



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

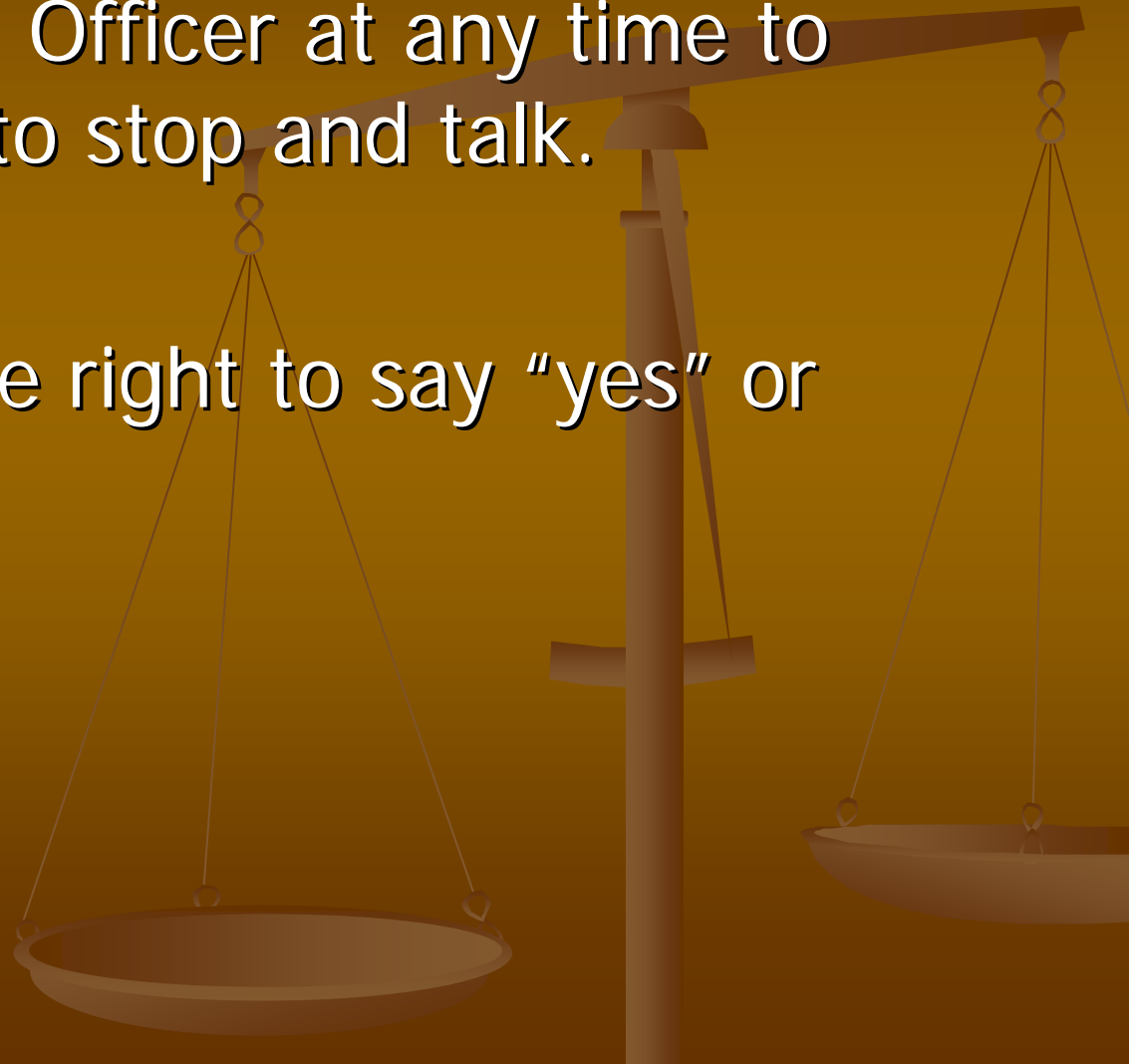
C. Administrative Stops

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

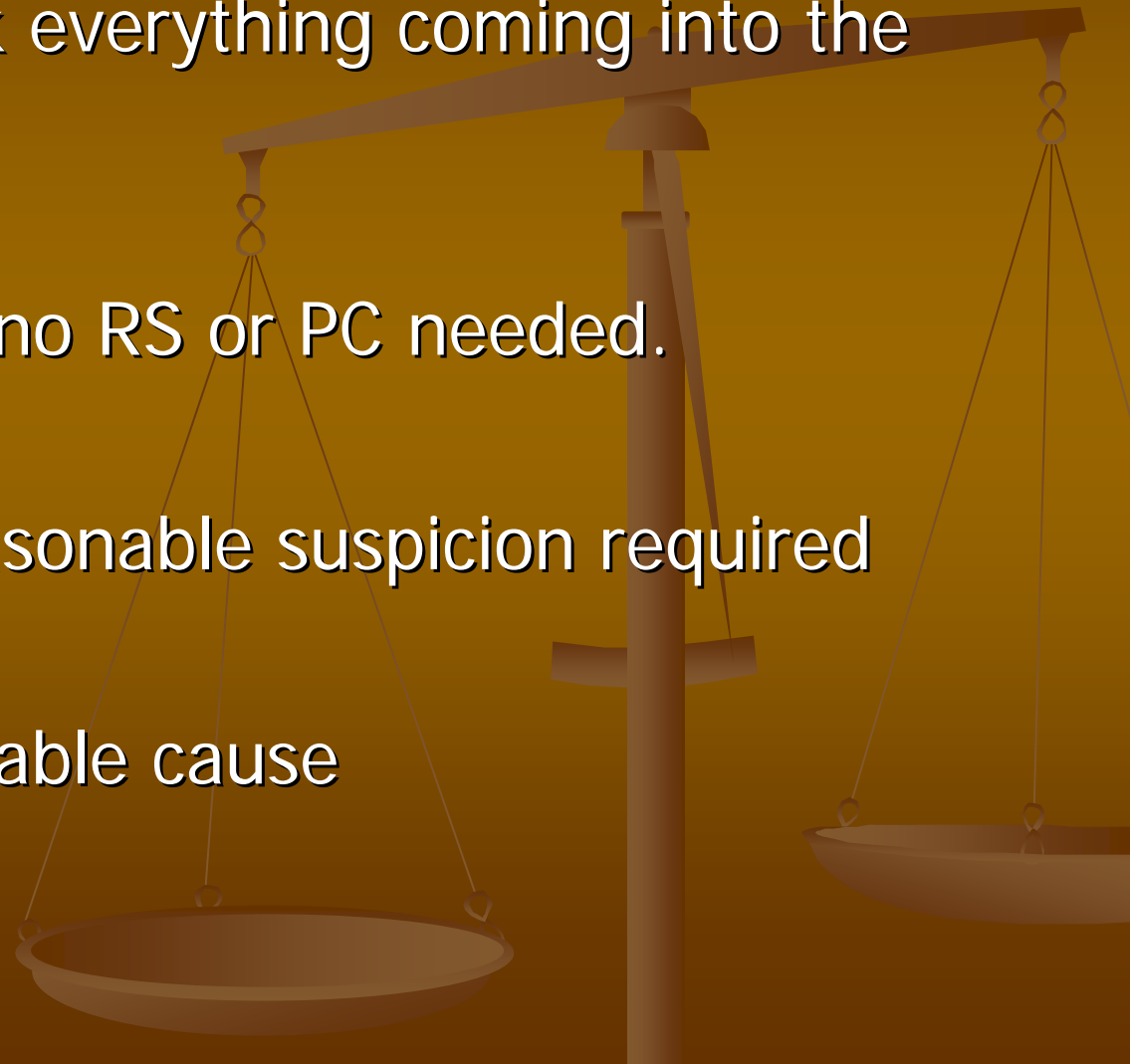
- Reasonable Suspicion required.



