

SEARCH AND SEIZURE CASE LAW UPDATE

FIRST QUARTER - 2008

By Don Hays

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SEARCH AND SEIZURE CASE LAW UPDATE

by Don Hays
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(Cases in **Bold** indicate cases added in this edition.)

General overview of the law of Arrest, Search and Seizure in Illinois:

United States Constitution, Fourth Amendment: "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."

Illinois Constitution, Article 1, Section 4: "The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means. No warrant shall issue without probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized."

A. Arrests and Detentions in Illinois:

1. Reasonable Procedure

a. People v. Johnson, 307 Ill. Dec. 153, (2nd Dist, No. 2-04-1030, November 20, 2006) An informant told the police that Johnson had beaten the victim to death with a baseball bat. The police drove to the home of the Johnson and confirmed that he was inside. An officer knocked on the door of the home, confirmed that Johnson was inside, entered the home, and arrested Johnson. **ISSUE:** Was the warrantless entry into the home of Johnson unreasonable? **ANSWER:** No. The circumstances of this case justified the police entry into the home of Johnson to place him under arrest even though they did not have an arrest warrant.

b. People v. Galan, 305 Ill. Dec. 706, (1st Dist., No. 1-04-2612, September 22, 2006) Believing that the defendant was transporting a large amount of illegal substances, the police followed the defendant as he drove toward the Indiana boarder. As the defendant crossed over into Indiana, he stopped at a toll booth just feet over the boarder. The police swooped in on him, arrested him, and discovered two large containers of cannabis inside of his vehicle. The police then took the defendant to his Illinois home where additional large amounts of cocaine, cannabis, and cash were discovered. **ISSUE:** Was the search of this defendant's vehicle and home proper? **ANSWER:** Nope. The police violated the Indiana Fresh Pursuit Law. The result of this failure is the suppression of all evidence gathered by the police.

c. People v. Johnson, 300 Ill. Dec. 404, (4th Dist, No. 4-04-0550, February 1, 2006) The defendant was arrested on a charge of the unlawful possession of a controlled substance. Prior to his bench trial, the defendant moved to suppress arguing that the police conducted an illegal search. The trial court conducted a hearing on the defendant's motion, denied it, and then conducted the defendant's bench trial. The defendant was found guilty. **ISSUE:** Did the trial court have the authority to conduct a joint suppress hearing/bench trial? **ANSWER:** Yes.

2. What constitutes an arrest or a detention?

a. People v. Richardson, ___ Ill. Dec. ___, (1st Dist., No. 1-04-3686, September 21, 2007) A police officer notices an man, who was carrying two tool boxes, walking down a street. The officer pulled up next to this man, parked his car, got out, and approached the man. The man placed the boxes on the ground and approached the officer. The officer asked the man who owned the boxes. The first said that his father owned them. Then he said that a friend of his owned them. Finally, he stated that he owned them. When asked what kind of tools were in the box, the man admitted that he did not know. Finally, when the man admitted that he did not know what the initials on the boxes stood for, the officer opened the boxes and discovered that they belonged to a local business. The man was arrested and he admitted that he had stolen the boxes. **ISSUE:** Was the man seized when the officer pulled up next to him and parked his squad car? **ANSWER:** No. **ISSUE:** Was the man seized when the officer asked the man repeated questions? **ANSWER:** No.

b. People v. Bennett, 315 Ill. Dec. 256, (1st Dist., No. 1-05-3038, September 12, 2007) While on patrol, a police officer heard a radio report of a “man down.” The report described the “offender” and stated that he was seen running away. A few minutes later the officer drove to the area of the report and noticed a man fitting the description of the offender running along the street. The officer then drove up to the man and asked him to walk over to the squad car. The officer exited his car and placed his hand on the man’s chest. The man’s heart was beating rapidly. The man then said, “I didn’t shoot anybody.” The officer then placed the man in the back of his squad car and drove to the location of the report. There a witness identified the defendant as the man who shot the victim. **ISSUE:** Was this defendant arrested when the officer transported him to the scene of the shooting? **ANSWER:** No.

c. People v. Walter, 313 Ill. Dec. 344, (2nd Dist., No. 2-06-0104, June 29, 2007) The police responded to a report of an automobile accident. At the scene, a man informed an officer that the driver of the other car had pulled into a nearby restaurant parking lot after the crash. The officer drove into the lot and noticed the defendant in this case exiting the restaurant. The officer walked up to the man and asked him if he had been involved in an accident. The man admitted that he had. The officer, noting the strong smell of alcohol about the man and his condition, asked if he had been drinking. The man admitted that he had. The officer then asked the man if he would perform some field sobriety tests. The man agreed and failed them. A PBT revealed the man’s breath/alcohol content was 0.167. The officer then placed the man under arrest for DUI. **ISSUE:** Was the man seized when the officer “asked” him to perform field sobriety tests? **ANSWER:** No. The performance of field sobriety tests does not automatically constitute a seizure.

d. People v. Nitz, 309 Ill. Dec. 185, (2nd Dist., No. 2-05-0704, February 16, 2007) The police caught a snitch who was willing to cooperate in exchange for a break. While the police listened, the snitch called defendant in this case and asked to buy cannabis. The snitch arranged to meet the defendant at a convenience store that evening. The snitch did not meet the defendant; the police did. The car the defendant was driving was found parked in a parking lot of the convenience store. The police pulled in behind it and blocked it from driving away. **ISSUE:** Was the defendant detained by the police when they pulled in behind him? **ANSWER:** Yes, the act of pinning the defendant in constituted a detention.

e. People v. Luedemann, 306 Ill. Dec. 94, (Ill. Sup. Ct., No. 100914, October 5, 2006) The defendant in this case was sitting in his car in front of his girlfriend’s house. As the defendant smoked a cigarette, a police officer drove by. Suspicious of the defendant’s conduct, the officer drove up to the defendant’s car, parked his squad car in the middle of the road, and approached the defendant from the rear.

As he did so, he pulled out his flashlight and shined it into the interior of the defendant's car. On the floorboard of the defendant's car the officer spotted an open bottle of beer. ISSUE: Was the defendant detained when the officer first approached him. ANSWER: No. The officer's acts of parked his car in the roadway next to the defendant, shining his flashlight into the defendant's car and approaching the defendant from the rear did not constitute a detention of the defendant.

f. People v. Lopez, 305 Ill. Dec. 666, (1st Dist., No. 1-04-2172, September 20, 2006) The police were investigating a murder. The defendant in this case was a suspect. The police went to the defendant's house, picked him up, transported him to the police station, and interrogated him. He confessed. ISSUE: Did the police arrest this defendant when they picked him up at his house? ANSWER: No. The defendant voluntarily agreed to cooperate with the police investigation of the murder.

g. People v. Tate, 304 Ill. Dec. 883, (2nd Dist., No. 2-04-0968, August 10, 2006) On October 30, 2003, the police were executing a search warrant on a local house. As they began their search, a car pulled up into the driveway of that house. Several officers approached the car because the house had not yet been secured. Even though it was at night, the driver of the car was wearing sunglasses and, additionally, he wore a bright purple wig. An officer ordered the driver to exit his car. When the driver did not respond, the police pulled the driver from his car, cuffed him, and searched him. They discovered that the driver had illegally been drinking alcohol (he was a minor) and he possessed a small amount of cannabis. ISSUE: Was the driver of the car detained by the police when he was ordered to exit his car? ANSWER: Yes.

h. People v. Beverly, 301 Ill. Dec. 97, (2nd Dist, No. 2-05-0399, March 23, 2006) The defendant parked his car in front of his aunt's house while he waited for his brother. A minute or so later, a police officer in a marked car pulled up behind him. The officer, who was investigating drug activity in that area pursuant to an agreement with the owners of the apartment building, decided to ask the defendant what he was doing. One thing led to another and the officer had the defendant exit his car. In his pants pocket was a loaded handgun. ISSUE: Was this defendant illegally detained with the officer pulled up behind him? ANSWER: Yes.

i. People v. Kveton, 298 Ill. Dec. 601, (2nd Dist., No. 2-04-0204, December 5, 2005) The police received an anonymous tip that the defendant possessed a quantity of cannabis. Two officers drove to the defendant's home and watched as the defendant approached. The officers then drove their car across traffic and pulled up in front of the defendant. One officer got out of the car and informed the defendant that they (the police) knew that he possessed cannabis. The officer then asked for consent to search the defendant and his backpack. In response to this request, the defendant merely lowered his head and sighed deeply. The police then took a look inside of the defendant's backpack and discovered cannabis. They then entered the defendant's home and discovered additional cannabis. ISSUE: Was the defendant in this case detained by the police. ANSWER: Yes. The conduct of the police resulted in the detention of the defendant.

j. People v. Sturgess, 300 Ill. Dec. 852, (1st Dist, No. 1-04-2191, March 3, 2006) The defendant in this case was involved in an accident. Her car was disabled. A State Police Trooper arrived on the scene and offered the defendant a ride to the local police station. She accepted and in so doing, the Trooper noticed that the defendant had a strong odor of alcohol about her. At the station the defendant was asked to perform some field sobriety tests. She failed them and she was placed under arrest for DUI. ISSUE: Was the defendant illegally seized when she was taken to the police station? ANSWER: No.

k. People v. Wead, 299 Ill. Dec. 488, (1st Dist., No. 1-02-1878, January 21, 2005) The defendant was suspected of first-degree murder. Based upon their suspicions, the police stopped the

defendant on the street and asked him to come down to the police station for questioning. The defendant agreed and he hopped into the back of the police squad car. At the station the police interrogated the defendant for 54 hours. The defendant finally confessed and he was charged with first degree murder. ISSUE: Was the defendant's confession admissible against him at his murder trial? ANSWER: No. The defendant was "arrested" at the police station when he was not free to leave. This arrest was made without probable cause. Since no evidence was introduced to "break the chain" between the defendant's illegal arrest and his subsequent confession, that confession was inadmissible against him.

l. People v. Brown, 293 Ill. Dec. 381, (3rd Dist., No. 3-03-0604, April 29, 2005) The clerk of a video store was robbed a gunpoint. The police were called and they were given a very general description of the robbery suspect. That description was broadcast and a nearby motel clerk thought that the defendant in this case matched that description. She called the police and the police stopped the car the defendant was driving. As it turns out, the store clerk informed the police that the defendant was not her robber. However (and this is a very big however), while the police were waiting for the clerk to be brought to where the defendant was being held, they noticed an electronic scale with a white powdery substance on the back seat of the defendant's car. Based upon this evidence, the defendant was placed under arrest and searched. Cannabis was discovered on his person. ISSUE: Was the defendant's detention an arrest? ANSWER: No. It was only a brief, Terry detention.

m. People v. Smith, 292 Ill. Dec. 915, (Ill. Sup. Ct., No. 98014, March 24, 2005) The car the defendant was riding in was stopped on an Interstate for numerous traffic violations. The driver of the car was arrested for DUI. None of the passengers in the car, including the defendant in this case, could drive the car away and they were unsuccessful in trying to find a ride. The police offered to give them a lift to the police station. They accepted. Pursuant to police policy, the passengers were patted down for weapons. A gun was found on the defendant. ISSUE: Was the defendant "seized" by the police when he accepted their offer of a ride. ANSWER: No. The Supreme Court determined that the defendant was not seized prior to his accepting a ride from the police.

n. People v. Mitchell, 291 Ill. Dec. 786, (2nd Dist., No. 2-03-1107, March 3, 2005) In the early morning hours the police saw the defendant in this case walking down a city street. They approached the defendant and asked him what he was doing out so early in the morning. They then asked the defendant for his identification. A computer check of the defendant's identification revealed an outstanding traffic warrant. He was arrested and transported to the police station where a search revealed a small packet of cocaine. ISSUE: Did the police detain the defendant when they approached him as he was walking down the street? ANSWER: Under the circumstances of this case, yes they did.

o. People v. Kline, 291 Ill. Dec. 719, (3rd Dist., No. 3-04-0305, February 16, 2005) A school resource officer (a sworn police officer from a local department) received an anonymous tip that a student in that school possessed approximately one-half an ounce of cannabis which he was carrying in his front pants pocket. The tipster additionally stated that he had viewed the cannabis just prior to making his call. Based upon this tip, an nothing else, the officer informed the school's dean of students and they both proceeded to the room in which the student sat. The dean entered the room and asked the defendant to come with him. The student was taken to a nearby room where he was questioned. The cannabis was found and the defendant was charged with possession of the cannabis on school grounds with the intent to deliver. ISSUE: Was the defendant in this case seized when he was taken from his class by the dean and the officer? ANSWER: Yes, he was.

3. Seizure of Items.

a. People v. Shinohara, 313 Ill. Dec. 515, (1st Dist., No. 1-03-0668, June 29, 2007) The defendant called the police and asked them to remove a 17-year-old girl from his apartment. The girl claimed that the defendant and picked her up off of the street and sexually assaulted her in his apartment. The defendant denied this charge but he admitted that he had digitally recorded their sexual acts and downloaded them on his computer. The girl then admitted to the police that no sexual assault had occurred. Notwithstanding this statement of the “victim,” the police asked for consent to look at the defendant’s apartment and his computer in order to confirm his version of the story. The defendant agreed and the police took the computer to their station. At the station the police viewed a file on the computer and confirmed that the defendant had recorded the nude girl. The police then seized the computer and obtained a warrant to search the rest of the files on that computer. **ISSUE:** Did the police violate the defendant’s rights when they seized his computer after being informed that no sexual assault had occurred. **ANSWER:** No. The police had sufficient justification to seize the computer based upon the fact that it contained child pornography.

b. People v. Humphrey, 296 Ill. Dec. 795, (2nd Dist., No. 2-03-1306, September 30, 2005) The police stopped this defendant for speeding. According to the arresting officer, the defendant appeared to be very nervous. On the floorboard of the defendant’s car the officer noticed a plastic bowl with a large number of pills inside. The officer thought that those pills might be pseudoephedrine. Based upon this belief, the officer asked the defendant to hand him the bowl. He did and the pills were identified as pseudoephedrine. The defendant then admitted that the pills were going to be used to make methamphetamine. **ISSUE:** Did this police officer improperly seize these pills. **ANSWER:** Yes. The request of the arresting officer constituted a seizure.

