” by Law Enforcement.



# On agent

- Legal as long as agent has the “right” to be there.



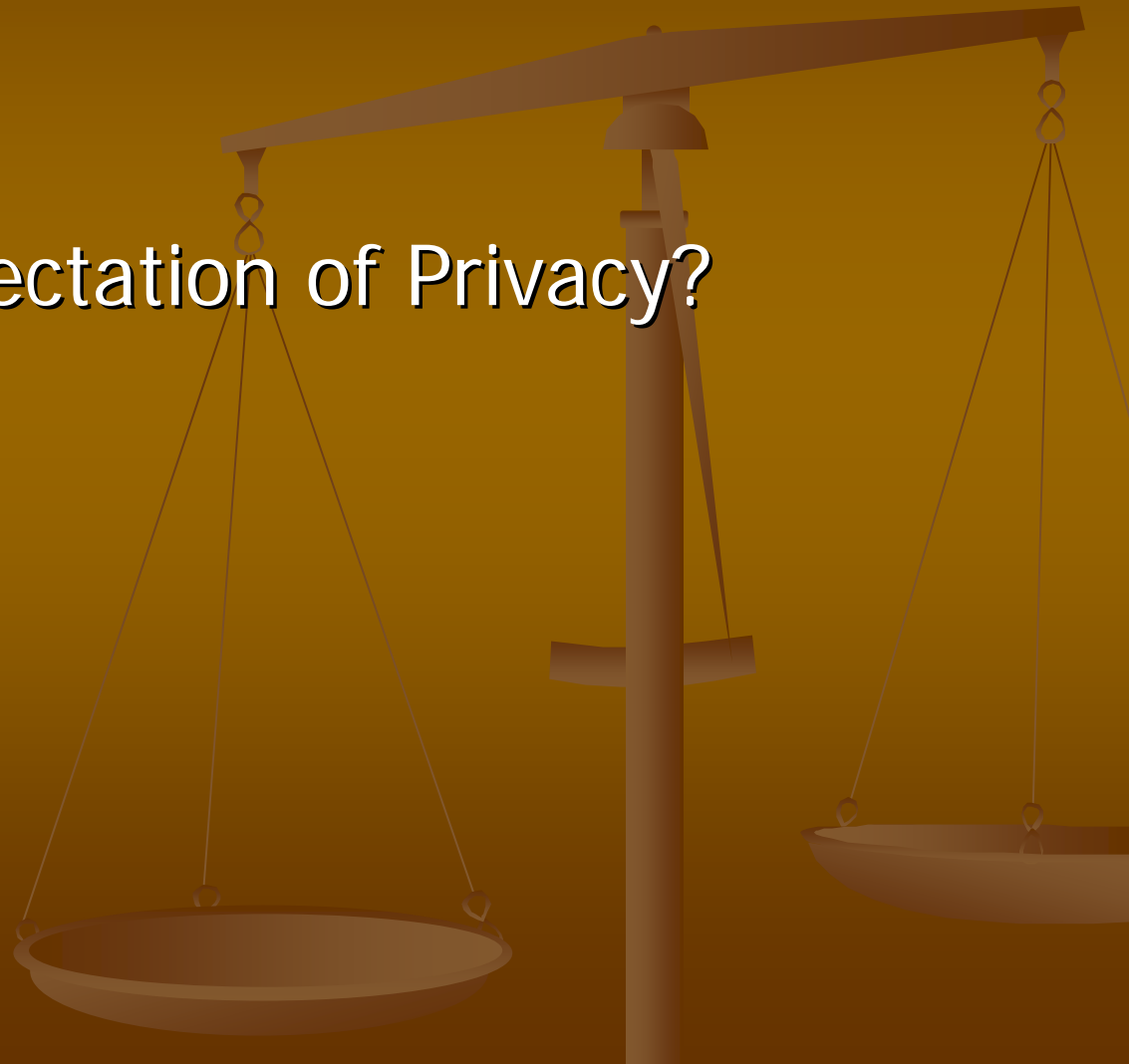
# Bug In suspect's home or business

- Warrant required.



# Bug In Police Car or Jail Cell.

- Is there an Expectation of Privacy?



# Fighting Back against Illegal Searches and Arrests.

- **Exclusionary Rule:** Illegally obtain evidence cannot be used in court.
  - **Criminal Law:** Prosecuting the officer.  
Rodney King
  - **Civil Law:** Law Suits Section 1983....  
Your attorney fees are paid if you win.
  - **Internal Affairs:** Police department discipline. Time off, reduction in rank, fired.
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