Road Blocks

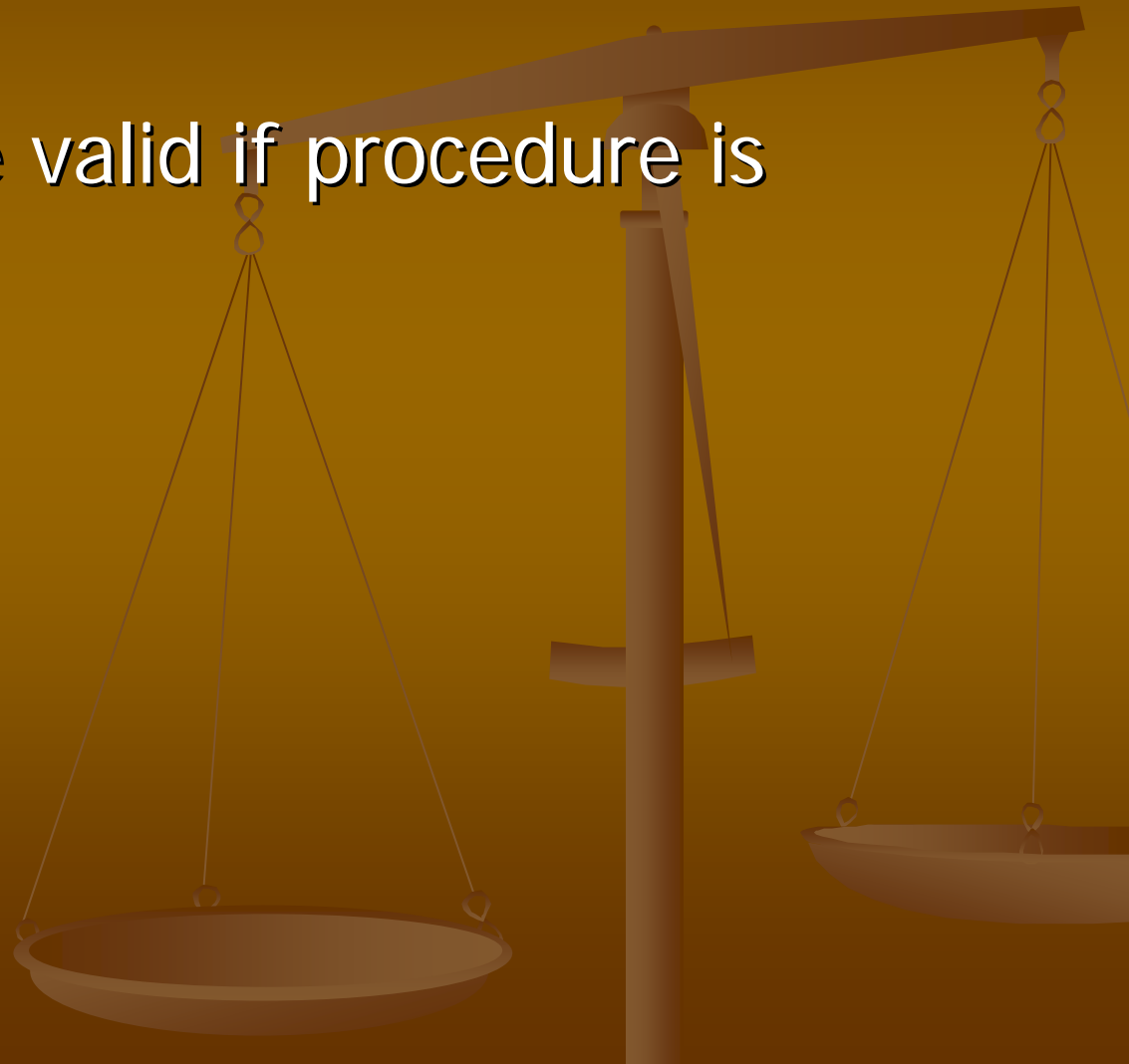
Border Checkpoints

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

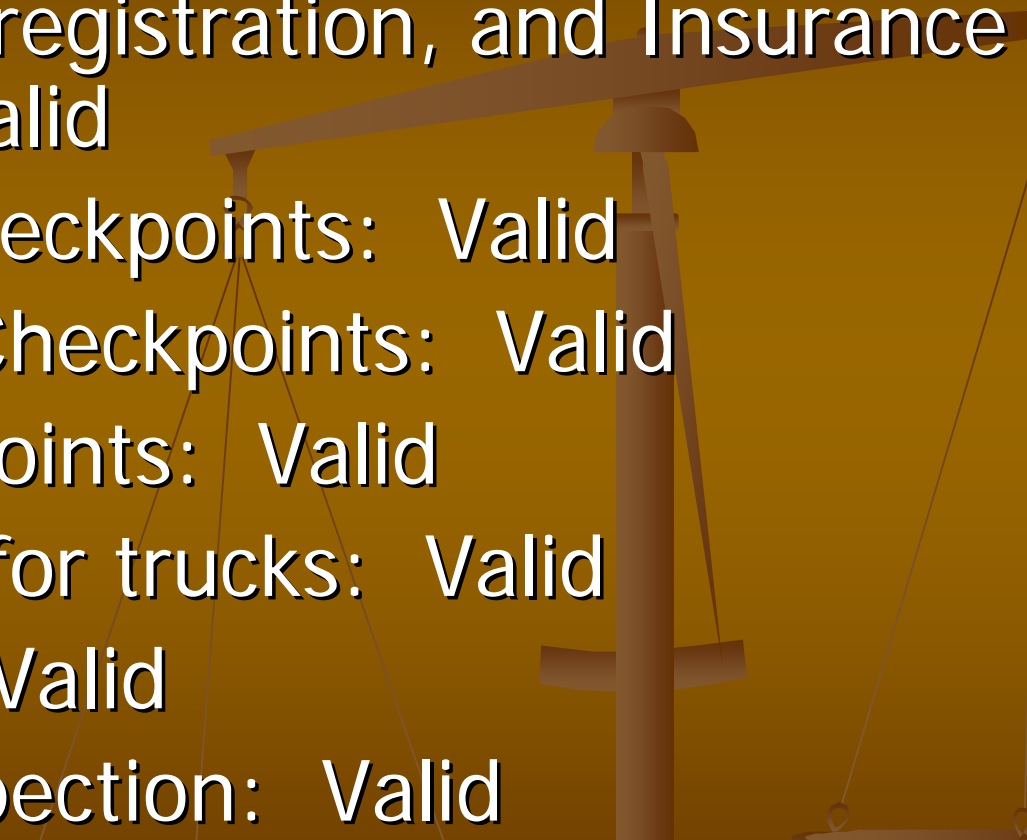


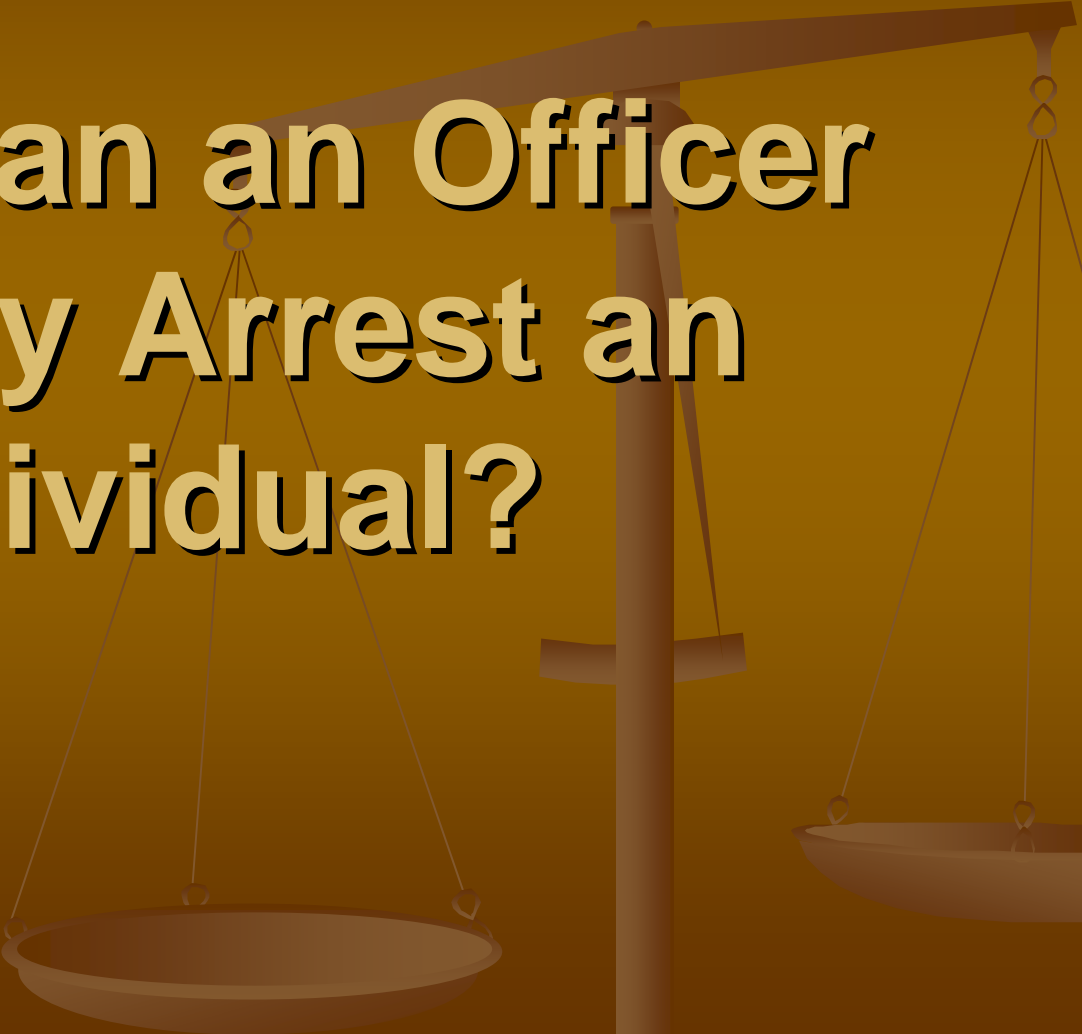
Drunk Driving Checkpoints

- Checkpoints are valid if procedure is followed.



Other Roadblocks

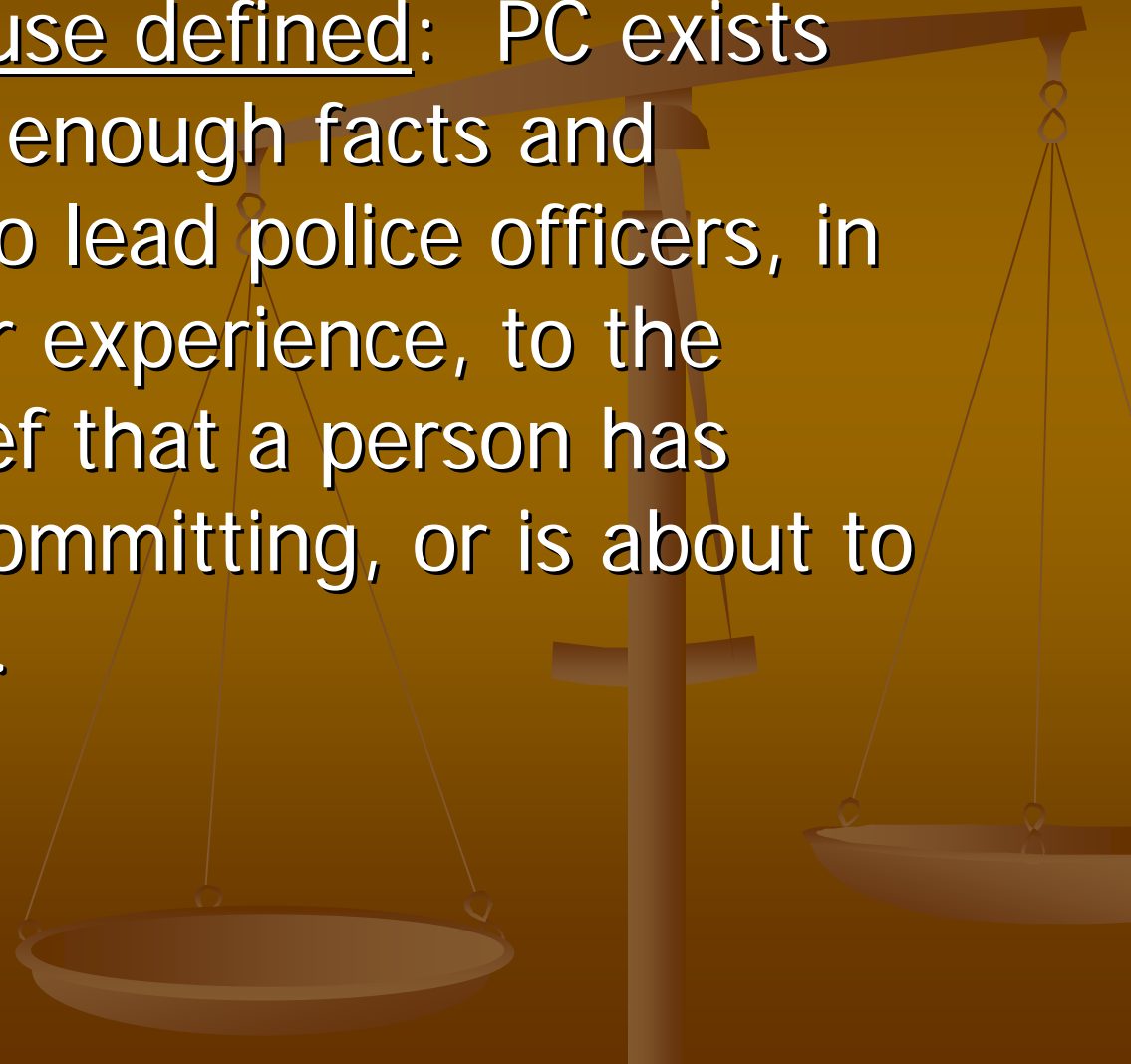
- Drivers license, registration, and Insurance Checkpoints: Valid
 - Fleeing felon Checkpoints: Valid
 - Crime Witness Checkpoints: Valid
 - Security Checkpoints: Valid
 - Weigh Stations for trucks: Valid
 - Game Warden: Valid
 - Agricultural Inspection: Valid
- 