4. When did the detention occur?

a. People v. Ocampo, ____ Ill. Dec. ____ (2nd Dist., No. 2-06-0556, October 30, 2007) **A police detective drove into a gas station to refuel his car. As he stood there, he noticed a man setting in a nearby parked car. A second man walked out from behind a nearby carwash and entered the parked car. The two individuals then had a conversation. During this conversation the detective saw the second man lean back as if he were removing something from his pants. At no time did the detective see the men exchange anything. In fact, detective never saw anything illegal occur in the car. He was only able to see the upper arms of the men because his view was blocked by the car’s door. After about two minutes, the second man exited the car. A police approached the defendant, showed him his badge, and informed him that they needed to talk. After two more detectives approached the defendant. They asked the defendant for permission to search his person and the defendant granted consent. Illegal drugs were discovered. **ISSUE:** Was this defendant detained when he was approached by the detective? **ANSWER:** Yes.**

b. In re Mario T., 314 Ill. Dec. 954, (1st Dist., No. 1-05-3499, September 28, 2007) The police received a call about three males breaking into a vacant apartment operated by the Chicago Housing Authority. Two officers responded to the call and saw several males “loitering” in the hallway of that apartment building. One of the officers decided to conduct a “field interview” to determine whether the males lived in the building. After learning that they did not live in the building, the officer began to fear for her safety. She conducted a “protective pat-down” of the males by feeling their waistlines and pockets to make sure they were unarmed. In the front pocket of one of the males the officer felt several small rock-like

objects. The male admitted that they were “rocks.” The cocaine was seized. The male was then placed under arrest and a custodial search was performed. During this search cannabis was discovered. ISSUE: Was the defendant’s detained when the police conducted their “field interview”? ANSWER: No, not yet. However, when the officer conducted her pat-down, the suspect was detained.

c. People v. Lopez, 304 Ill. Dec. 883, (1st Dist., No. 1-04-2172, September 20, 2006) The police were investigating a murder. The defendant in this case was a suspect. The police went to the defendant’s house, picked him up, transported him to the police station, and interrogated him. He confessed. ISSUE: When did the police arrest this defendant? ANSWER: They did not arrest him at his house. The defendant was only arrested after he confessed to the murder.

d. People v. Washington, 299 Ill. Dec. 841, (1st Dist., No. 1-02-2893, January 24, 2006) The 38-year-old prostitute defendant was suspected of beating her 78-year-old boyfriend to death with a two-by-four. She voluntarily accompanied the police to the local police station for questioning. Some twenty-three hours later she made an incriminating statement to a police officer as she was being taken for a polygraph examination. ISSUE: Was the defendant arrested without probable cause? ANSWER: Yes. The defendant’s detention eventually turned into an arrest. It was only a question of when.

e. People v. Wead, 299 Ill. Dec. 488, (1st Dist., No. 1-02-1878, December 23, 2005) The defendant was suspected of first-degree murder. Based upon these suspicions, the police stopped the defendant on the street and asked him to come down to the police station for questioning. The defendant agreed and he hopped into the back of the police squad car. At the station the police interrogated the defendant for 54 hours. The defendant finally confessed and he was charged with first degree murder. ISSUE: When was the defendant placed under arrest in this case. ANSWER: He was not arrested on the street. He was arrested at the police station when he was not allowed to leave.

5. When did the detention end?

a. People v. Keys, 314 Ill. Dec. 481, (4th Dist., No. 4-06-0378, July 31, 2007) While he was stopped at a stop light, a police officer had his picture taken by the driver of a car that had pulled up next to him. The officer reported this incident to his fellow officers and later that day one of those officers pulled that car over and ordered its occupants to get out. When the officer attempted to pat down one of those occupants, the man broke free and fled. Eventually, the police chased the man down and placed him under arrest. Along the path the defendant used to flee, the police found three bags of heroin. ISSUE: Did the defendant’s detention end when he ran from the police? ANSWER: Yes.

6. Probable Cause to Arrest?

a. People v. Damian, 313 Ill. Dec. 706, (5th Dist., No. 5-06-0026, August 14, 2007) The police received a call concerning a motorist in a ditch. Responding to the call, a State Trooper drove to the area and found no car. He then drove to a nearby rest stop and there he spotted the defendant standing outside of a car trying to unlock it with a stick. The Trooper learned that the defendant had driven to the rest stop after he had run off into a ditch. Once at the rest stop, the defendant had inadvertently locked his keys inside of his car. The behavior of the defendant convinced the Trooper that the defendant was under the influence of a drug. After opening the defendant’s car, the Trooper searched it and found contraband. ISSUE: Did the

Trooper have sufficient probable cause to arrest the defendant before he searched the defendant's car. ANSWER: Yes. The conduct of the defendant and the knowledge of the Trooper together were sufficient to constituted probable cause to arrest.

b. People v. Walter, 313 Ill. Dec. 344, (2nd Dist., No. 2-06-0104, June 29, 2007) The police responded to a report of an automobile accident. At the scene, a man informed an officer that the driver of the other car had pulled into a nearby restaurant parking lot after the crash. The officer drove into the lot and noticed the defendant in this case exiting the restaurant. The officer walked up to the man and asked him if he had been involved in an accident. The man admitted that he had. The officer, noting the strong smell of alcohol about the man and his condition, asked if he had been drinking. The man admitted that he had. The officer then asked the man if he would perform some field sobriety tests. The man agreed and failed them. A PBT revealed the man's breath/alcohol content was 0.167. Another officer then confirmed from the other driver that the defendant was driving the car that was involved in the accident. The original officer then placed the man under arrest for DUI. ISSUE: Did the police have sufficient probable cause to arrest the defendant? ANSWER: Yes, the information the police together collected was sufficient to support the defendant's arrest.

c. People v. Jones, 313 Ill. Dec. 96, (1st Dist., No. 1-05-0668, June 25, 2007) The police received a call reporting a shooting. The call described the shooter. Two detectives responded to the call and officers and witnesses at the scene again described the shooter to them. Spotting the defendant in this case running away from the scene of the shooting, the detectives stopped him. After noticing that the smell of gunshot residue was on the defendant's person, the detectives place him under arrest. ISSUE: Did the police have probable cause to arrest this defendant? ANSWER: Yes, the totality of the circumstances justified the arrest of the defendant.

d. In re Jerome S., 311 Ill. Dec. 220, (4th Dist., No. 4-06-0113, April 18, 2007) A police officer responded to a call of a disturbance in a park. Upon arriving at the park the officer saw two groups of people yelling at each other. He was told by a bystander that a black male wearing a white T-Shirt possessed a tazer. The officer told the larger group to disburse and they did. He then approached the smaller group. In this group was the defendant, a black male who was wearing a T-Shirt. Ignoring the repeated commands of the officer to stop, the defendant started yelling threats and walking toward the larger group. The officer pushed the defendant to the ground and placed him under arrest for obstructing justice. ISSUE: Did the officer have probable cause to arrest this defendant? ANSWER: Yes

e. People v. Nitz, 309 Ill. Dec. 185, (2nd Dist., No. 2-05-0704, February 16, 2007) The police caught a snitch who was willing to cooperate in exchange for a break. While the police listened, the snitch called defendant in this case and asked to buy cannabis. The snitch arranged to meet the defendant at a convenience store that evening. The snitch did not meet the defendant; the police did. The car the defendant was driving was found parked in a parking lot of the convenience store. The police pulled in behind it and blocked it from driving away. As the officer walked up to the defendant's car, the defendant rolled down his window. The officer then smelled the odor of "fresh cannabis" coming from the inside of the defendant's car? ISSUE: Did the police have probable cause to arrest this defendant. ANSWER: Yes, the smell of the cannabis was enough to justify the arrest of the defendant.

f. People v. Flores and Flores, 308 Ill. Dec. 657, (2nd Dist., 2-05-0778 & 0783, January 29, 2007) The police were patrolling the parking lot of an apartment complex late one night. As they watched, a car was seen slowly circling the lot. As the car exited the lot, the police followed. When the car

approached a nearby parking spot, the driver of the car turned off his headlights while he was still on the highway. Noting this traffic violation, the police pulled in next to the car and approached it. In the backseat of the car were two unboxed car stereos with their wiring still attached. When questioned, the driver informed that police that he had not been in the parking lot. The officer then noticed that the driver had a screwdriver in his pocket. ISSUE: Did the police have probable cause to arrest the suspects? ANSWER: Yes.

g. People v. Long, 308 Ill. Dec. 270, (2nd Dist., 2-05-0772, January 3, 2007) After receiving reports that several bouncers at a local bar were selling narcotics, the police visited the place. Once inside of the bar, the police began questioning individuals. At a nearby table sat two bar bouncers. When the police approached the table they saw bottle, wrapped in gray duct tape, sitting on the footrest of the table where the two bouncers had been sitting. When an officer reached down to pick this bottle up, he saw a plastic “baggy” also lying on the floor under the table. Inside the bottle and the baggy narcotics was found. ISSUE: Did the discovery of these items give the police probable cause to arrest the individuals who had been sitting at the table? ANSWER: Yes.

h. People v. Moorman, 307 Ill. Dec. 428, (2nd Dist., No. 2-04-1212, November 29, 2006) The police watched as the defendant drove his car up to a drug house and walked in. As the defendant drove away from the house, the police stopped him because his car’s registration had expired. The defendant admitted that his driver’s license had been revoked. The officer then asked the defendant and his girlfriend if they had any illegal drugs. The girlfriend admitted that she did. The police seized the drugs and arrested the defendant. ISSUE: Did the police have probable cause to arrest the defendant based upon his registration violation? ANSWER: No. The police may not arrest drivers for minor traffic violations.

i. People v. Johnson, 307 Ill. Dec. 153, (2nd Dist, No. 2-04-1030, November 20, 2006) An informant told the police that Johnson had beaten the victim to death with a baseball bat. The police drove to the home of the Johnson and confirmed that he was inside. An officer knocked on the door of the home, confirmed that Johnson was inside, entered the home, and arrested Johnson. ISSUE: Did the police possess sufficient probable cause to justify the arrest of Johnson? ANSWER: Yes. The co-defendant’s statement was enough to support Johnson’s arrest.

j. People v. Garvin, 301 Ill. Dec. 423, (Ill. Sup. Ct., No. 99031, March 23, 2006) The defendant in this case was seen “in and around” a stolen van. Based upon this information, the defendant was arrested. The issue before the appellate court was whether the police had probable cause to place the defendant under arrest? The answer was no. This evidence alone was insufficient to constitute probable cause to arrest. The Illinois Supreme Court disagreed with that ruling and declared that sufficient probable cause existed to justify the arrest of the defendant.

k. People v. Hopkins, 2006 WL 3372714, (1st Dist., No. 1-04-1317, December 12, 2005) The police received a report of an armed robbery. The perpetrators of that robbery were described as “two black males in their 20's who were armed and headed eastbound on foot.” A police officer was dispatched and arrived at the scene in a matter of moments. No persons were seen walking, however one car was stopped two blocks away. The officer approached the car and noticed that the driver of the car made eye contact with the officer and then shifted in his seat from a forward position to a leaning-back position with his arms extended. The driver was a young black male in his early 20's and the neighborhood where this robbery occurred was predominantly white. The officer called for backup and stopped the suspect. The driver of the car was ordered to step out of his car. He had snow on his pant legs. The officer then patted the driver down

and noticed that he was breathing heavily and his heart was beating rapidly. After a brief struggle, the defendant was handcuffed and transported down town. **ISSUE:** Under these circumstances, was this defendant properly placed under arrest? **ANSWER:** No. No sufficient probable cause existed to justify the arrest of this defendant.

l. People v. Green, 295 Ill. Dec. 314, (2nd Dist, No. 2-03-1345, July 6, 2005) Based upon an anonymous tip about a “white male” placing a backpack behind a house, the police went to the house and located the backpack. Inside the backpack was a disassembled Meth lab. At this same time, the police noticed the defendant in this case, a white female, walking nervously up and down in front of this same house. She was carrying another backpack and she was talking on a cell-phone. The police approached the defendant, talked to her, and eventually ordered her to accompany them to the rear of the house. One thing led to another and, eventually, the police took a peak inside of the girl’s backpack. Inside the backpack meth was found. **ISSUE:** Did the police have sufficient probable cause to place the defendant under arrest? **ANSWER:** No. **(NOTE: This case was originally release on May 5, 2005. Subsequently, it was withdrawn and re-released on July 6, 2005.)**

m. People v. Serio, 294 Ill. Dec. 337, (2nd Dist., No. 2-03-0814, June 3, 2005) The defendant was involved in a murder. His girlfriend ratted him out. Shortly thereafter, the defendant was arrested and he admitted to everything. In a somewhat desperate attempt to prevent his confession from being used against him, the defendant argued that he had been illegally arrested. **ISSUE:** Did the police have sufficient probable cause to arrest the defendant? **ANSWER:** Yes. Despite the fact that the defendant’s girlfriend had numerous felony arrests and convictions and was a drug addict, her statement to the police was enough to justify the arrest of the defendant.

n. People v. Jones, 294 Ill. Dec. 129, (Ill. Sup. Ct., No. 97683, May 19, 2005) The defendant’s taillights were not working. He was stopped by the police. As the arresting officer was talking to the defendant, he noticed a small wooden box which, according to the officer, appeared to him to be drug paraphernalia. It was a “one-hitter” box. Based upon this, the officer seized the box, opened it, and discovered cannabis. He then placed the defendant under arrest. **ISSUE:** Was the defendant’s arrest legal? **ANSWER:** Yes. The officer had sufficient probable cause to place the defendant under arrest.

o. People v. Lee, 293 Ill. Dec. 267, (Ill. Sup. Ct., No. 97944, April 7, 2005) The police received a citizens complaint regarding three males selling drugs on a street corner. They went to that corner and staked in out. Shortly thereafter they saw three men talking to the driver of a parked car. The defendant was recognized as having been previously convicted of selling drugs. Another of the men was a known gang member. When the driver of the car drove away, the police approached the three men. They did not attempt to flee. Based upon a local anti-gang loitering ordinance, the police frisked the men. Cocaine was found on the defendant and he was placed under arrest. The appellate court declared this anti-gang ordinance to be unconstitutional. **ISSUE:** Was the appellate court correct in its ruling? **ANSWER:** No. The Court did not need to rule upon the constitutionality of the ordinance because the police did not have sufficient probable cause to arrest the suspects anyway.

p. People v. Tillman, 291 Ill. Dec. 107, (1st Dist., No. 1-03-2234, January 14, 2005) The police received a tip that narcotics was being sold in a particular apartment in a housing project. They went to the high-rise building in which that apartment was located. When the police started walking up the stairs, they spotted two individuals with contraband in their possession. The individuals dropped the contraband and ran up the stairs. The police followed the suspects as they ran into the apartment identified by the snitch.