**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.



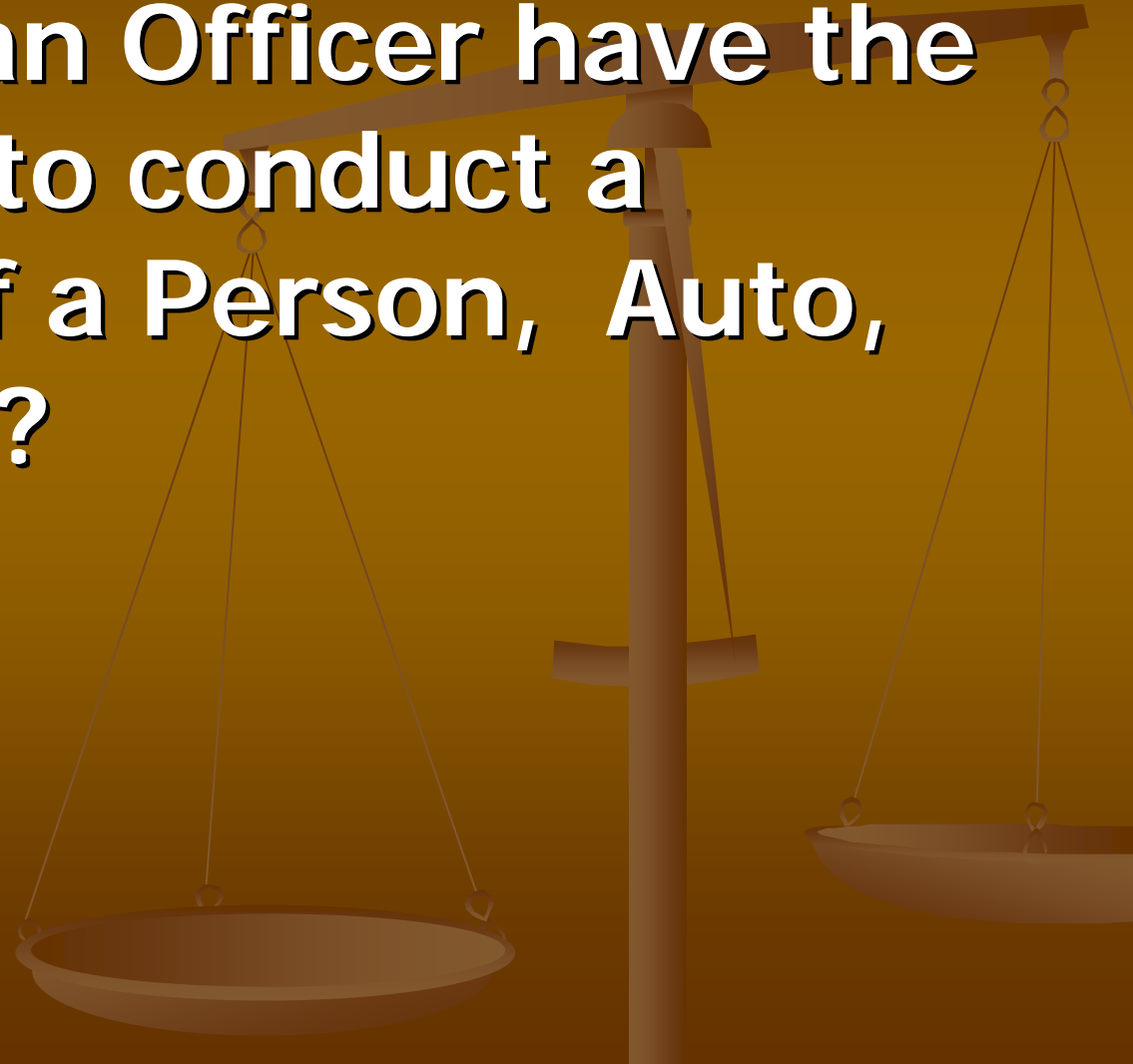
Arrests in a person's own home.

- Arrest requires a warrant or emergency circumstances.



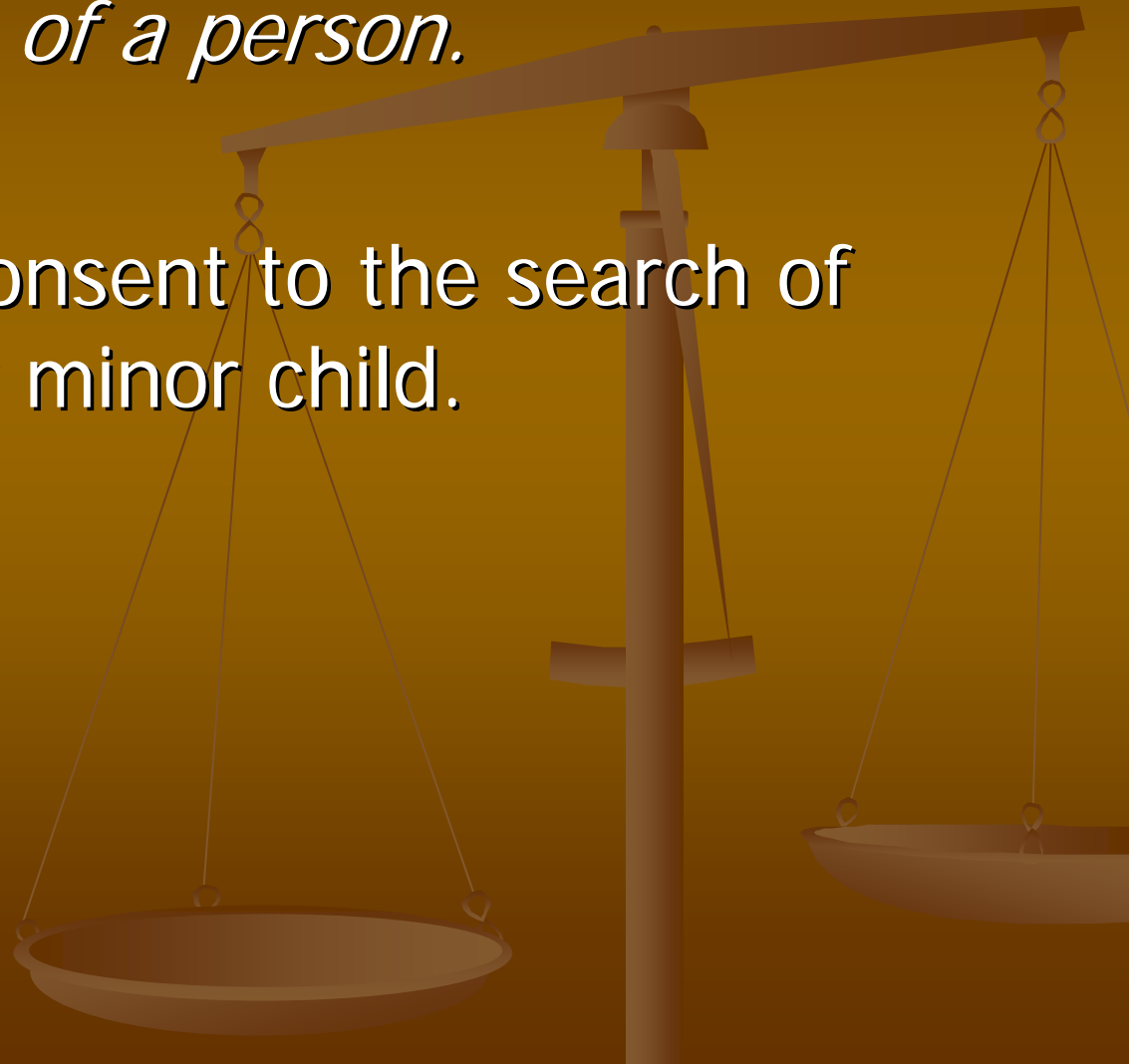
Searches

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



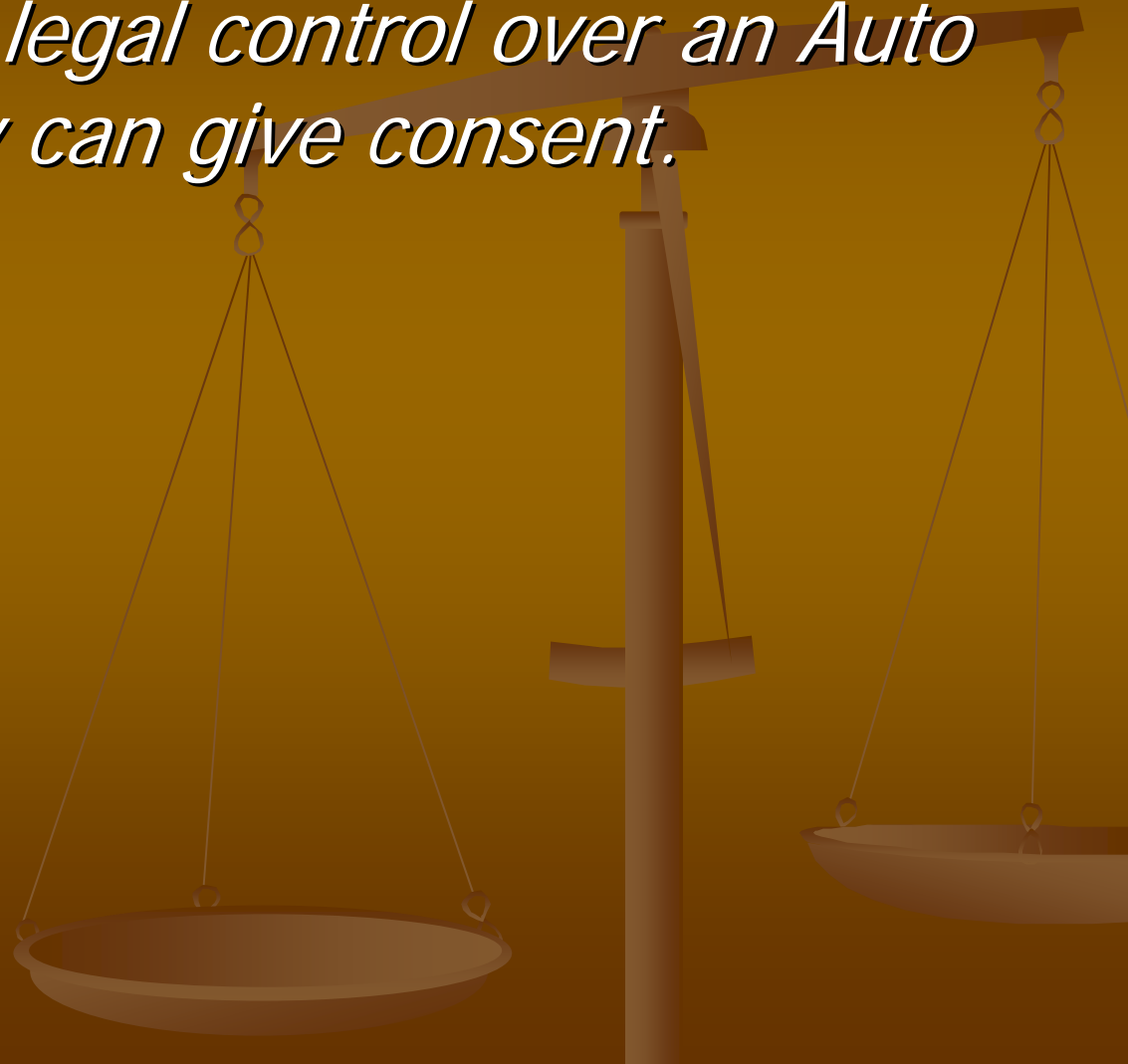
“Consent” Search

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

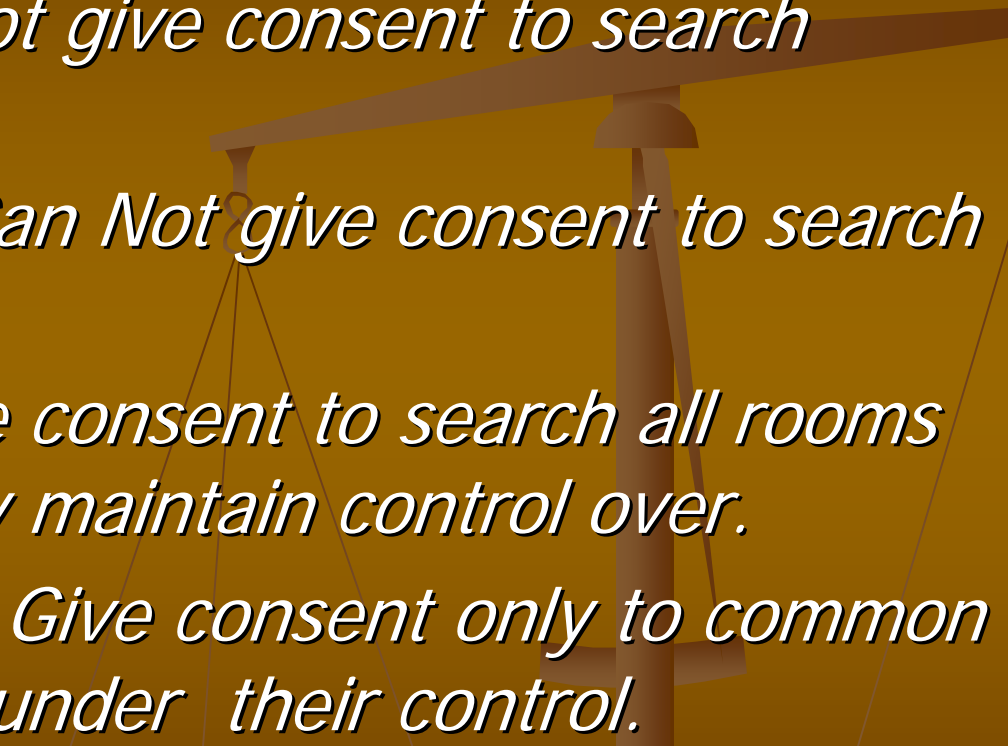


Consent to Search Property

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

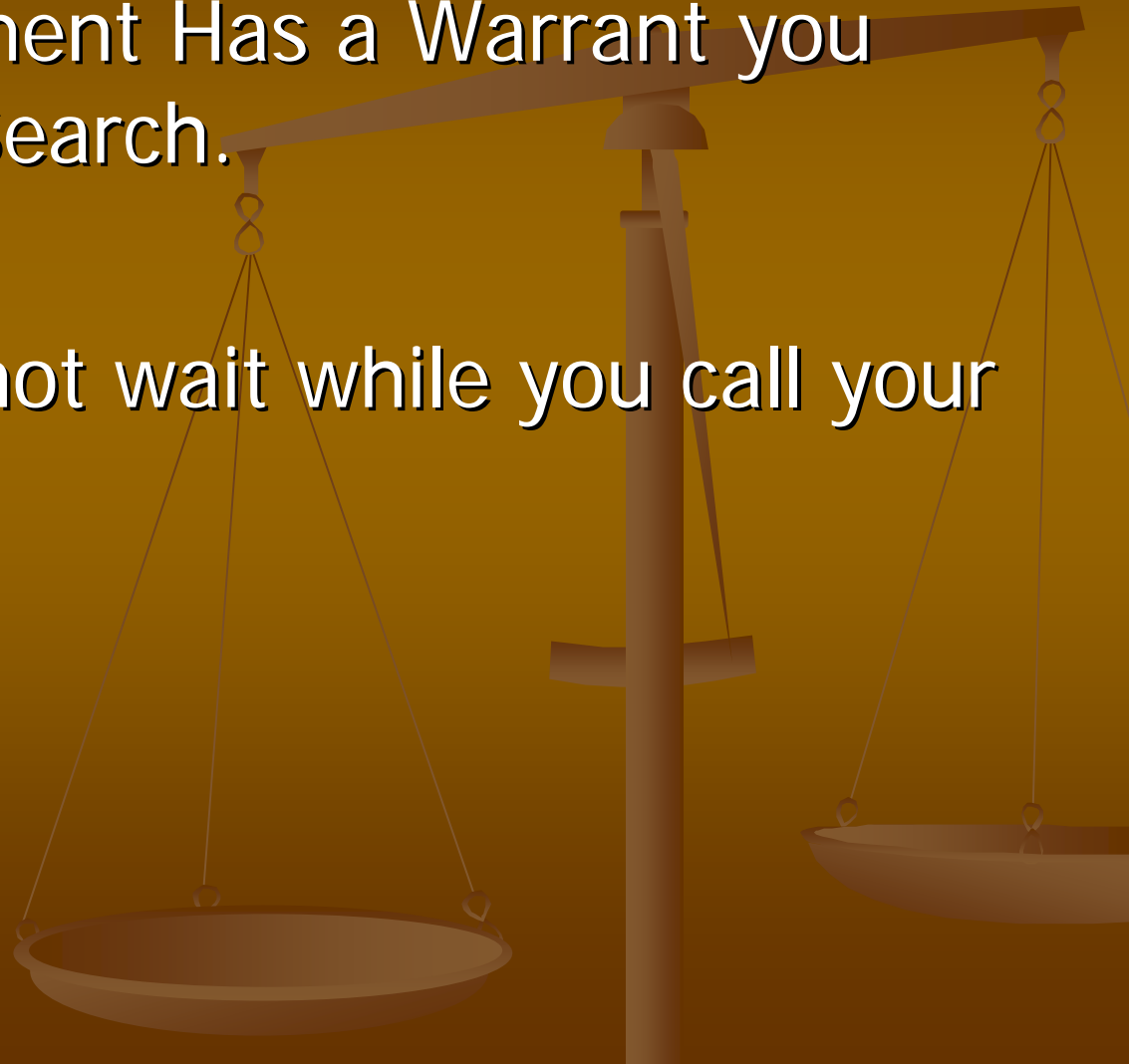


Who Can Give Consent?