Inside the apartment the police arrested the two suspects and they spotted the defendant in this case, the occupant of the apartment. As the police watched, the defendant, who had something in his hand, hurriedly walked over to a nearby wall and dropped what he had in his hand into a hole in that wall. The police arrested the defendant, kicked another hole in the wall, and retrieved cocaine and a handgun. ISSUE: Did the police have sufficient probable cause to place the defendant under arrest. ANSWER: Yes, based upon the totality of the circumstances.

7. Arrests Outside Jurisdiction

a. People v. Erby, 314 Ill. Dec. 492, (5th Dist., No. 5-06-0217, August 24, 2007) A police officer was on patrol while outside of his jurisdiction when he came upon a car stopped in the middle of the road. The driver of the car was slumped over the car's steering wheel. The officer activated his emergency lights and the driver of the car woke up and rolled down his window. The officer detected a strong odor coming from the car. His training and experience told him it was anhydrous ammonia. Looking into the back of the car, the officer spotted, in addition to numerous other things, a mason jar with pills soaking in it and a metal funnel. Believing that this was a meth lab, the officer radioed the local police authorities and the defendant was placed under arrest. ISSUE: Did the officer illegally make an arrest outside of his jurisdiction when he "used the powers of his office" to arrest the defendant. (The "training and experience" of the officer was the "power of his office.") ANSWER: No, this was a proper "citizen's arrest."

b. People v. Galan, 305 Ill. Dec. 706, (1st Dist., No. 1-04-2612, September 22, 2006) Believing that the defendant was transporting a large amount of illegal substances, the police followed the defendant as he drove toward the Indiana boarder. As the defendant crossed over into Indiana, he stopped at a toll booth just feet over the boarder. The police swooped in on him, arrested him, and discovered two large containers of cannabis inside of his vehicle. The police then took the defendant to his Illinois home where additional large amounts of cocaine, cannabis, and cash were discovered. ISSUE: Did the police use the proper procedure when arresting this defendant? ANSWER: Nope. The police violated the Indiana Fresh Pursuit Law. The result of this failure is the suppression of all evidence gathered by the police.

c. People v. Kleutgen, 295 Ill. Dec. 563. (2nd Dist, No. 2-04-1121, August 1, 2005) An off-duty chief of police, who was driving through an unincorporated area outside of the limits of his city, noticed a car in front of him as it drove down the road. As the chief watched, the car repeatedly swerved back and forth within its lane of traffic. After unsuccessfully seeking the help of a County Sheriff's deputy, the chief activated his emergency lights and pulled the car over. The driver of that car, the defendant in this case, was DUI. ISSUE: Did this chief properly arrest this defendant while he was outside of his jurisdiction? ANSWER: No, not as a police officer. However, the chief did properly act as a private citizen in stopping this defendant.

d. People v. Olson, 296 Ill. Dec. 695, (1st Dist, No. 1-04-1404, September 6, 2005) Railroad police officers saw this defendant attempting to burglarize a railroad car. Unfortunately for them, the defendant was able to twice escape capture. Eventually, the railroad police trailed this defendant to his home and placed him under arrest. ISSUE: Was this arrest reasonable? ANSWER: Nope. It took place outside of the jurisdiction of the railroad police.

8. Reasonableness of the Detention

a. People v. Ewing, ___ Ill. Dec. ___, (4th Dist., No. 4-07-0184, November 29, 2007) The police received a 911 call from an employee of a local veterinary clinic. The employee stated that a man had just left the clinic and he appeared to have been intoxicated. Caller described both the man and his car. The local police department put out a radio call about the man and a local police officer overheard and call. He drove in the direction of call and soon spotted the man. The officer pulled the man over and confirmed that he was, in fact, intoxicated. ISSUE: Was the 911 call about a possible DUI sufficient to support the detention of the defendant? ANSWER: Yes.

b. People v. Ocampo, ___ Ill. Dec. ___ (2nd Dist., No. 2-06-0556, October 30, 2007) A police detective drove into a gas station to refuel his car. As he stood there, he noticed a man setting in a nearby parked car. A second man walked out from behind a nearby carwash and entered the parked car. The two individuals then had a conversation. During this conversation the detective saw the second man lean back as if he were removing something from his pants. At no time did the detective see the men exchange anything. In fact, detective never saw anything illegal occur in the car. He was only able to see the upper arms of the men because his view was blocked by the car's door. After about two minutes, the second man exited the car. A police approached the defendant, showed him his badge, and informed him that they needed to talk. After two more detectives approached the defendant. They asked the defendant for permission to search his person and the defendant granted consent. Illegal drugs were discovered. ISSUE: Was the detention of this defendant reasonable? ANSWER: No.

c. People v. Bennett, 315 Ill. Dec. 256, (1st Dist., No. 1-05-3038, September 12, 2007) While on patrol, a police officer heard a radio report of a "man down." The report described the "offender" and stated that he was seen running away. A few minutes later, the officer drove to the area of the report and noticed a man fitting the description of the offender running along the street. The officer then drove up to the man and asked him to walk over to the squad car. The officer exited his car and placed his hand on the man's chest. The man's heart was beating rapidly. The man then said, "I didn't shoot anybody." The officer then placed the man in the back of his squad car and drove to the location of the report. There a witness identified the defendant as the man who shot the victim. ISSUE: Was this defendant properly detained by the officer? ANSWER: Yes.

d. People v. Shinohara, 313 Ill. Dec. 515, (1st Dist., No. 1-03-0668, June 29, 2007) The defendant called the police and asked them to remove a 17-year-old girl from his apartment. The girl claimed that the defendant and picked her up off of the street and sexually assaulted her in his apartment. The defendant denied this charge but he admitted that he had digitally recorded their sexual acts and downloaded them on his computer. The girl then admitted to the police that no sexual assault had occurred. Notwithstanding this statement of the "victim," the police asked for consent to look at the defendant's apartment and his computer in order to confirm his version of the story. The defendant agreed and the police took the computer to their station. At the station the police viewed a file on the computer and confirmed that the defendant had recorded the nude girl. The police then seized the computer and obtained a warrant to search the rest of the files on that computer. ISSUE: Did the police properly continue to detain this defendant after the girl admitted that no sexual assault had occurred? ANSWER: Yes. The statement of the girl did not completely dissipate the belief by the police that an offense had occurred.

e. People v. Walter, 313 Ill. Dec. 344, (2nd Dist., No. 2-06-0104, June 29, 2007) The police responded to a report of an automobile accident. At the scene, a man informed an officer that the driver of the other car had pulled into a nearby restaurant parking lot after the crash. The officer drove into the lot and noticed the defendant in this case exiting the restaurant. The officer walked up to the man and asked him if he had been involved in an accident. The man admitted that he had. The officer, noting the strong smell of alcohol about the man and his condition, asked if he had been drinking. The man admitted that he had. The officer then asked the man if he would perform some field sobriety tests. The man agreed and failed them. A PBT revealed the man's breath/alcohol content was 0.167. The officer then placed the man under arrest for DUI. ISSUE: Was this defendant properly detained even though the police had no evidence that he had driven the car? ANSWER: Yes. The detention of the defendant was reasonable.

f. People v. McGee, 311 Ill. Dec. 870, (1st Dist., No. 1-05-3020, May 21, 2007) A police officer received a radio report of a car burglary in progress. He responded to the call and was informed that the owner of the car was following the person who committed the offense. The officer arrived on the scene and saw a person who matched the description of the suspect. He was walking down the street. The officer stopped the suspect. ISSUE: Under these circumstances, did the officer have sufficient reasonable suspicion to stop the suspect? ANSWER: Yes

g. People v. Shafer, 311 Ill. Dec. 359, (4th Dist., No. 4-06-0243, April 19, 2007) At 1 a.m., the police received a call from an employee of Wendy's restaurant regarding a person who "was causing a disturbance and was intoxicated" while ordering food at the restaurant's drive-thru window. A police officer happened to be in that area and saw a car exiting the Wendy's parking lot. The officer stopped the car and enquired about the disturbance. While doing so, the officer confirmed that the driver was, in fact, intoxicated. ISSUE: Did the police officer have sufficient reasonable suspicion to justify a stop of the defendant's car? ANSWER: Yes.

h. People v. Hoekstra, 308 Ill. Dec. 215, (2nd Dist., No. 2-05-0443, February 22, 2007) On the morning in question, the owner of a tavern heard a noise coming from his closed bar. He investigated and out of the back door of the bar fled the defendant in this case. He jumped into a parked van and fled the scene. The owner called the Sheriff's Department and a said that the burglar had fled in a blue van. A short time later and nine miles away, Wisconsin police authorities saw the defendant driving a green van away from the location of the bar. When the Wisconsin police pulled in behind the defendant's van, they saw the defendant throwing a jacket and a pair of gloves out his window. ISSUE: Was the initial detention of the defendant reasonable. ANSWER: Yes. The report of the bar owner (even if he did get the color of the van wrong) together with the fact that the van was traveling away from the bar early in the morning was enough to justify the detention of the van, especially when the defendant's act of throwing his clothes out of the van was considered.

i. People v. Mendez, 309 Ill. Dec. 205, (2nd Dist., No. 2-06-0204, February 20, 2007) On the morning in question, a police officer was investigating a burglarized vehicle when he heard gunshots being fired. Jumping into his car, the officer drove toward the sound of the gunshots. A few seconds later the officer had traveled approximately 100 yards when he entered a nearby intersection. At that same time another car entered the same intersection. It was coming from the direction of where the shots were fired. The officer and the driver of the car made eye-contact and the driver had an expression of shock on his face. His eyes widened and his jaw clenched. The officer pulled the car over and discovered inside evidence of criminal activity. ISSUE: Was the initial detention of the car reasonable. ANSWER: Yes. Under the facts of this particular case, the officer had sufficient reasonable suspicion to justify a Terry stop of the car.

j. People v. Flores and Flores, 308 Ill. Dec. 657, (2nd Dist., 2-05-0778 & 0783, January 29, 2007) The police were patrolling the parking lot of an apartment complex late one night. As they watched, a car was seen slowly circling the lot. As the car exited the lot, the police followed. When the car approached a nearby parking spot, the driver of the car turned off his headlights while he was still on the highway. Noting this traffic violation, the police pulled in next to the car and approached it. In the backseat of the car were two unboxed car stereos with their wiring still attached. When questioned, the driver informed that police that he had just arrived at the parking spot. The officer then noticed that the driver had a screwdriver in his pocket. ISSUE: Did the police have sufficient reasonable suspicion to detain the defendants? ANSWER: Yes. The traffic violation committed by the driver of the car justified the detention.

k. People v. Novakowski, 306 Ill. Dec. 417, (1st Dist., No. 1-05-0547, October 6, 2006) While investigating a recent burglary (in which nothing had been taken), a police officer noticed the defendant walking down a nearby street. He was carrying a backpack. When the defendant noticed the officer looking at him, he dropped his backpack to the ground and walked toward the officer. The officer recognized the defendant as a suspect in series of recent burglaries. When the officer asked the defendant about his backpack, he merely “chuckled.” The defendant then gave the officer conflicting explanations about his conduct. According to the officer, these answers were evasive and the defendant appeared to be very nervous. The backpack was then seized and inside was the proceeds of another, unreported burglary. ISSUE: Was the initial detention of the defendant reasonable. ANSWER: Yes.

l. People v. Ward, 2007 WL 313321, (1st Dist., No. 1-04-1852, September 29, 2006) The police had information that the defendant, a probationer, might be involved in illegal drug activity. However, this information was old and very vague. Further, the police received a vague tip that the defendant was involved in a recent shooting. To investigate these activities, the police drove to the home of the defendant. The defendant saw the police drive up and took off running. The police chased him down, detained him, and searched his person and his home. ISSUE: Did the police reasonable detain this defendant? ANSWER: Yes. The information the police possessed, plus the flight of the defendant, justified his detention.

m. People v. Morrision, 305 Ill. Dec. 362, (1st Dist., No. 1-04-3545, September 12, 2006) A police officer, while on routine patrol, saw two men having an argument in the middle of a public street. The officer approached the men, obtained their identifications, and ran a warrant’s check. One of those men had an outstanding warrant for his arrest. The officer arrested that man and a search of his person revealed crack cocaine. ISSUE: Was the police detention of this defendant reasonable? ANSWER: Yes. ISSUE: Did this officer take too much time when running the warrants check? ANSWER: No.

n. People v. Tate, 304 Ill. Dec. 883, (2nd Dist., No. 2-04-0968, August 10, 2006) On October 30, 2003, the police were executing a search warrant on a local house. As they began their search, a car pulled up into the driveway of that house. Several officers approached the car because the house had not yet been secured. Even though it was at night, the driver of the car was wearing sunglasses and, additionally, he wore a bright purple wig. An officer ordered the driver to exit his car. When the driver did not respond, the police pulled the driver from his car, cuffed him, and searched him. They discovered that the driver had illegally been drinking alcohol (he was a minor) and he possessed a small amount of cannabis. ISSUE: Was the driver of the car illegally arrested by the police. ANSWER: Yes.

o. People v. James, 303 Ill. Dec. 193, (1st Dist, No. 1-05-0811, May 5, 2006) While the police were stopped at a traffic light, they noticed the defendant in this case approach several persons as they were entering a liquor store. Believing that the defendant was soliciting these individuals for prostitution, the police decided to investigate. They approached the defendant in order to conduct a field interview. They asked the defendant her name and what she was doing on that corner. According to the police, the defendant was unresponsive and “seemed a little confused.” While the police did not feel threatened, they asked the defendant if she had anything on her that she should not have. She responded by saying “Yes.” When asked what she had, the defendant responded PCP. ISSUE: Was the detention of this defendant reasonable? ANSWER: Yes.