- 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.*
- 

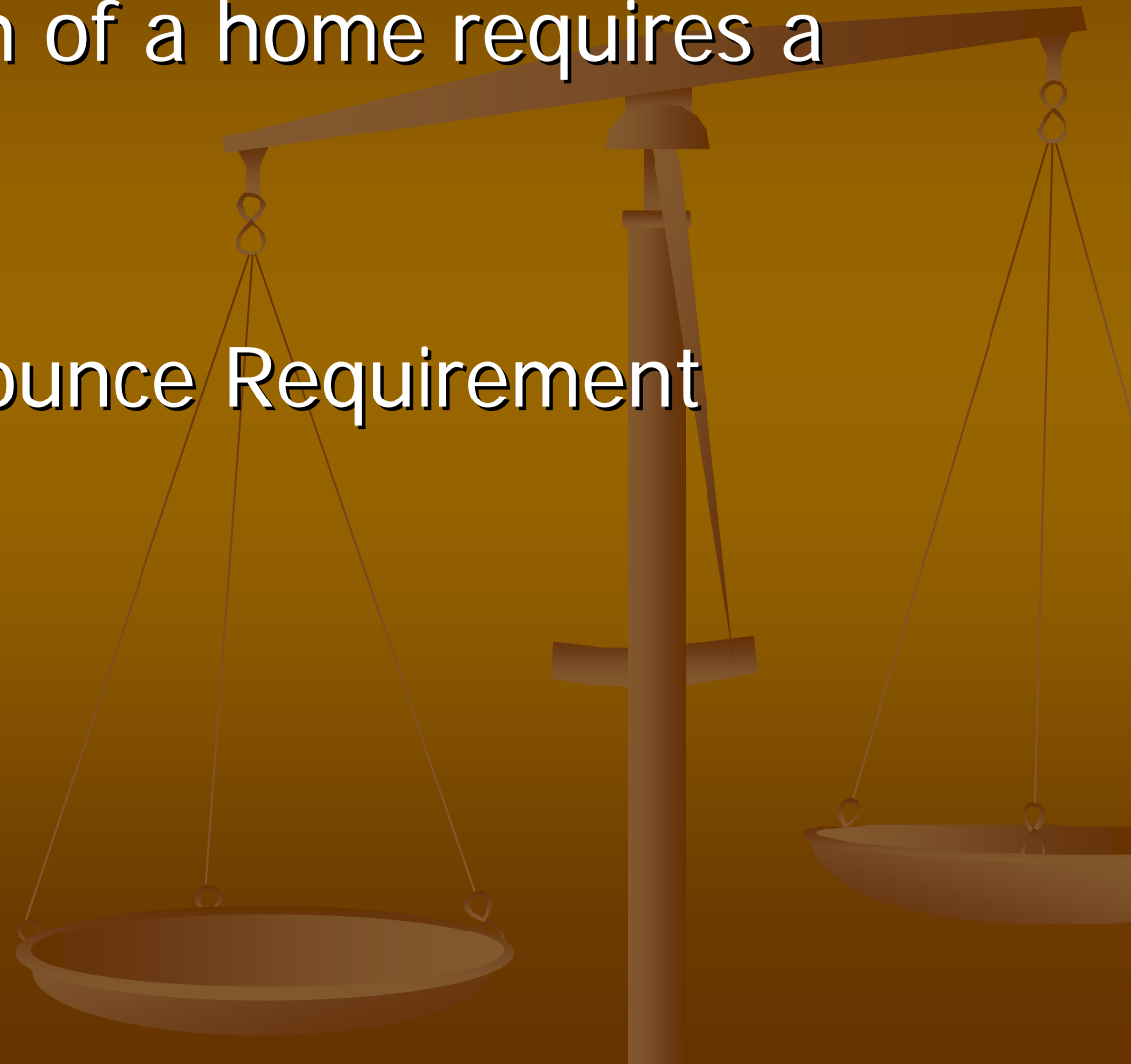
Warrants

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



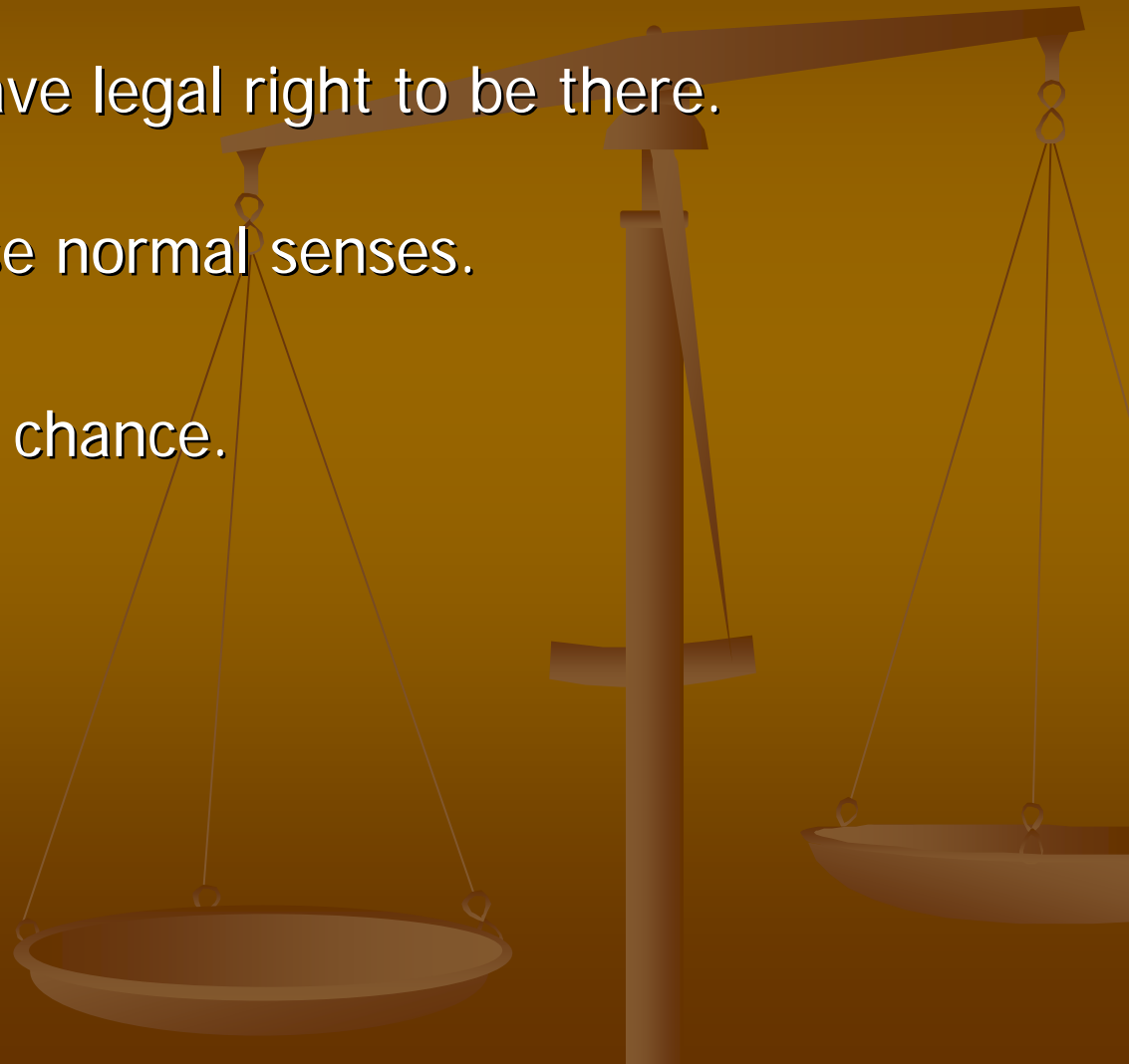
Warrant for Home

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



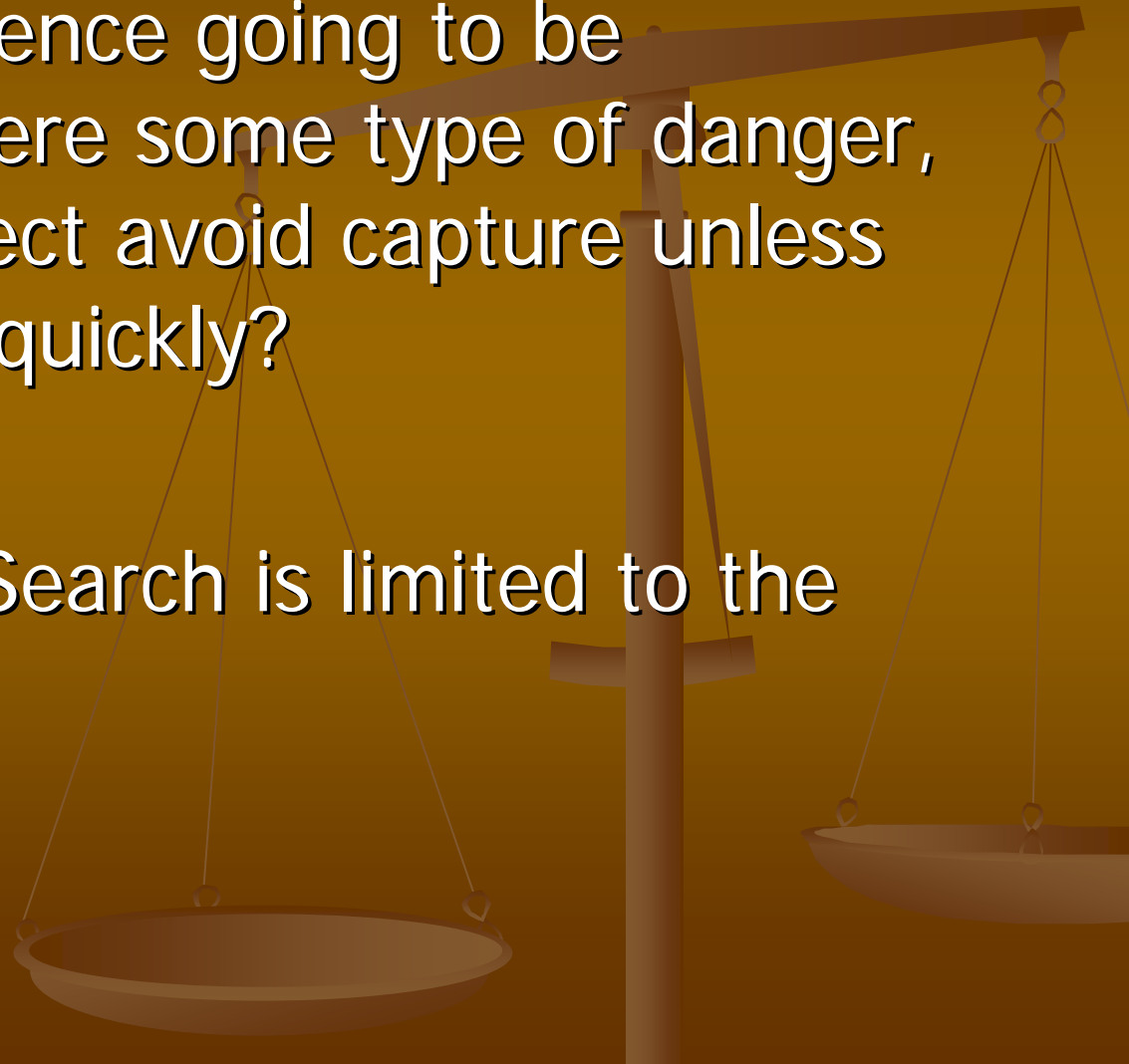
Plain View, Plain Smell, Plain Hear

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

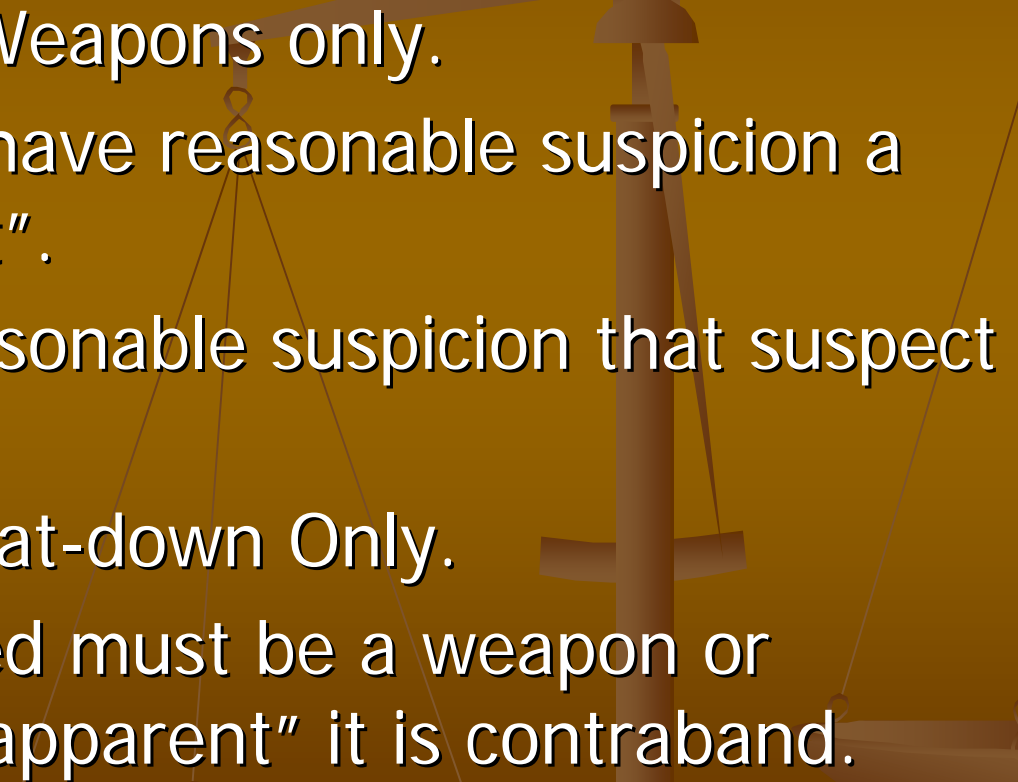


Emergency Circumstances

- *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.