p. People v. Austin, 302 Ill. Dec. 497, (4th Dist., No. 4-04-0727, May 1, 2006) The police received a tip that a particular person would be arriving on a Greyhound bus that day and he would be transporting crack cocaine. Based upon this tip, the police watched as the bus arrived. Two men, who generally matched the suspect’s description, were seen exiting the bus. They talked as they walked along the side of the bus. The police approached the men and identified themselves. The men started to walk in different directions. Both men were ordered to place their hands on the side of the bus. Concerned for their safety, the police patted the suspects down. Discovered during this frisk was the crack cocaine. ISSUE: Was the detention of these suspects reasonable? ANSWER: Yes, the police obtained sufficient supporting information to justify a Terry stop of these suspects.

q. People v. White, 302 Ill. Dec. 614, (Ill. Sup. Ct, No. 99935, April 20, 2006) While patrolling a high crime area, the police saw the defendant walking toward an apartment. As the police watched, the defendant was tossing an object up into the air and catching it. When the defendant saw the police, he suddenly turned his back and placed an object in his pocket. The police approached the defendant and asked what he had placed in his pocket. The defendant said it was a cigarette lighter. During this time, the defendant repeatedly placed his hands in his pockets despite warnings from the police. Fearing for their safety, the police decided to pat the defendant down. They made a grab for him but the defendant fled. The police tackled the defendant and a bag of individually wrapped containers of cocaine fell to the ground. ISSUE: Was this defendant legally detained by the police? ANSWER: Yes. The combination of the location of the encounter and the conduct of the defendant justified his detention.

r. People v. Beverly, 301 Ill. Dec. 97, (2nd Dist, No. 2-05-0399, March 23, 2006) The defendant parked his car in front of his aunt’s house while he waited for his brother. A minute or so later, a police officer in a marked car pulled up behind him. The officer, who was investigating drug activity in that area pursuant to an agreement with the owners of the apartment building, decided to ask the defendant what he was doing. One thing led to another and the officer had the defendant exit his car. In his pants pocket was a loaded handgun. ISSUE: Was this defendant illegally detained with the officer pulled up behind him? ANSWER: Yes.

s. People v. Ramsey, 298 Ill. Dec. 446, (4th Dist., No. 4-03-0268, December 1, 2005) A police officer noticed the truck this defendant was driving had a broken windshield. Based upon this traffic violation, he made a traffic stop. Additionally, the officer knew that this particular truck had been seen numerous times in that area and various farmers were complaining. Further, the officer stated that the defendant had a “concave face,” “rotten teeth” and was “very skinny.” Anyway, for whatever reason, the officer suspected that the defendant was involved in the production of methamphetamine. The officer then wrote out a warning ticket and handed it to the defendant, along with his driver’s license and the truck’s

registration papers. The officer then asked the defendant if he could search the defendant's truck. The defendant so "no problem," and a search revealed a bag of methamphetamine. ISSUE: Under these circumstances, did this officer have sufficient reasonable suspicion to justify the continued detention of this defendant? ANSWER: Yes.

t. People v. Hopkins, 2006 WL 3372714, (1st Dist., No. 1-04-1317, December 12, 2005) The police received a report of an armed robbery. The perpetrators of that robbery were described as "two black males in their 20's who were armed and headed eastbound on foot." A police officer was dispatched and arrived at the scene in a matter of moments. No persons were seen walking, however one car was stopped two blocks away. The officer approached the car and noticed that the driver of the car made eye contact with the officer and then shifted in his seat from a forward position to a leaning-back position with his arms extended. The driver was a young black male in his early 20's and the neighborhood where this robbery occurred was predominantly white. The officer called for backup and stopped the suspect. ISSUE: Was the detention of this defendant reasonable here? ANSWER: Yes. Sufficient facts existed to justify the defendant of this defendant.

u. People v. Conner, 295 Ill. Dec. 291, (1st Dist, No. 1-03-1627, June 30, 2005) The police in this case simultaneously executed two search warrants for two houses. Inside one of those houses the police found the defendant in this case. While they were executing their warrant, the police detained the defendant. They asked him to identify himself and a computer check of that identity revealed an outstanding arrest warrant. The defendant was placed under arrest and a weapon discovered in the second house was tied to the defendant. ISSUE: Did the police violate this defendant's Fourth Amendment rights by detaining him while they search the house? ANSWER: No.

v. People v. Cordero, 294 Ill. Dec. 418, (2nd Dist, No. 2-03-0702, June 10, 2005) While on patrol, a police officer passed a restaurant. In the parking lot of that restaurant the officer noticed a parked car. This was suspicious to the officer because the restaurant had been closed for some time and the parking lot was not well lighted. Suspecting some criminal activity, the officer made a u-turn and pulled into the parking lot. At that same time, the driver of the car decided to pull out of the parking lot. The officer stopped the car and discovered that the driver was DUI. ISSUE: Was the police officer justified in stopping the car in question? ANSWER: No.

w. People v. Goodum, 293 Ill. Dec. 525, (3rd Dist., No. 3-03-0003, May 6, 2005) After running a routine, random registration check, the police stopped the car the defendant was driving because the owner of that car had an outstanding arrest warrant. The defendant, however, was not the owner of the car. He did, however, give some very strange answers to the questions the police asked him. They frisked him and felt a crack pipe. The arrest of the defendant and his subsequent search revealed evidence of felony retail theft. ISSUE: Was it unreasonable for the police to stop the defendant's car based upon this information? ANSWER: No.

x. People v. Brown, 293 Ill. Dec. 381, (3rd Dist., No. 3-03-0604, April 29, 2005) The clerk of a video store was robbed a gunpoint. The police were called and they were given a very general description of the robbery suspect. That description was broadcast and a nearby motel clerk thought that the defendant in this case matched that description. She called the police and the police stopped the car the defendant was driving. As it turns out, the store clerk informed the police that the defendant was not her robbery. However (and this is a very big however), while the police were waiting for the clerk to be brought to where the defendant was being held, they noticed an electronic scale with a white powdery substance on the back seat

of the defendant's car. Based upon this evidence, the defendant was placed under arrest and searched. Cannabis was discovered on his person. ISSUE: Was this a proper Terry detention? After all, the robbery suspect was described as weighing 230 pounds and the defendant weighed 150 pounds. ANSWER: Yes. The description was good enough to warrant the defendant's detention.

y. People v. Holland, 292 Ill. Dec. 481, (2nd Dist., No. 2-03-0800, April 8, 2005) The police were called to a high-rise apartment building concerning a possible suicide attempt. While climbing the stairs, the police encountered a person coming down the stairs. When that person saw the police, he immediately placed his left hand behind his back. Suspecting that this individual might be the suicidal person they were seeking and believing that such a person might be carrying a gun, the police attempted to determine what the person had in his hand. After a struggle, the defendant was placed under arrest for resisting a police officer. Cocaine was discovered tucked away inside of the waistband of his pants. ISSUE: Was this defendant reasonably detained under these circumstances? ANSWER: Yes.

z. People v. Smith, 292 Ill. Dec. 915, (Ill. Sup. Ct., No. 98014, March 24, 2005) The car the defendant was riding in was stopped on an Interstate for numerous traffic violations. The driver of the car was arrested for DUI. None of the passengers in the car, including the defendant in this case, could drive the car away and they were unsuccessful in trying to find a ride. The police offered to give them a lift to the police station. They accepted. Pursuant to police policy, the passengers were patted down for weapons. A gun was found on the defendant. ISSUE: Was the defendant's detention "reasonable" under these circumstances? ANSWER: The appellate court determined that the defendant consented to this arraignment by accepting the offer of a ride and the Court declared a new exception to the Fourth Amendment involving emergency situations that require the brief detention of a citizen. The Illinois Supreme Court, however, ruled that no arrest or detention occurred in this case prior to the police discovering the defendant's gun.

aa. Muehler et al. v. Mena, 125 S. Ct 1465, (U. S. Sup. Ct., No. 03-1423, March 22, 2005) Believing that a suspect in a recent gang-related, drive-by shooting lived in a particular house, the police obtained a warrant to search that house for evidence of that shooting. During the execution of that warrant, the plaintiff in this case, Iris Mena, was detained in handcuffs while the police conducted their search. While the search was proceeding, an INS officer, who had accompanied the police to the scene of the search, and a police officer questioned the plaintiff about her immigration status. The plaintiff confirmed that she was a permanent resident of this country. During their search, the police found numerous guns and ammunition, and other gang-related items. Thereafter, Mena filed a 1983 action against the police. ISSUE: Were the police justified in placing Mena in handcuffs during their execution of the search warrant? ANSWER: Yes. The 2 to 3 hour detention in handcuffs of the occupant of the home being searched was reasonable.

bb. People v. Ortiz, 291 Ill. Dec. 585, (2nd Dist., No. 2-04-0215, February 18, 2005) The police in this case were involved in a sting operation concerning the purchase of \$38,000 worth of cocaine. The drugs were to be delivered by persons driving an older model Nissan Maxima, tan or brown in color, with a temporary license plate. On the day in question, the police had staked out a parking lot where the transaction was to take place. As they watched, the police noticed the car in question approaching. Following "less than feet" behind the car was a red Ford pickup truck which contained two male Mexicans. Both the Nissan and the truck pulled into the parking lot. When the Nissan pulled up to the police sting car, the truck slowly drove through the parking lot. When the undercover agents exited their car and walked toward the Nissan, the two occupants of the truck turned their heads to watch. The police then purchased the cocaine and arrested the persons in the Nissan. The truck attempted to leave the parking lot but it was stopped and its occupants were arrested. One of those occupants was the defendant in this case. Two guns were discovered

in a hidden compartment in the truck. ISSUE: Was the defendant in this case properly placed under arrest? ANSWER: Yes.

cc. People v. Miller, 291 Ill. Dec. 830, (1st Dist., No. 1-03-1708, February 7, 2005) Two police officers were on routine patrol when they were stopped by an individual neither officer knew. The citizen informed the police that he had just observed a black male wearing dark clothing and standing on a street corner one block away display a hand-gun. The police immediately drove to that street corner and, sure enough, standing on that corner was a black male wearing dark clothes. He was the defendant in this case. Although neither officer saw the defendant possess a gun, they approached him in order to conduct a “field interview.” A pat-down of the suspect was conducted and, sure enough, a gun was found in the suspect’s waistband. The suspect then turned and fled. As he ran, a gun fell to the ground. The defendant was later placed under arrest and charged with a weapons violation. ISSUE: Was the defendant reasonably detained under these circumstances? ANSWER: Yes.

9. Reasonableness of Probable Cause

a. People v. Moore, ___ Ill. Dec. ___, (1st Dist., No. 1-06-0432, December 11, 2007) **The victim was beaten to death with a 2X4 in an alley. A witness saw the defendant in this case walk into that alley with a 2X4. Another witness informed the police that the victim owed the defendant money and the defendant had attempted to collect that money numerous times. After the body of the victim was discovered, another witness informed the police that the defendant was seen walking into the alley and carrying the 2X4 away. A police officer who was not investigating the death of the victim and was not personally familiar with the details of the murder heard that the defendant was being sought. He located the defendant and ordered him to take a seat in the back of his squad car. ISSUE: Did the officer have sufficient probable cause to support the defendant’s arrest even though the officer did not himself have personal knowledge about the details of the murder. ANSWER: Yes. The police had the right to rely upon the totality of their collective knowledge in order to support the arrest of the defendant. This was found to have been true even if the arresting officer had no personal knowledge of those details.**

b. People v. Bridgewater, 313 Ill. Dec. 750, (3rd Dist., No. 3-05-0897, August 9, 2007) A police officer noticed that the defendant was speeding. Before he could be pulled over, the defendant pulled into the parking lot of a convenience store. The officer pulled in behind the defendant. When the defendant exited his car, the officer asked him to get back in. The defendant ignored the officer and entered the store. The officer followed the defendant inside of the store and ordered him outside. The defendant exited the store and then refused to give the officer his driver’s license because he had “done nothing wrong.” The officer arrested the defendant and searched his car. A firearm was found inside of that car. ISSUE: Was this defendant properly arrested after he had committed only minor traffic violations? ANSWER: The Court ruled that here the defendant was arrested for resisting a peace officer, not just for the traffic violations. HOWEVER, this Court also ruled that it was bound by the case of Atwater v. City of Lago Vista, (U.S. Sup. Ct) which held that a driver can, in fact, be properly arrested for a minor traffic violation.

c. People v. McGee, 311 Ill. Dec. 870, (1st Dist., No. 1-05-3020, May 21, 2007) A police officer received a radio report of a car burglary in progress. He responded to the call and was informed that the owner of the car was following the person who committed the offense. The officer arrived on the scene and saw a person who matched the description of the suspect. He was walking down the street. The officer

stopped the suspect. The owner of the car signaled to the officer that the suspect was the right man. Based upon this information, the officer arrested the suspect. Later, the officer learned that the owner of the car never actually saw the suspect enter his car. He only saw him walking away from the burglarized car. ISSUE: Under these circumstances, did the officer have sufficient probable cause to arrest the suspect? ANSWER: Yes

d. People v. Jackson, 309 Ill. Dec. 832, (1st Dist., 1-04-3660, March 14, 2007) The police were investigating the murder of the victim in her apartment. There was no sign of forced entry. Several witnesses saw the defendant in this case entering the apartment building and exiting the victim's apartment on the day of her murder. The defendant was seen in possession of keys to the victim's apartment. ISSUE: Did this evidence give the police probable cause to arrest the defendant? ANSWER: Yes, all of the circumstances known to the police taken together provided sufficient evidence to support the arrest of the defendant.

e. People v. Long, 308 Ill. Dec. 270, (2nd Dist., 2-05-0772, January 3, 2007) After receiving reports that several bouncers at a local bar were selling narcotics, the police visited the place. Once inside of the bar, the police began questioning individuals. At a nearby table sat two bar bouncers. When the police approached the table they saw bottle, wrapped in gray duct tape, sitting on the footrest of the table where the two bouncers had been sitting. When an officer reached down to pick this bottle up, he saw a plastic "baggy" also lying on the floor under the table. Inside the bottle and the baggy narcotics was found. ISSUE: Did the discovery of these items give the police probable cause to arrest the individuals who had been sitting at the table? ANSWER: Yes.

f. People v. Moorman, 307 Ill. Dec. 428, (2nd Dist., No. 2-04-1212, November 29, 2006) The police watched as the defendant drove his car up to a drug house and walked in. As the defendant drove away from the house, the police stopped him because his car's registration had expired. The defendant admitted that his driver's license had been revoked. The officer then asked the defendant and his girlfriend if they had any illegal drugs. The girlfriend admitted that she did. The police seized the drugs and arrested the defendant. ISSUE: Did the police have probable cause to arrest the defendant based upon his license violation? ANSWER: Yes. While the police may not arrest drivers for minor traffic violations, driving on a revoked license is not a minor violation.

g. People v. Queen, 307 Ill. Dec. 400, (2nd Dist., No. 2-05-0185, November 28, 2006) After seeing Queen fall out of a tree, a police officer asked him to approach his squad car. To the officer Queen appeared to be very intoxicated. Determining that he would give Queen a ride home, the officer asked Queen if he had anything on his person. After being asked this question, Queen turned his back to the officer and reached into his pocket. Becoming alarmed, the officer demanded to see what Queen had in his hand. Queen had an open folding knife. The officer placed Queen under arrest for disorderly conduct. ISSUE: Did the office illegally detain and then arrest Queen. ANSWER: No. The officer exercised his Public Safety duty by detaining Queen and Queen was properly arrested for disorderly conduct.

h. People v. Novakowski, 306 Ill. Dec. 417, (1st Dist., No. 1-05-0547, October 6, 2006) While investigating a recent burglary (in which nothing had been taken), a police officer noticed the defendant walking down a nearby street. He was carrying a backpack. When the defendant noticed the officer looking at him, he dropped his backpack to the ground and walked toward the officer. The officer recognized the defendant as a suspect in series of recent burglaries. When the officer asked the defendant about his backpack, he merely "chuckled." The defendant then gave the officer conflicting explanations about his

conduct. According to the officer, these answers were evasive and the defendant appeared to be very nervous. The backpack was then seized and inside was the proceeds of another, unreported burglary. **ISSUE:** Did the police have sufficient probable cause to arrested the defendant. **ANSWER:** Yes.