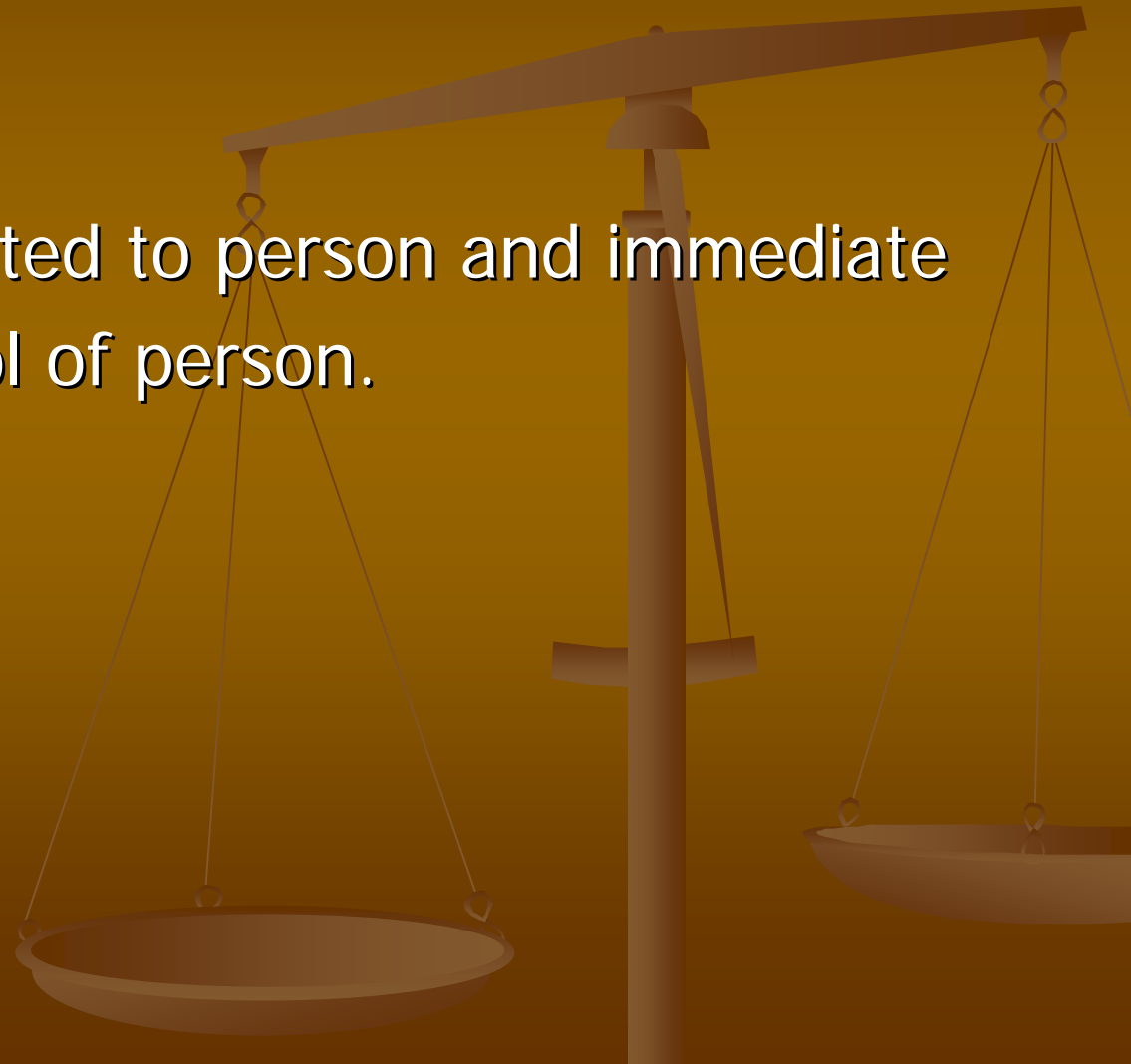


The Frisk

- 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.
- 

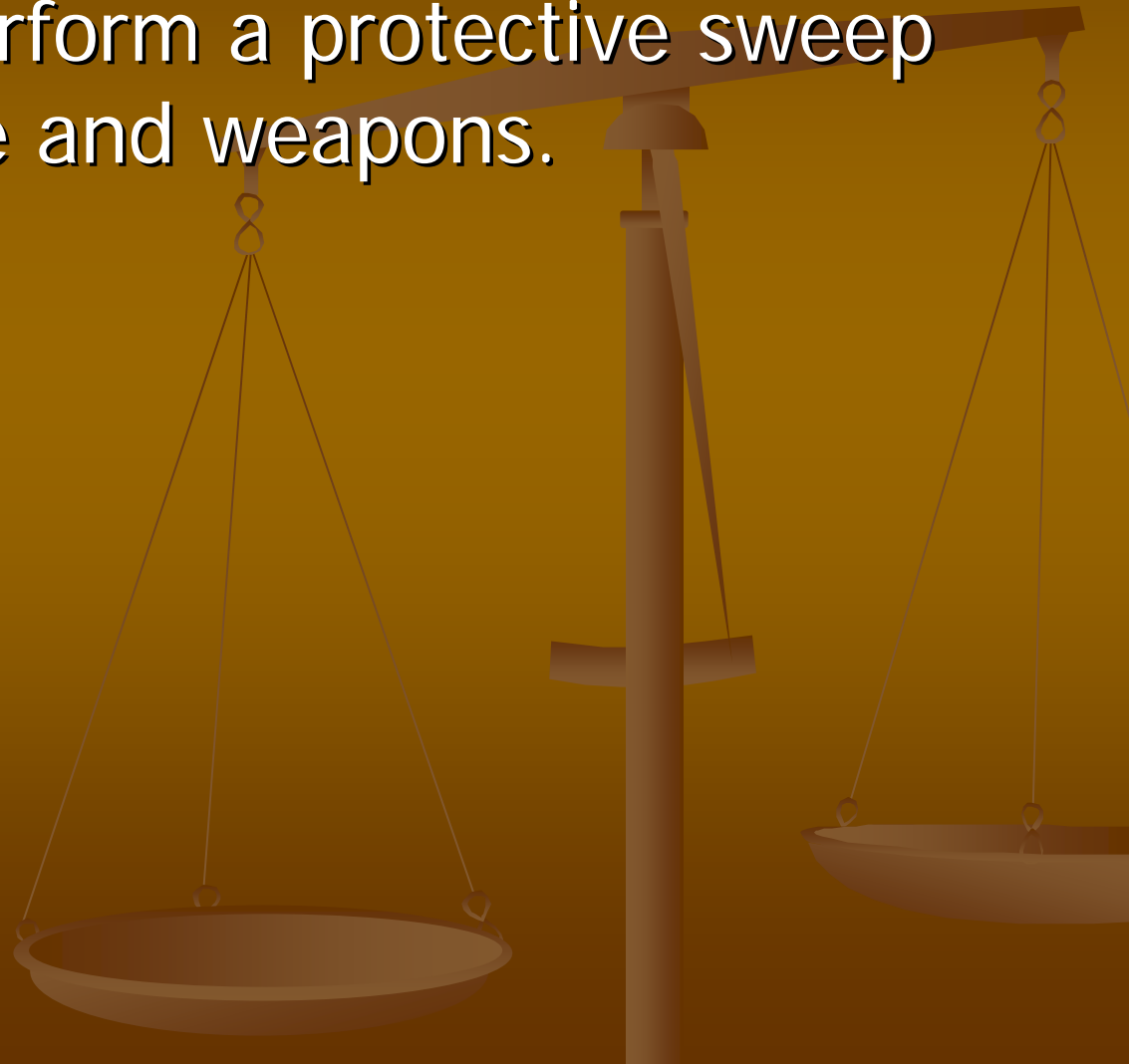
“Search Incident to an Arrest”

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



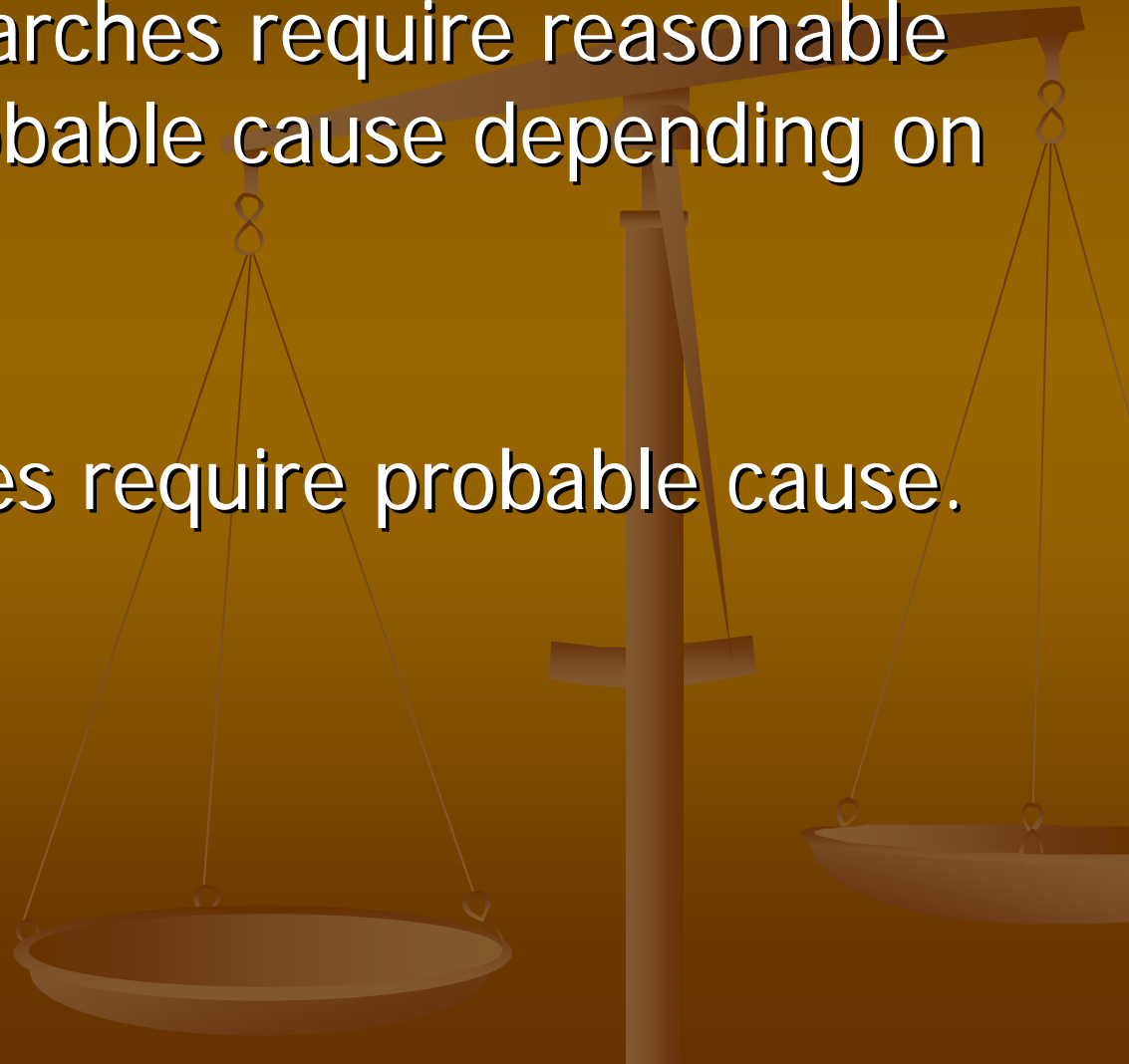
“Protective Sweeps”

- 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

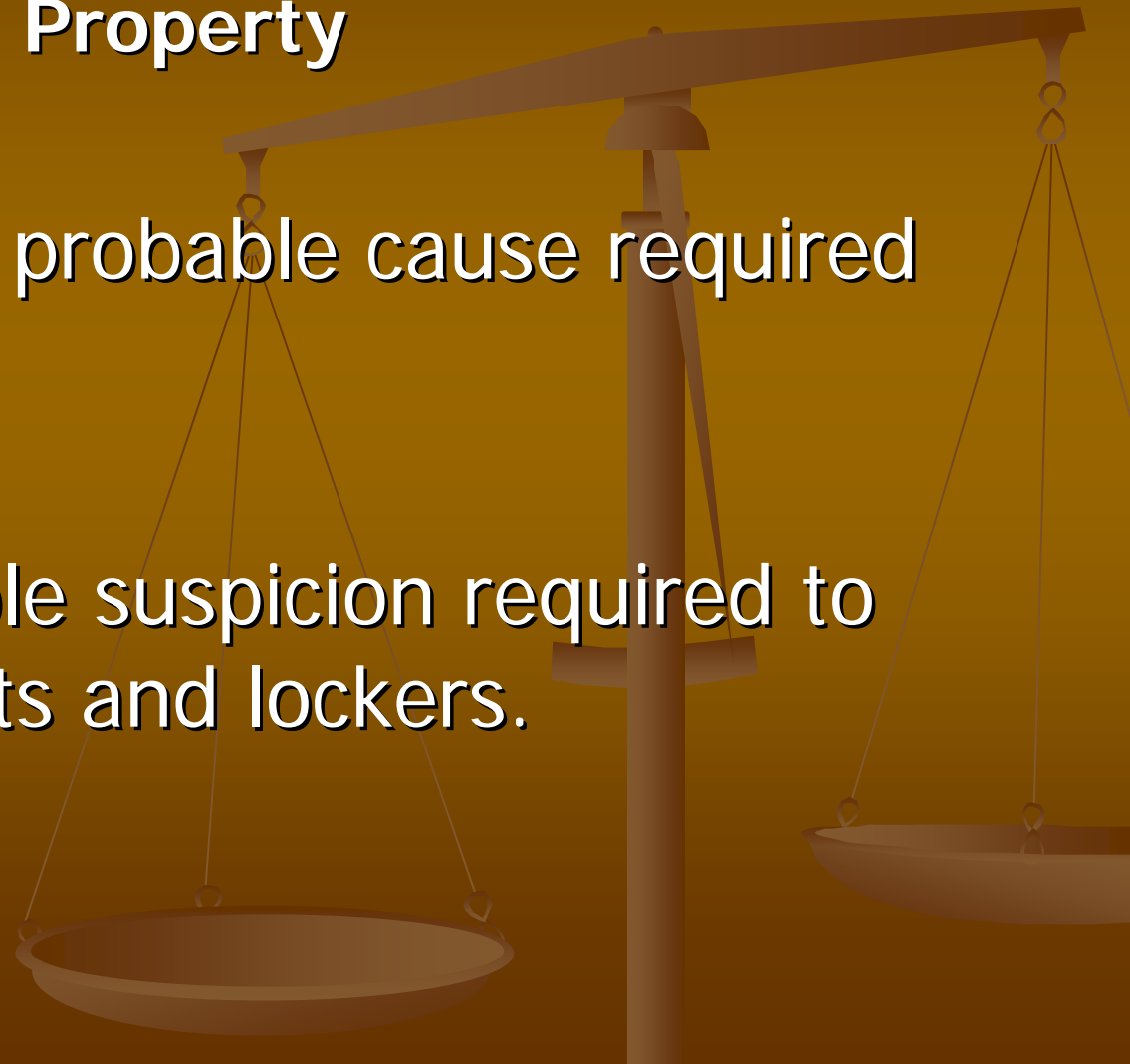


- Any property that is “Abandoned” can be examined and taken by the police.
- Once your trash has been taken to the edge of your property it can be taken by anyone, including the police.

Student Searches

On High School Property

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



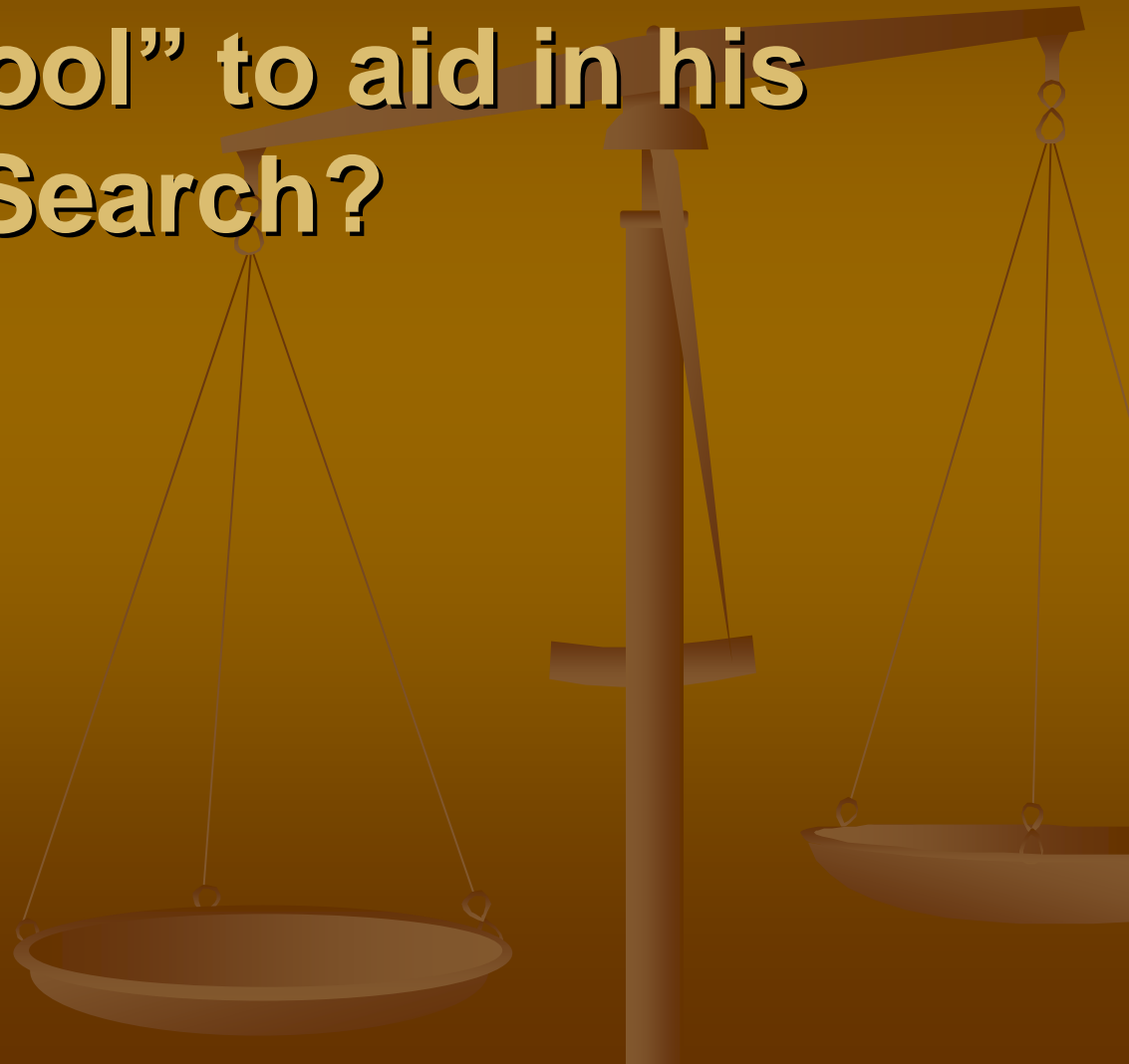
Student Searches

On College Property

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

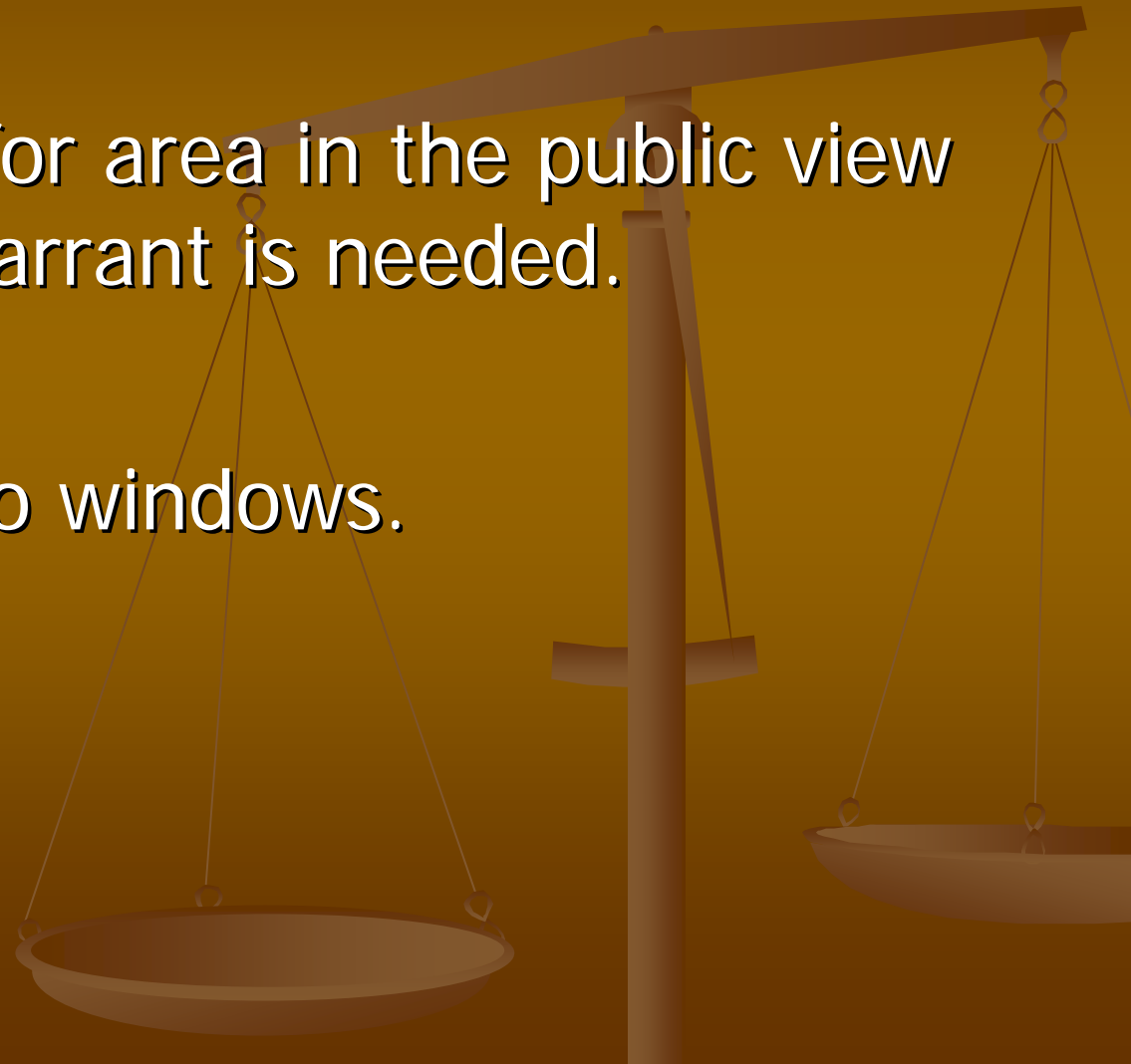


When and How Can An Officer Use a “Tool” to aid in his Search?

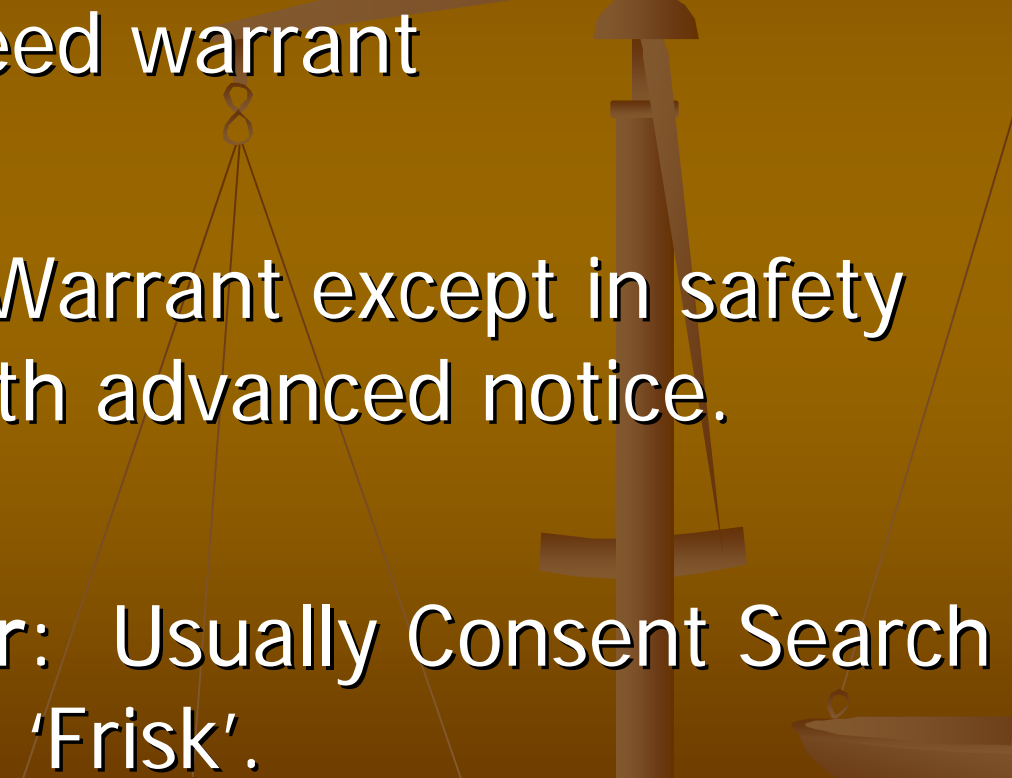


Vision Enhancers: Binoculars, Night Vision

- 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'.
- 

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.