10. Mistake of Law

a. People v. Cole, 369 Ill. App. 3d 960, (4th Dist., No. 4-05-0672, January 9, 2007) While on patrol, a police officer noticed the defendant in this case driving a car which had a single strand of beads hanging from his rearview mirror. The officer pulled the defendant over and informed him that it was illegal to hang anything on its rearview mirror. When the officer ran the Indiana license of the defendant he discovered that it was suspended. The officer then arrested the defendant and searched him. Cocaine and cannabis was found in the defendant's car. **ISSUE:** Was the initial detention of the defendant reasonable? **ANSWER:** No. The Illinois Vehicle Code does not prohibit hanging anything from a rearview mirror. It is only a violation if the item materially obstructs the view of the driver. In this case the officer misunderstood the Illinois law. That misunderstanding can not support a detention, even if it were done reasonably and in good faith.

11. Standing to Complain

a. Brendlin v. California, 127 S. Ct. 2400, (U. S. Sup. Ct., No. 06-8120, June 18, 2007) The police stopped a car. They had no particular justification for doing so; they just did. A passenger in the car was recognized as being warranted for a probation violation. He is placed under arrest and searched. Contraband is discovered. **ISSUE:** Did the passenger have standing to complain about the illegal stop of the car in which he was riding? **ANSWER:** Yes.

12. School Detentions

a. People v. Kline, 291 Ill. Dec. 719, (3rd Dist., No. 3-04-0305, February 16, 2005) A school resource officer (a sworn police officer from a local department) received an anonymous tip that a student in school possessed approximately one-half an ounce of cannabis which he was carrying in his front pants pocket. The tipster additionally stated that he had viewed the cannabis just prior to making his call. Based upon this tip, an nothing else, the officer informed the school's dean of students and they both proceeded to the room in which the student sat. The dean entered the room and asked the defendant to come with him. The student was taken to a nearby room where he was questioned. The cannabis was found and the defendant was charged with possession of the cannabis on school grounds with the intent to deliver. **ISSUE:** What is the appropriate standard to justify the detention of a student in a school in cases such as this? **ANSWER:** The school authorities must have at least reasonable suspicion to justify their detention of a student.

13. Terry Detentions

a. People v. Nitz, 309 Ill. Dec. 185, (2nd Dist., No. 2-05-0704, February 16, 2007) The police caught a snitch who was willing to cooperate in exchange for a break. While the police listened, the snitch

called defendant in this case and asked to buy cannabis. The snitch arranged to meet the defendant at a convenience store that evening. The snitch did not meet the defendant; the police did. The car the defendant was driving was found parked in a parking lot of the convenience store. The police pulled in behind it and blocked it from driving away. As the officer walked up to the defendant's car, the defendant rolled down his window. The officer then smelled the odor of "fresh cannabis" coming from the inside of the defendant's car? ISSUE: Did the information the snitch gave the police justify a Terry stop of this defendant. ANSWER: Yes. While the force cooperation of a snitch is not always the best, here the police were present when the deal was made. This gave them sufficient reasonable suspicion to stop the defendant.

b. People v. Starbuck, 294 Ill. Dec. 686, (3rd Dist., No. 3-04-0376, May 19, 2005) A police officer was dispatched to serve an emergency order of protection. The subject of the order, the defendant in this case, was located at his estranged wife's home. The officer had previously been informed that the defendant wanted to take his kids out of state and that he always carried a gun under the front seat of his truck. With this information in mind, the officer approached the defendant, served the order, and asked for consent to pat him down. The defendant consented and the pat-down revealed no contraband. A consent to search the defendant's vehicle was then obtained and a gun and a controlled substance was discovered. ISSUE: Was the questioning of the defendant reasonable? ANSWER: Yes. The officer had plenty of justification for questioning the defendant.

c. People v. Kipfer, 291 Ill. Dec. 996, (2nd Dist., No. 2-03-0631, March 10, 2005) At 3:30 a.m. on the morning in question, a police officer on routine patrol drove into the parking lot of a local apartment complex. As the officer entered the parking lot, he noticed the defendant in this case step out from behind a dumpster and slowly walk away. Because the complex had recently suffered a number of burglaries, thefts, and robberies, the officer pulled up behind the defendant. The officer honked his horn twice but the suspect just kept walking. The officer then got out of his car and asked the defendant to stop. The defendant looked over his shoulder at the officer and just kept walking. Finally, the officer took two steps toward the suspect and said "come here." Reluctantly, the suspect complied with the officer's request. In the suspect's hand was a McDonald's apple pie box. Based upon this conduct, the officer decided to pat the suspect down. In the suspect's pocket the officer felt what he believed to be a burglary tool. The officer pulled the item out and it turned out to be a crack pipe. The suspect was then arrested for possession of drug paraphernalia and a search of the pie box revealed crack cocaine. ISSUE: Was the detention of the suspect reasonable? ANSWER: No. There was not enough reasonable suspicion on the part of the officer to justify detaining the suspect.

14. The "Caretaker Function" and the detention of persons.

a. People v. Damian, 313 Ill. Dec. 706, (5th Dist., No. 5-06-0026, August 14, 2007) The police received a call concerning a motorist in a ditch. Responding to the call, a State Trooper drove to the area and found no car. He then drove to a nearby rest stop and there he spotted the defendant standing outside of a car trying to unlock it with a stick. The Trooper learned that the defendant had driven to the rest stop after he had run off into a ditch. Once at the rest stop, the defendant had inadvertently locked his keys inside of his car. The behavior of the defendant convinced the Trooper that the defendant was under the influence of a drug. After opening the defendant's car, the Trooper searched it and found contraband. ISSUE: Did the Trooper detain this defendant when he first approached him. ANSWER: No. This was not a detention. It was part of the community caretaking function of the Trooper.

b. People v. Mikrut, 309 Ill. Dec. 717, (2nd Dist., No. 2-06-0376, March 15, 2007) A woman who had been staying at the defendant's house asked the police to help her retrieve her personal belongings from that house because she was moving out. The woman informed the police that the defendant was a convicted felon. The police accompanied the woman to the defendant's house where they were met by the defendant. The defendant opened his front door and objected to the presence of the police. He said he did not want the police in his house. When the police explained that they were there to help the woman move out, the defendant continued to protest but he backed up and entered his living room. The police followed the defendant into his house. The defendant stayed in his living room with two police officers. A third police officer accompanied the woman into a bedroom so that she could get her belongings. In a closet in the bedroom the officer saw a rifle. At first, the defendant denied that he had any firearms. However, when confronted with the rifle, he admitted that he possessed it and a pistol. ISSUE: Were the police acting within their "caretaking function" when they saw the rifle in the closet? ANSWER: No. The police exceeded that function when they followed the woman into the bedroom while she collected her things.

c. People v. Queen, 306 Ill. Dec. 400, (2nd Dist., No. 2-05-0185, November 28, 2006) After seeing Queen fall out of a tree, a police officer asked him to approach his squad car. To the officer Queen appeared to be very intoxicated. Determining that he would give Queen a ride home, the officer asked Queen if he had anything on his person. After being asked this question, Queen turned his back to the officer and reached into his pocket. Becoming alarmed, the officer demanded to see what Queen had in his hand. Queen had an open folding knife. The officer placed Queen under arrest for disorderly conduct. ISSUE: Did the officer illegally detain and then arrest Queen. ANSWER: No. The officer exercised his Community Caretaking/Public Safety duty by detaining Queen and Queen was properly arrested for disorderly conduct.

d. People v. Robinson, 307 Ill. Dec. 232, (1st Dist., No. 1-05-0681, November 22, 2006) The police received a call to check on the well-being of a man seen slumped over the wheel of a parked car. The officer approached the parked car and attempted to wake the man by knocking on his window. Receiving no response, the officer then opened the car door and shook the man. In so doing, the officer discovered that the man was very intoxicated. ISSUE: Did the officer illegally seize the man by opening his car door and shaking him? ANSWER: No. This was declared to be a part of the officer's Community Caretaking/Public Safety function. The conduct of the officer did not violate the defendant's Fourth Amendment rights.

e. People v. Luedemann, 306 Ill. Dec. 94, (Ill. Sup. Ct., No. 100914, October 5, 2006) The defendant in this case was sitting in his car which was parked in front of his girlfriend's house. As the defendant smoked a cigarette, a police officer drove by. Suspicious of the defendant's conduct, the officer drove up to the defendant's car, parked his squad car in the middle of the road, and approached the defendant. As he did so, he pulled out his flashlight and shined it into the interior of the defendant's car. On the floorboard of the defendant's car the officer spotted an open bottle of beer. ISSUE: Did the conduct of the officer fall within the "caretaking function" of his office. ANSWER: No. The officer was acting upon his suspicions of criminal conduct, not upon any belief that the defendant was in need of help. (However, this case declares what that function now is in Illinois.)

f. People v. Mitchell, 291 Ill. Dec. 786, (2nd Dist., No. 2-03-1107, March 3, 2005) In the early morning hours the police saw the defendant in this case walking down a city street. They approached the defendant and asked him what he was doing out so early in the morning. They then asked the defendant for his identification. A computer check of the defendant's identification revealed an outstanding traffic warrant. He was arrested and transported to the police station where a search revealed a small packet of

cocaine. ISSUE: Did their “community care-taking” function justify the conduct of police in approaching the defendant and questioning him about his conduct? ANSWER: Under the circumstances of this case, no, it did not.

15. The “Caretaker Function” and the detention of automobiles.

a. People v. Damian, 313 Ill. Dec. 706, (5th Dist., No. 5-06-0026, August 14, 2007) The police received a call concerning a motorist in a ditch. Responding to the call, a State Trooper drove to the area and found no car. He then drove to a nearby rest stop and there he spotted the defendant standing outside of a car trying to unlock it with a stick. The Trooper learned that the defendant had driven to the rest stop after he had run off into a ditch. Once at the rest stop, the defendant had inadvertently locked his keys inside of his car. The behavior of the defendant convinced the Trooper that the defendant was under the influence of a drug. After opening the defendant’s car, the Trooper searched it and found contraband. ISSUE: Did the Trooper detain this defendant’s car when he first approached it. ANSWER: No. This was not a detention or seizure. It was part of the community caretaking function of the Trooper.

B. Search of Vehicles in Illinois

1. Reasonable Procedure

a. People v. Sutherland, 2006 WL 2690150, (Ill. Sup. Ct., No. 99047, September 21, 2006) The defendant was suspected of kidnapping, sexually assaulting, and murdering a ten-year-old girl. The police obtained Illinois search warrants for the defendant’s person, his vehicle, and his possessions. The trouble was, however, those items were located in Montana. The Illinois warrants were executed in Montana and the defendant, his car, and his possessions were searched in Montana and brought back to Illinois. The defendant moved to suppress the items arguing that the Illinois warrants were no good in Montana. This motion was denied and the defendant was convicted and sentenced to death. ISSUE: Were the Illinois warrants good in Montana? ANSWER: No.

b. People v. Johnson, 300 Ill. Dec. 404, (4th Dist, No. 4-04-0550, February 1, 2006) The defendant was arrested on a charge of the unlawful possession of a controlled substance. Prior to his bench trial, the defendant moved to suppress arguing that the police conducted an illegal search. The trial court conducted a hearing on the defendant’s motion, denied it, and then conducted the defendant’s bench trial. The defendant was found guilty. ISSUE: Did the trial court have the authority to conduct a joint suppress hearing/bench trial? ANSWER: Yes.

2. Random Registration Checks

a. People v. Goodum, 293 Ill. Dec. 525, (3rd Dist., No. 3-03-0003, May 6, 2005) After running a routine, random registration check, the police stopped the car the defendant was driving because the owner of that car had an outstanding arrest warrant. The defendant, however, was not the owner of the car. He did, however, give some very strange answers to the questions the police asked him. They frisked the defendant

and felt a crack pipe. The arrest of the defendant and his subsequent search revealed evidence of felony retail theft. ISSUE: Was it unreasonable for the police to run a random warrants check on the defendant's car? ANSWER: No. Such checks do not violate a defendant's constitutional rights.

3. Search Incident to an Arrest.

a. People v. Damian, 313 Ill. Dec. 706, (5th Dist., No. 5-06-0026, August 14, 2007) The police received a call concerning a motorist in a ditch. Responding to the call, a State Trooper drove to the area and found no car. He then drove to a nearby rest stop and there he spotted the defendant standing outside of a car trying to unlock it with a stick. The Trooper learned that the defendant had driven to the rest stop after he had run off into a ditch. Once at the rest stop, the defendant had inadvertently locked his keys inside of his car. The behavior of the defendant convinced the Trooper that the defendant was under the influence of a drug. After opening the defendant's car, the Trooper searched it and found contraband. ISSUE: Did the Trooper illegally search the defendant's car because the defendant was standing outside of the car when he was arrested and the car was locked. ANSWER: No. This was a proper search incident to an arrest of the defendant.

b. People v. Bridgewater, 313 Ill. Dec. 750, (3rd Dist., No. 3-05-0897, August 9, 2007) A police officer noticed that the defendant was speeding. Before he could be pulled over, the defendant pulled into the parking lot of a convenience store. The officer pulled behind the defendant. When the defendant exited his car, the officer asked him to get back in. The defendant ignored the officer and entered the store. The officer followed the defendant inside of the store and ordered him outside. The defendant exited the store and then refused to give the officer his driver's license because he had "done nothing wrong." The officer arrested the defendant and searched his car. A firearm was found inside of that car. ISSUE: Was the defendant's car properly searched incident to his arrest even though the defendant was not arrested until well after he exited that car? ANSWER: Yes. The defendant himself caused the delay.

c. People v. Neff, 2006 WL 3628944, (4th Dist., No. 4-04-1055, December 12, 2006) A police officer noticed the defendant driving by. Remembering that the defendant had a suspended license, the officer pulled him over. After confirming that the defendant's license was suspended, the officer decided to arrest him. However, prior to making the arrest, the officer allowed the defendant to exit his car and dispose of a donut wrapper in a nearby garbage can. While throwing the wrapper away, the defendant also took the opportunity to throw away a bag of meth. The officer noticed this action, retrieved the bag, and placed the defendant under arrest for the drug violation. The defendant's car was then searched incident to that arrest. More meth and drug paraphernalia was discovered in the car. ISSUE: Was the search of the defendant's car incident to his arrest while standing outside of his car reasonable. ANSWER: Yes. Even though the defendant was arrested outside of his car, the police could still reasonably search the inside of that car without a warrant.

d. People v. Harris, 302 Ill. Dec. 484, (4th Dist, No. 4-05-0456, May 1, 2006) On the evening in question, the defendant ran a red light. A police officer saw him and pulled him over. The defendant had three passengers in his car. While the arresting officer was writing the defendant a ticket, a probation officer arrived on the scene. Recognizing the front seat passenger as one of his probationers, the officer had the passenger exit the car and submit to a Breathalyzer test. He failed. Based upon this violation and the fact that the passenger was out after curfew, the passenger was placed under arrest. The arresting officer then conducted a search of the passenger compartment of the defendant's car and discovered a handgun under the

driver's seat. ISSUE: Was the search of this defendant's car proper? ANSWER: Yes. An arrest is an arrest, even if it was for a probation violation.

e. People v. Dieppa, 294 Ill. Dec. 458, (2nd Dist., No. 2-04-0087, June 14, 2005) A police officer saw the defendant commit two traffic violations. Based on these violations the defendant was stopped. A warrants check revealed that the defendant had an outstanding warrant for his arrest for failing to appear in court concerning a civil matter. He was placed under arrest and his car was searched. A gun was found inside of the car's glove compartment. ISSUE: Did the police properly search the defendant's car based upon his arrest on a bench warrant concerning a civil matter? ANSWER: Yes. An arrest is an arrest, no matter what the basis of that arrest might be.

4. Consent to search.

a. People v. Barker, 369 Ill. App. 3d 670, (4th Dist., No. 4-04-0223, January 4, 2007) The police stopped a car after noticing that it had only one functioning headlight. The driver of the car had a criminal history for drug offenses. The passenger in the car was the owner of the car. While handing to the driver a warning ticket, the officer noticed a twelve-pack of beer in the backseat with some cans missing. The officer asked if any open containers were inside of the car. When the driver said none were, the officer asked for consent to search. The driver gave his consent and contraband was found. ISSUE: Could the driver of a car properly consent to a search of that car when the owner of the car was a passenger? ANSWER: Yes. A driver of a vehicle has authority to consent to a search of the vehicle because he has immediate possession and control of the entire vehicle.

b. People v. Moss, 299 Ill. Dec. 662, (Ill. Sup. Ct., No. 99616, December 15, 2005) The defendant in this case was riding as a passenger in a truck he owned when it was stopped for speeding. The arresting officer then asked for the defendant's identification and discovered that he was on mandatory supervised release. A condition of that MSR was that the defendant "consent to" searches of his person and his property. The officer also learned that the other occupants of the truck had two prior drug-related arrests. Further, the officer was informed that all three of the suspects were known to possess firearms. The police (backup had arrived) then asked for consent to search the truck. Consent was granted. While one officer search the truck, the other conducted a pat-down of the suspects. On the defendant the officer felt an object that he thought might be a weapon. Retrieving the object, the officer discovered that it was not a weapon, it was a bag of cocaine. ISSUE: Did this defendant prospectively consent to this search when he signed his MSR agreement? ANSWER: No.

5. Plain View Doctrine and Automobiles

a. People v. Humphrey, 296 Ill. Dec. 795, (2nd Dist., No. 2-03-1306, September 30, 2005) The police stopped this defendant for speeding. According to the arresting officer, the defendant appeared to be very nervous. On the floorboard of the defendant's car the officer noticed a plastic bowl with a large number of pills inside. The officer thought that those pills might be pseudoephedrine. Based upon this belief, the officer asked the defendant to hand him the bowl. He did and the pills were identified as pseudoephedrine. The defendant then admitted that the pills were going to be used to make methamphetamine. ISSUE: Were the pills in this case in "plain view" which would justify the seizure of the pills? ANSWER: Not according to the majority of this Court. They concluded that these pills were not readily apparent to be contraband.

b. People v. Brown, 293 Ill. Dec. 381, (3rd Dist., No. 3-03-0604, April 29, 2005) The clerk of a video store was robbed a gunpoint. The police were called and they were given a very general description of the robbery suspect. That description was broadcast and a nearby motel clerk thought that the defendant in this case matched that description. She called the police and the police stopped the car the defendant was driving. As it turns out, the store clerk informed the police that the defendant was not her robber. However (and this is a very big however), while the police were waiting for the clerk to be brought to where the defendant was being held, they noticed an electronic scale with a white powdery substance on the back seat of the defendant's car. Based upon this evidence, the defendant was placed under arrest and searched. Cannabis was discovered on his person. ISSUE: Did the police properly arrest the defendant? ANSWER: Yes. The "plain view" doctrine justified the detention and arrest of the defendant.

6. Plain Smell

a. People v. Nitz, 309 Ill. Dec. 185, (2nd Dist., No. 2-05-0704, February 16, 2007) The police caught a snitch who was willing to cooperate in exchange for a break. While the police listened, the snitch called defendant in this case and asked to buy cannabis. The snitch arranged to meet the defendant at a convenience store that evening. The snitch did not meet the defendant; the police did. The car the defendant was driving was found parked in a parking lot of the convenience store. The police pulled in behind it and blocked it from driving away. As the officer walked up to the defendant's car, the defendant rolled down his window. The officer then smelled the odor of "fresh cannabis" coming from the inside of the defendant's car? ISSUE: Did the police have probable cause to arrest this defendant based upon the odor of cannabis coming from the car. ANSWER: Yes, the smell of the cannabis was enough to justify the arrest of the defendant.

7. Abandonment

a. People v. Sutherland, 2006 WL 2690150, (Ill. Sup. Ct., No. 99047, September 21, 2006) The defendant was suspected of kidnapping, sexually assaulting, and murdering a ten-year-old girl. The police obtained Illinois search warrants for the defendant's person, his vehicle, and his possessions. The trouble was, however, those items were located in Montana. The Illinois warrants were executed in Montana and the defendant, his car, and his possessions were searched in Montana and brought back to Illinois. The defendant moved to suppress the items arguing that the Illinois warrants were no good in Montana. This motion was denied and the defendant was convicted and sentenced to death. ISSUE: Did the defendant abandon his vehicle in Montana? ANSWER: Yes. Therefore, an invalid search warrant did not result in the suppression of evidence.

8. Independent Source Doctrine

a. People v. Sutherland, 2006 WL 2690150, (Ill. Sup. Ct., No. 99047, September 21, 2006) The defendant was suspected of kidnapping, sexually assaulting, and murdering a ten-year-old girl. The police obtained Illinois search warrants for the defendant's person, his vehicle, and his possessions. The trouble was, however, those items were located in Montana. The Illinois warrants were executed in Montana and the defendant, his car, and his possessions were searched in Montana and brought back to Illinois. The

defendant moved to suppress the items arguing that the Illinois warrants were no good in Montana. This motion was denied and the defendant was convicted and sentenced to death. ISSUE: Could the evidence be used even though it was obtained without authority? ANSWER: Yes. The evidence would have inevitably been obtained by using the abandoned property. This independent source allowed for the use of the evidence.

9. Consensual Encounter

a. People v. Barker, 369 Ill. App. 3d 670, (4th Dist., No. 4-04-0223, January 4, 2007) The police stopped a car after noticing that it had only one functioning headlight. The driver of the car had a criminal history for drug offenses. The passenger in the car was the owner of the car. While handing to the driver a warning ticket, the officer noticed a twelve-pack of beer in the backseat with some cans missing. The officer asked if any open containers were inside of the car. When the driver said none were, the officer asked for consent to search. The driver gave his consent and contraband was found. ISSUE: Were the defendant's detained when the police asked them their questions? ANSWER: No. Under the circumstances of this case, the questions of the police were asked when the defendants were no longer detained. This was then a consensual encounter between the police and the suspects.

10. Reasonable Suspicion To Detain

a. People v. Walter, 313 Ill. Dec. 344, (2nd Dist., No. 2-06-0104, June 29, 2007) The police responded to a report of an automobile accident. At the scene, a man informed an officer that the driver of the other car had pulled into a nearby restaurant parking lot after the crash. The officer drove into the lot and noticed the defendant in this case exiting the restaurant. The officer walked up to the man and asked him if he had been involved in an accident. The man admitted that he had. The officer, noting the strong smell of alcohol about the man and his condition, asked if he had been drinking. The man admitted that he had. The officer then asked the man if he would perform some field sobriety tests. The man agreed and failed them. A PBT revealed the man's breath/alcohol content was 0.167. The officer then placed the man under arrest for DUI. ISSUE: Was this defendant properly detained even though the police had no evidence that he had driven the car? ANSWER: Yes. The detention of the defendant was reasonable.

b. People v. Nitz, 309 Ill. Dec. 185, (2nd Dist., No. 2-05-0704, February 16, 2007) The police caught a snitch who was willing to cooperate in exchange for a break. While the police listened, the snitch called defendant in this case and asked to buy cannabis. The snitch arranged to meet the defendant at a convenience store that evening. The snitch did not meet the defendant; the police did. The car the defendant was driving was found parked in a parking lot of the convenience store. The police pulled in behind it and blocked it from driving away. As the officer walked up to the defendant's car, the defendant rolled down his window. The officer then smelled the odor of "fresh cannabis" coming from the inside of the defendant's car? ISSUE: Did the police have sufficient reasonable suspicion to first detain this defendant. ANSWER: Yes. The information the snitch gave the police justified the detention of this defendant.

c. People v. Ramsey, 298 Ill. Dec. 446, (4th Dist., No. 4-03-0268, December 1, 2005) A police officer noticed the truck this defendant was driving had a broken windshield. Based upon this traffic violation, he made a traffic stop. Additionally, the officer knew that this particular truck had been seen numerous times in that area and various farmers were complaining. Further, the officer stated that the

defendant had a “concave face,” “rotten teeth” and was “very skinny.” Anyway, for whatever reason, the officer suspected that the defendant was involved in the production of methamphetamine. The officer then wrote out a warning ticket and handed it to the defendant, along with his driver’s license and the truck’s registration papers. The officer then asked the defendant if he could search the defendant’s truck. The defendant so “no problem,” and a search revealed a bag of methamphetamine. ISSUE: Under these circumstances, did this officer have sufficient reasonable suspicion to justify the continued detention of this defendant? ANSWER: Yes.

d. People v. Leighty, 298 Ill. Dec. 121, (4th Dist., No. 4-03-0677, November 10, 2005) Employees of Wal-Mart called the police after they noticed a person buying two boxes of pseudoephedrine pills and some lithium batteries. They gave the police a physical description of the suspect and his vehicle. The police responded to this report of the sale of a “large quantity” of pseudoephedrine and notice that the suspect was heading toward a nearby Walgreens drug store. As the officer watched, the suspect exited that store with his purchased items contained in a Walgreens plastic bag. All of these events took less than 10 minutes to accomplish. Two police officers then stopped the suspect. He explained that he had just “gone for a drive” after having an argument with his wife. However, the defendant lived about 150 miles from these stores. The defendant then consented to a search of his vehicle and a total of six boxes of pills was found along with other items that indicated an intent to manufacture methamphetamine. ISSUE: Did the police in this case have sufficient evidence to justify the detention of this defendant. ANSWER: Yes. The information the police possessed plus their training and experience was enough.

e. People v. Rojaz, 295 Ill. Dec. 932 (1st Dist., No. 1-03-3196, August 15, 2005) A police officer was on patrol when he heard gunshots being fired. No five seconds later the officer saw a car speeding past. It was coming from the direction where the shots were fired. Based upon these facts, the car was stopped. Inside the car the defendant in this case sat in the front passenger seat. A frisk of the suspect car revealed a firearm that proved to be a weapon that was used to commit a murder. ISSUE: Was the stop of this car reasonable? ANSWER: Yes.

f. People v. DiPace, 288 Ill. Dec. 839 (2nd Dist, No. 2-03-0469, September 30, 2004) Two women watched as the defendant in this case drove erratically in front of them. After watching the defendant weaving in and out of his lane numerous times, they watched him pull into a grocery store parking lot. The ladies called the police and waited. A police officer showed up and the ladies identified themselves and pointed out the defendant’s car. The officer waited for the defendant to return to his car and then followed him as he drove out of the parking lot. When the defendant crossed over the centerline of the road on which he was driving, the officer pulled him over. The defendant was drunk. ISSUE: Did the police have reasonable suspicion sufficient to stop the defendant. ANSWER: Yes. The police had sufficient information to justify the detention of the defendant.