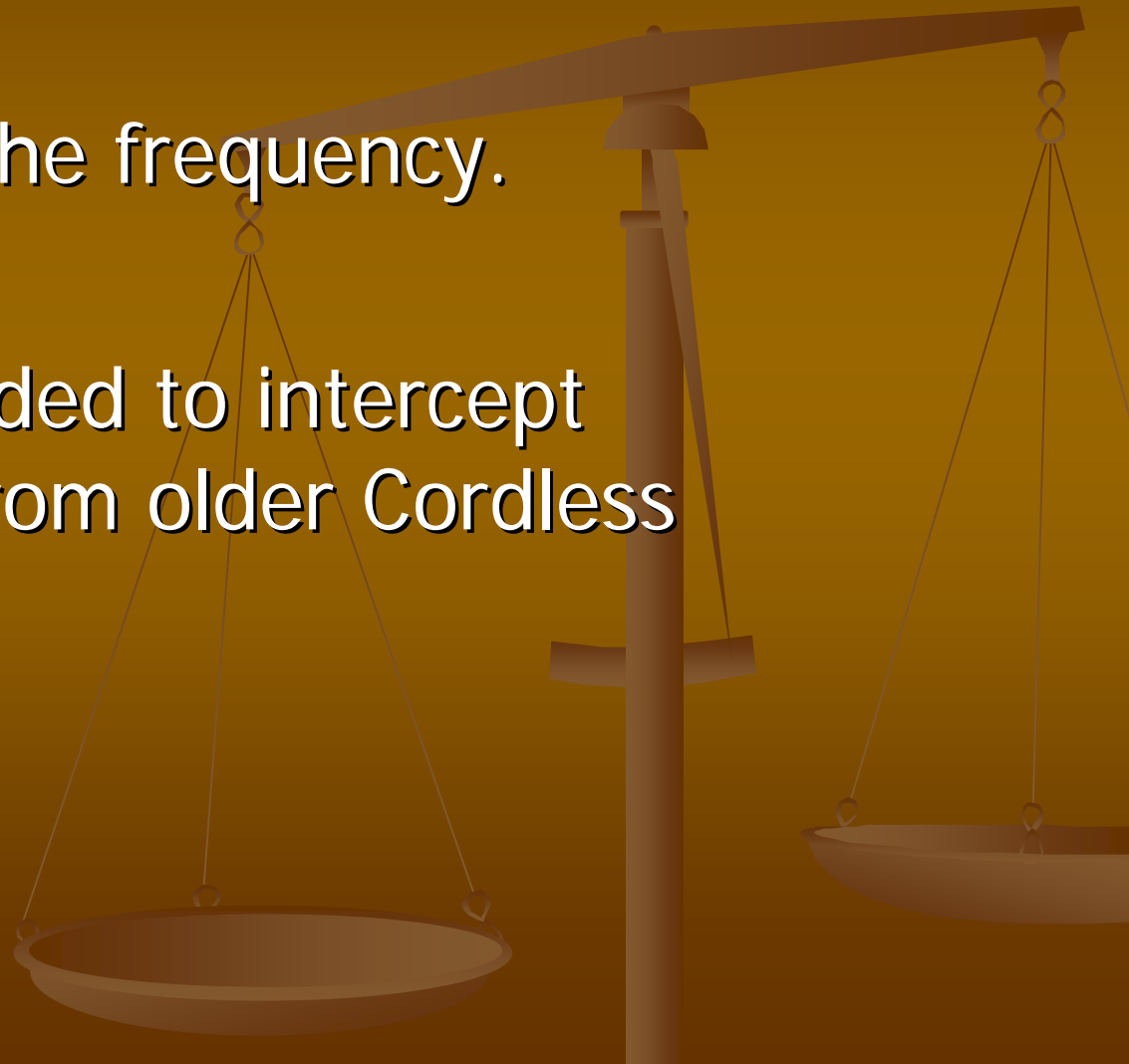
Pen Registers

- Not A Search. NO Warrant Needed.



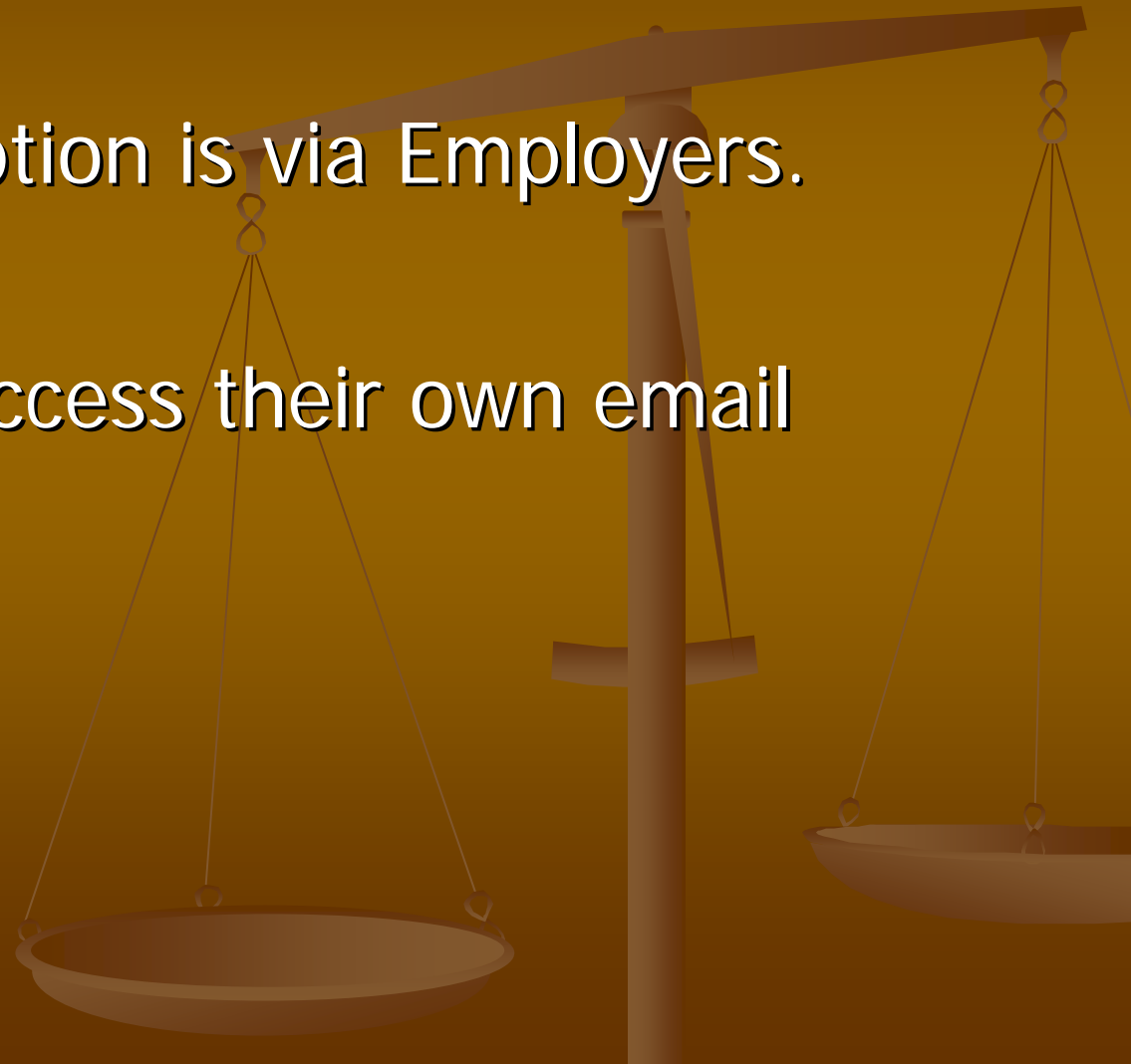
Cordless Phones

- 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.



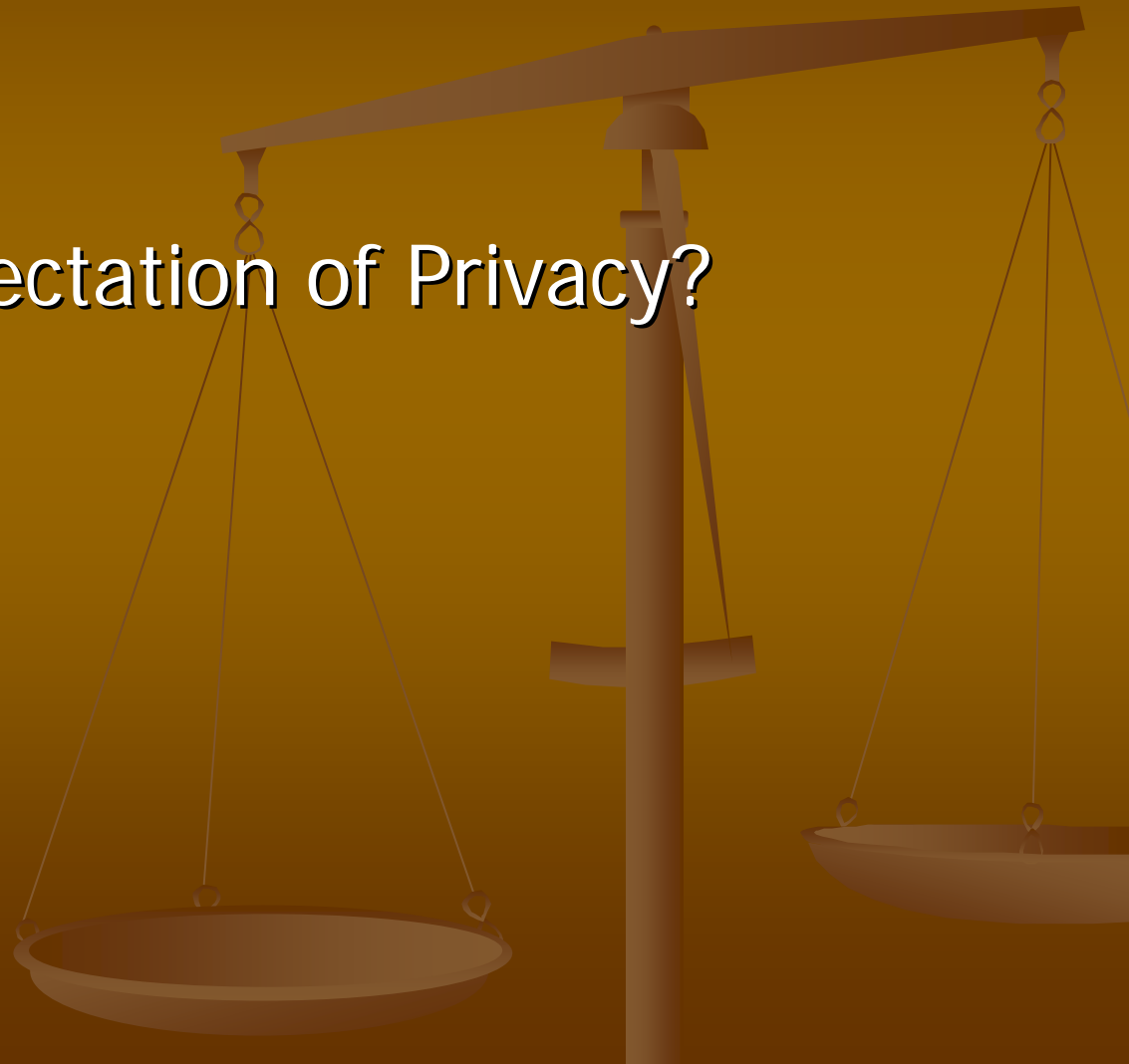
Bug In suspect's home or business

- 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.
- 