11. Running a Warrant Check during a vehicle stop.

a. People v. Bailey, 314 Ill. Dec. 575, (2nd Dist., No. 2-05-1260, September 6, 2007) A police officer noticed that the occupants of a car were not wearing seat-belts. He stopped the car and collected the identifications of all of its occupants. The officer ran a warrant check and discovered that one of the occupants had an outstanding warrant for his arrest. The officer arrested the occupant and searched the passenger compartment of the car incident to that arrest. There he found a controlled substance. ISSUE:

Was the warrant check run by the officer a search? (Illinois law prohibits the police from searching a car stopped only for a seat-belt violation) ANSWER: No. According to the appellate court, a warrant check does not constitute a search.

b. People v. Andrews, 310 Ill. Dec. 829, (3rd Dist., No. 3-02-0569, April 19, 2007) The defendant in this case was a passenger in a car that was legally stopped for a minor traffic violation. The arresting officer recognized the defendant and ran a warrants check on him. The check revealed that he had an outstanding warrant out for his arrest. The officer placed the defendant under arrest and searched him incident to that arrest. Cannabis was discovered. ISSUE: Did the arresting officer violate the defendant's constitutional rights by running a warrant check? ANSWER: Yes. This Court ruled that the conduct of the officer improperly changed the fundamental nature of the defendant's detention without having an independent reasonable suspicion for doing so.

c. People v. Roberson, 304 Ill. Dec. 975, (4th Dist., No. 4-05-0247, August 23, 2006) The car the defendant was driving was stopped by the police. The police obtained the identification of a passenger in that car and ran a warrants check. That check revealed that the passenger had an outstanding arrest warrant. He was placed under arrest and the car in which he was riding was searched. Controlled substances were discovered that the defendant was arrested. ISSUE: Did the police properly run a warrants check upon the passenger of the car? ANSWER: Yes.

12. Standing to Complain about vehicle seizures and searches

a. Brendlin v. California, 127 S. Ct. 2400, (U. S. Sup. Ct., No. 06-8120, June 18, 2007) The police stopped a car. They had no particular justification for doing so; they just did. A passenger in the car was recognized as being warranted for a probation violation. He is placed under arrest and searched. Contraband is discovered. ISSUE: Did the passenger have standing to complain about the illegal stop of the car in which he was riding? ANSWER: Yes.

13. How long can you detain a car or it's occupants

a. People v. Roa, ____ Ill. Dec. ____, (3rd Dist., No. 3-05-0420, October 31, 2007) A police officer pulled the defendant over for speeding. To the officer the defendant appeared to "exhibit more physical stress than most people do." The defendant kept mumbling while he stared straight ahead. The defendant remained very nervous even after the officer informed him he would only received a warning ticket. Also, the officer noticed the strong odor of air freshener coming from the defendant's car. Adding all of these factors together, the officer decided to ask the defendant for consent to search. However, the officer waited until after he had deliver to the defendant his warning ticket and his documents before asking for consent to search. The defendant granted consent and, after a detailed search, found narcotics in the defendant's car. ISSUE: Did the arresting officer violate the defendant's rights by asking for consent to search after the officer had completed the purpose of his original detention of the defendant. ANSWER: No. (This case needs a bit of an explanation. The author of this opinion ruled that the arresting officer had sufficient reasonable suspicion to continue to detain the defendant and ask additional questions. The specially concurring Justice decided that the defendant was not detained when the officer asked for consent. Therefore, his rights were not violated. The dissenting justice disagreed with both of his fellow Justices and argued that the

defendant was, in fact, detained and that that detention was unreasonable. This situation is now as clear as mud.)

b. People v. Roberts, 313 Ill. Dec. 399, (4th Dist., No. 4-02-0613, June 5, 2007) The defendant in this case was legally stopped for a minor traffic violation. After the arresting officer had completed his work and given the defendant back his documents, he asked the defendant for consent to search his car. The defendant granted the officer consent and a search revealed contraband. ISSUE: Did the arresting officer improperly ask for consent to search the defendant's car after the original purpose of the defendant's detention had been completed? ANSWER: No, the officer properly asked for consent to search.

c. People v. Barker, 369 Ill. App. 3d 670, (4th Dist., No. 4-04-0223, January 4, 2007) The police stopped a car after noticing that it had only one functioning headlight. The driver of the car had a criminal history for drug offenses. The passenger in the car was the owner of the car. While handing to the driver a warning ticket, the officer noticed a twelve-pack of beer in the backseat with some cans missing. The officer asked if any open containers were inside of the car. When the driver said none were, the officer asked for consent to search. The driver gave his consent and contraband was found. ISSUE: Did the police illegally continue to detain these suspects after the purpose of their original detention was completed? ANSWER: No. After the warning ticket was given to the driver, this stop was completed. This was thereafter a consensual encounter between the police and the suspects.

d. People v. Mendoza, 301 Ill. Dec. 207, (2nd Dist, No. 2-05-0132, March 29, 2006) Two police officers stopped this defendant for two minor traffic violations. After the officers and handed the defendant back his papers and his tickets, one officer asked the defendant if he had anything illegal in his car. When the defendant said that he did not, the officer asked for consent to search. Meanwhile, the other officer took the opportunity to shine his flashlight inside of the defendant's car. Tucked under the front seat was a handgun. The defendant was immediately placed under arrest and he was subsequently charged with a weapons violation. ISSUE: Was the discovery of the weapon legal? ANSWER: No. Using a pure Brownlee analysis, the appellate court ruled that once the officers had completed the purpose of the defendant's detention, he should have been released. By continuing to talk with the defendant and by asking him if he had anything illegal in his car, the police illegally continued to detain him. The weapon was only discovered after the defendant had been illegally detained.

e. People v. Ramsey, 298 Ill. Dec. 446, (4th Dist., No. 4-03-0268, December 1, 2005) A police officer noticed the truck this defendant was driving had a broken windshield. Based upon this traffic violation, he made a traffic stop. Additionally, the officer knew that this particular truck had been seen numerous times in that area and various farmers were complaining. Further, the officer stated that the defendant had a "concave face," "rotten teeth" and was "very skinny." Anyway, for whatever reason, the officer suspected that the defendant was involved in the production of methamphetamine. The officer then wrote out a warning ticket and handed it to the defendant, along with his driver's license and the truck's registration papers. The officer then asked the defendant if he could search the defendant's truck. The defendant so "no problem," and a search revealed a bag of methamphetamine. ISSUE: Under these circumstances, did this officer err by asking this defendant for consent to search his car? ANSWER: No. The police had sufficient reasonable suspicion to justify continuing to detain this defendant. Furthermore, even if no such authority existed, under these circumstances, this was a "consensual encounter" between the officer and the defendant, and not a detention.

14. Questioning During Detention

a. People v. Starnes, 313 Ill. Dec. 88, (2nd Dist., No. 2-05-0714, June 12, 2007) The defendant was stopped for failing to obey a stop sign. The arresting officer, prior to completing the purpose of the defendant's stop, asked the defendant for consent to search his car. The defendant granted the officer consent and, during the search, contraband was found. ISSUE: Did the officer violate the constitutional rights of the defendant when he asked for and received consent to search during the defendant's Vehicle Code stop? ANSWER: No. It did not matter that the officer's request for consent exceeded the scope of the defendant's traffic stop.

b. People v. Moorman, 307 Ill. Dec. 428, (2nd Dist., No. 2-04-1212, November 29, 2006) The police watched as the defendant drove his car up to a drug house and walked in. As the defendant drove away from the house, the police stopped him because his car's registration had expired. The defendant admitted that his driver's license had been revoked. The officer then asked the defendant and his girlfriend if they had any illegal drugs. The girlfriend admitted that she did. The police seized the drugs and arrested the defendant. ISSUE: Did the police improperly question the suspects about drugs when they were only stopped for a traffic violation? ANSWER: No. The police had probable cause to arrest the defendant for driving on a revoked license. This justified further questioning.

c. People v. Sloup, 296 Ill. Dec. 190, (2nd Dist., No. 2-03-0992, September 2, 2005) The defendant was stopped for various traffic violations. Because of the strange answers the driver gave to the police and because of his extreme nervousness, the officer asked the driver for permission to search his car. The driver, the defendant in this case, consented to a search and controlled substances were found. ISSUE: Did the police properly ask this defendant for consent to search his car? ANSWER: No. This was a pure Gonzalez case.

d. People v. Matthews, 294 Ill. Dec. 677, (3rd Dist., No. 3-04-0293, June 3, 2005) The car the defendant was driving was stopped because its rear license plate light was not working. The defendant testified that the police first asked her if she had anything illegal in her car. She admitted that she possessed a gun in her car and a drug sniff dog confirmed that fact. The police officer testified that he only asked the defendant about contraband after she was unable to produce a valid driver's license. The trial judge believed the defendant and suppressed the evidence seized by the police. ISSUE: Did the arresting officer err by asking the defendant questions about whether she possessed contraband. ANSWER: You bet. The trial court believed the defendant and her two witnesses and that was all she wrote. The moral of this story is you must win before the trial court. Once the defendant gets her suppression order, it is difficult (if not impossible) to get that ruling overturned on appeal.

e. People v. Starbuck, 294 Ill. Dec. 686, (3rd Dist., No. 3-04-0376, May 19, 2005) A police officer was dispatched to serve an emergency order of protection. The subject of the order, the defendant in this case, was located at his estranged wife's home. The officer had previously been informed that the defendant wanted to take his kids out of state and that he always carried a gun under the front seat of his truck. With this information in mind, the officer approached the defendant, served the order, and asked for consent to pat him down. The defendant consented and the pat-down revealed no contraband. A consent to search the defendant's vehicle was then obtained and a gun and a controlled substance was discovered. ISSUE: Did the police officer violate the rule created in Gonzalez by asking the defendant for consent to search his person and his car? ANSWER: No. Gonzalez only applies to vehicle stops and this was not a Vehicle Code stop. Additionally, sufficient facts were shown to justify the conduct of the officer.

15. Canine Sniffs of Vehicles

a. People v. Driggers, 304 Ill. Dec. 625, (Ill. Sup. Ct., No. 97439, July 5, 2006) A K-9 unit officer stopped a car with an expired registration. After learning that the driver of the car had 13 prior arrests, some for drugs, the officer ran his dog around the outside of the car. The dog alerted and the officer informed the driver of this fact. The driver then consented to a search of his car and that search revealed illegal drugs. ISSUE: Did the police officer violated the defendant's constitutional rights by running his drug-dog around the outside of the defendant's car? ANSWER: No.

b. People v. Caballes, 303 Ill. Dec. 128, (Ill. Sup. Ct., No. 91547, May 18, 2006) The defendant was stopped for speeding. A drug detection dog arrived on the scene and alerted the defendant's car. The defendant's car was searched and cannabis was found. ISSUE: Could the police properly run a drug detection dog around the outside of the defendant's car without any reasonable suspicion that criminal activity had occurred? ANSWER: Yes. This Illinois Supreme Court bowed to the decision of the United States Supreme Court and declared that such conduct did not violate this defendant's constitutional rights.

c. People v. Matthews, 294 Ill. Dec. 677, (3rd Dist., No. 3-04-0293, June 3, 2005) The car the defendant was driving was stopped because its rear license plate light was not working. The defendant testified that the police first asked her if she had anything illegal in her car. She admitted that she possessed a gun in her car and a drug sniff dog confirmed that fact. The police officer testified that he only asked the defendant about contraband after she was unable to produce a valid driver's license. The trial judge believed the defendant and suppressed the evidence seized by the police. ISSUE: Did the fact that the police used a canine to confirm the presence of a firearm inside the defendant's car save the day. ANSWER: Nope. According to the appellate court, the dog was only used as a "tool" by the police after they had already decided to search the defendant's car. The fact that the dog alerted to the defendant's car was insufficient to validate the police search of that car.

d. Illinois v. Caballes, 125 S. Ct. 834, (U. S. Sup. Ct., No. 03-923, January 24, 2005) The defendant was stopped for speeding. A drug detection dog arrived on the scene and alerted the defendant's car. The defendant's car was searched and cannabis was found. ISSUE: Did the conduct of the police violate the defendant's Fourth Amendment rights? ANSWER: No. The United States Supreme Court declared that a dog sniff conducted during a lawful traffic stop that reveals no information other than the location of a substance that no individual has any right to possess does not violate the Fourth Amendment.

16. Inventory Searches of Vehicles

a. People v. Young, 300 Ill. Dec. 231, (3rd Dist, No. 3-05-0218, February 3, 2006) The State Police stopped the car in which this defendant was a passenger for having two large air fresheners hanging from its rearview mirror. The driver of the car had a suspended driver's license and he was placed under arrest. A tow truck was called and the Trooper proceeded to conduct an inventory search. In the trunk was the defendant's suitcase. In the suitcase was a package that contained cannabis. Based upon this discover, the defendant was placed under arrest. ISSUE: Was the defendant's arrest reasonable? ANSWER: No.

17. Terry searches of Vehicles.

a. People v. Rojaz, 295 Ill. Dec. 932, (1st Dist., No. 1-03-3196, August 15, 2005) A police officer was on patrol when he heard gunshots being fired. No five seconds later the officer saw a car speeding past. It was coming from the direction where the shots were fired. Based upon these facts, the car was stopped. Inside the car the defendant in this case sat in the front passenger seat. A frisk of the suspect car revealed a firearm that proved to be a weapon that was used to commit a murder. ISSUE: Did the police properly “frisk” the defendant’s vehicle? ANSWER: Yes.

C. Search of Non-Vehicles in Illinois

1. Reasonable Procedure

a. People v. Allen, ___ Ill. Dec. ___, (1st Dist., No. 1-06-1943, September 28, 2007) **The police were investigating two robberies. One involved a shooting and the other did not. The defendant in this case was placed under arrest for the second robbery. While he was in custody, police detectives approached the defendant and, without a warrant and against his will, they took a swab of the defendant’s hand. This swab indicated that the defendant had recently fired a firearm. Based upon this and other evidence, the defendant was also charged with the first robbery. ISSUE: Did the police violate this defendant’s rights by conducting a search of his hand (by the use of the swab) without first obtaining a search warrant? ANSWER: The use of the swab on the defendant’s hand constituted only a very minor intrusion into his expectation of privacy. Therefore, the defendant’s constitutional rights were not violated.**

b. People v. Shinohara, 313 Ill. Dec. 515, (1st Dist., No. 1-03-0668, June 29, 2007) The defendant called the police and asked them to remove a 17-year-old girl from his apartment. The girl claimed that the defendant and picked her up off of the street and sexually assaulted her in his apartment. She later recanted her story but the police were not convinced. They asked for consent to look at the defendant’s apartment and his computer in order to confirm his version of the story. The defendant agreed and the police took the computer to their station. At the station the police viewed a file on the computer and confirmed that the defendant had recorded the nude girl. The police then seized the computer and obtained a warrant to search the rest of the files on that computer. Weeks later the police dumped a copy of the computer hard drive and then weeks later they reviewed their copy. ISSUE: Did the police violate the defendant’s rights when they delayed reviewing the hard drive for weeks. ANSWER: No, the procedure used here was not unreasonable.

c. Los Angeles County v. Rettele, 127 S. Ct. 1989, (U. S. Sup. Ct., No. 06-605, May 21, 2007) Deputies of the Los Angeles County Sheriff’s Department were investigating a fraud and identity theft ring. They obtained a warrant to search a house where they believed that four African-American suspects were living. One of the suspects had a handgun registered in his name. However, the deputies were unaware that the suspects they were seeking had moved out of the house three months earlier. The deputies executed their warrant and entered a bedroom of the house with their guns drawn. In that room they found two Caucasians in bed. The deputies ordered the suspects to show their hands and get out of bed. The suspects protested that

they were not wearing any clothes. In response to the demands of the deputies, both suspects climbed out of bed. When they attempted to cover themselves, the deputies stopped them. After one or two minutes, the suspects were permitted to dress. They then left their bedroom and sat on a couch in their living room. By that time the deputies realized that they had made a mistake. They apologized to the residents of the house, thanked them for not becoming upset, and left within five minutes. ISSUE: Did the deputies act reasonably when they executed their warrant? ANSWER: Yes. The deputies acted reasonably under these circumstances.

d. People v. Sutherland, 2006 WL 2690150, (Ill. Sup. Ct., No. 99047, September 21, 2006) The defendant was suspected of kidnapping, sexually assaulting, and murdering a ten-year-old girl. The police obtained Illinois search warrants for the defendant's person, his vehicle, and his possessions. The trouble was, however, those items were located in Montana. The Illinois warrants were executed in Montana and the defendant, his car, and his possessions were searched in Montana and brought back to Illinois. The defendant moved to suppress the items arguing that the Illinois warrants were no good in Montana. This motion was denied and the defendant was convicted and sentenced to death. ISSUE: Were the Illinois warrants good in Montana? ANSWER: No.

e. People v. Johnson, 300 Ill. Dec. 404, (4th Dist, No. 4-04-0550, February 1, 2006) The defendant was arrested on a charge of the unlawful possession of a controlled substance. Prior to his bench trial, the defendant moved to suppress arguing that the police conducted an illegal search. The trial court conducted a hearing on the defendant's motion, denied it, and then conducted the defendant's bench trial. The defendant was found guilty. ISSUE: Did the trial court have the authority to conduct a joint suppress hearing/bench trial? ANSWER: Yes.

2. Search by a Private Person

a. People v. Phillips, 294 Ill. Dec. 624, (Ill. Sup. Ct., No. 98070, June 3, 2005) The defendant was having trouble with his computer. He took it to a local shop for repair. The owner of the shop repaired the defendant's computer and tested his work by opening the first file found in the defendant's computer. That file contained child pornography. The owner then called the police who viewed the defendant's file in the owner's workshop. The police then seized the defendant's computer and printed off the information found on that file. All of this was done without any kind of warrant. ISSUE: Was the defendant's Fourth Amendment rights violated by the conduct of the shop owner and the police? ANSWER: No. The shop owner, as a private person, was not bound by the Fourth Amendment. Once the owner viewed the defendant's file and discovered the pornography, the defendant no longer had any privacy interest in that file and the police could view it and download it without violating the Fourth Amendment.

3. Search Incident to an Arrest.

a. People v. Damian, 313 Ill. Dec. 706, (5th Dist., No. 5-06-0026, August 14, 2007) The police received a call concerning a motorist in a ditch. Responding to the call, a State Trooper drove to the area and found no car. He then drove to a nearby rest stop and there he spotted the defendant standing outside of a car trying to unlock it with a stick. The Trooper learned that the defendant had driven to the rest stop after he had run off into a ditch. Once at the rest stop, the defendant had inadvertently locked his keys inside of his car. The behavior of the defendant convinced the Trooper that the defendant was under the influence of a

drug. After opening the defendant's car, the Trooper searched it and found contraband. The defendant was then arrested. ISSUE: Can a search incident to an arrest occur prior to the arrest? ANSWER: Yes, as long as there is probable cause to arrest.

b. People v. Tillman, 291 Ill. Dec. 107, (1st Dist., No. 1-03-2234, January 14, 2005) The police received a tip that narcotics was being sold in a particular apartment in a housing project. They went to the high-rise building in which that apartment was located. When the police started walking up the stairs, they spotted two individuals with contraband in their possession. The individuals dropped the contraband and ran up the stairs. The police followed the suspects as they ran into the apartment identified by the snitch. Inside the apartment the police arrested the two suspects and they spotted the defendant in this case, the occupant of the apartment. As the police watched, the defendant, who had something in his hand, hurriedly walked over to a nearby wall and dropped what he had in his hand into a hole in that wall. The police arrested the defendant, kicked another hole in the wall, and retrieved cocaine and a handgun. ISSUE: Was the police search of the whole-in-the-wall justified by the arrest of the defendant? ANSWER: Yes, that warrantless search was incident to the arrest of the defendant.

4. Questioning During A Search

a. People v. Moorman, 307 Ill. Dec. 428, (2nd Dist., No. 2-04-1212, November 29, 2006) The police watched as the defendant drove his car up to a drug house and walked in. As the defendant drove away from the house, the police stopped him because his car's registration had expired. The defendant admitted that his driver's license had been revoked. The officer then asked the defendant and his girlfriend if they had any illegal drugs. The girlfriend admitted that she did. The police seized the drugs and arrested the defendant. ISSUE: Did the police improperly question the defendant about his possession of drugs during a routine traffic stop? ANSWER: No. Once the police discovered that the defendant was driving on a revoked license, the stop was no longer routine, the police had probable cause to arrest the defendant, and their questions about drugs was proper.

b. People v. Conner, 295 Ill. Dec. 291, (1st Dist, No. 1-03-1627, June 30, 2005) The police in this case simultaneously executed two search warrants for two houses. Inside one of those houses the police found the defendant in this case. While they were executing their warrant, the police detained the defendant. They asked him to identify himself and a computer check of that identity revealed an outstanding arrest warrant. The defendant was placed under arrest and a weapon discovered in the second house was tied to the defendant. ISSUE: Was this defendant properly questioned during his detention? ANSWER: Yes.

c. Muehler et al. v. Mena, 125 S. Ct. 1465, (U. S. Sup. Ct., No. 03-1423, March 22, 2005) Believing that a suspect in a recent gang-related, drive-by shooting lived in a particular house, the police obtained a warrant to search that house for evidence of that shooting. During the execution of that warrant, the plaintiff in this case, Iris Mena, was detained in handcuffs while the police conducted their search. While the search was proceeding, an INS officer, who had accompanied the police to the scene of the search, and a police officer questioned the plaintiff about her immigration status. The plaintiff confirmed that she was a permanent resident of this country. During their search, the police found numerous guns and ammunition, and other gang-related items. Thereafter, Mena filed a 1983 action against the police. ISSUE: Did the police violated the defendant's rights by questioning her during their search? ANSWER: No. As long as the question did not unreasonably extend the duration of the defendant's detention, no Fourth Amendment

violation occurred. The police do not need an independent reasonable suspicion to justify their questioning of the defendant during her detention.

5. Questioning During a Detention

a. People v. James, 303 Ill. Dec. 193, (1st Dist, No. 1-05-0811, May 5, 2006) While the police were stopped at a traffic light, they noticed the defendant in this case approach several persons as they were entering a liquor store. Believing that the defendant was soliciting these individuals for prostitution, the police decided to investigate. They approached the defendant in order to conduct a field interview. They asked the defendant her name and what she was doing on that corner. According to the police, the defendant was unresponsive and “seemed a little confused.” While the police did not feel threatened, they asked the defendant if she had anything on her that she should not have. She responded by saying “Yes.” When asked what she had, the defendant responded PCP. ISSUE: Did the police properly question this defendant during her detention? ANSWER: Yes.

6 Search Pursuant to Grand Jury Subpoena

a. People v. Watson, 292 Ill. Dec. 2, (Ill. Sup. Ct., No. 96392, January 21, 2005) The defendant was suspected of sexually assaulting a woman. The police needed a DNA sample from the defendant in order to complete their investigation. The defendant’s case was taken before a Grand Jury and they issued a subpoena whereby the defendant was ordered to produce blood samples, head and pubic hair, and saliva for testing. The defendant refused to comply with the subpoena and he was held in contempt of court. Eventually, the defendant did comply and, no too surprisingly, the police found a match. The defendant was thereafter convicted of various sex offenses and aggravated kidnapping. ISSUE: Were the defendant’s Fourth Amendment rights violated with the People used a Grand Jury subpoena to obtain the cooperation of the defendant? ANSWER: No. The use of a Grand Jury subpoena did not violate the defendant’s rights because the defendant could contest that subpoena either by a motion to quash or by simply refusing to comply and provoking a contempt proceeding.

7 Terry Frisks

a. In re Mario T., 314 Ill. Dec. 954, (1st Dist., No. 1-05-3499, September 28, 2007) The police received a call about three males breaking into a vacant apartment operated by the Chicago Housing Authority. Two officers responded to the call and saw several males “loitering” in the hallway of that apartment building. One of the officers decided to conduct a “field interview” to determine whether the males lived in the building. After learning that they did not live in the building, the officer began to fear for her safety. She conducted a “protective pat-down” of the males by feeling their waistlines and pockets to make sure they were unarmed. In the front pocket of one of the males the officer felt several small rock-like objects. The male admitted that they were “rocks.” The cocaine was seized. The male was then placed under arrest and a custodial search was performed. During this search cannabis was discovered. ISSUE: Was the defendant’s detained when the police conducted their “field interview”? ANSWER: No, not yet. However, when the officer conducted her pat-down, the suspect was detained.

b. People v. Flores and Flores, 308 Ill. Dec. 657, (2nd Dist., 2-05-0778 & 0783, January 29, 2007) The police were patrolling the parking lot of an apartment complex late one night. As they watched, a car was seen slowly circling the lot. As the car exited the lot, the police followed. When the car approached a nearby parking spot, the driver of the car turned off his headlights while he was still on the highway. Noting this traffic violation, the police pulled in next to the car and approached it. In the backseat of the car were two unboxed car stereos with their wiring still attached. When questioned, the driver informed that police that he had just arrived at the parking spot. The officer then noticed that the driver had a screwdriver in his pocket. ISSUE: Did the police properly conduct a Terry frisk of the driver in this case? ANSWER: Yes. The frisk proper under these circumstances.

c. People v. Austin, 302 Ill. Dec. 497, (4th Dist., No. 4-04-0727, May 1, 2006) The police received a tip that a particular person would be arriving on a Greyhound bus that day and he would be transporting crack cocaine. Based upon this tip, the police watched as the bus arrived. Two men, who generally matched the suspect's description, were seen exiting the bus. They talked as they walked along the side of the bus. The police approached the men and identified themselves. The men started to walk in different directions. Both men were ordered to place their hands on the side of the bus. Concerned for their safety, the police patted the suspects down. Discovered during this frisk was the crack cocaine. ISSUE: Was the frisk of these suspects reasonable? ANSWER: Yes, the police were justified in fearing for their safety.

d. People v. White, 302 Ill. Dec. 614, (Ill. Sup. Ct, No. 99935, April 20, 2006) While patrolling a high crime area, the police saw the defendant walking toward an apartment. As the police watched, the defendant was tossing an object up into the air and catching it. When the defendant saw the police, he suddenly turned his back and placed an object in his pocket. The police approached the defendant and asked what he had placed in his pocket. The defendant said it was a cigarette lighter. During this time, the defendant repeatedly placed his hands in his pockets despite warnings from the police. Fearing for their safety, the police decided to pat the defendant down. They made a grab for him but the defendant fled. The police tackled the defendant and a bag of individually wrapped containers of cocaine fell to the ground. ISSUE: Was this defendant legally searched by the police? ANSWER: Yes. The combination of the location of the encounter and the conduct of the defendant justified the frisk of this defendant.

e. People v. Moss, 299 Ill. Dec. 662, (Ill. Sup. Ct., No. 99616, December 15, 2005) The defendant in this case was riding as a passenger in a truck he owned when it was stopped for speeding. The arresting officer then asked for the defendant's identification and discovered that he was on mandatory supervised release. A condition of that MSR was that the defendant "consent to" searches of his person and his property. The officer also learned that the other occupants of the truck had two prior drug-related arrests. Further, the officer was informed that all three of the suspects were known to possess firearms. The police (backup had arrived) then asked for consent to search the truck. Consent was granted. While one officer search the truck, the other conducted a pat-down of the suspects. On the defendant the officer felt an object that he thought might be a weapon. Retrieving the object, the officer discovered that it was not a weapon, it was a bag of cocaine. ISSUE: Was the frisk of these defendants proper here? ANSWER: Yes. Under these circumstances, the police properly expressed a belief that their safety was in question.

f. People v. Goodum, 294 Ill. Dec. 525, (3rd Dist., No. 3-03-0003, May 6, 2005) After running a routine, random registration check, the police stopped the car the defendant was driving because the owner of that car had an outstanding arrest warrant. The defendant, however, was not the owner of the car. He did, however, give some very strange answers to the questions the police asked him. They frisked the defendant

and felt a crack pipe. The arrest of the defendant and his subsequent search revealed evidence of felony retail theft. ISSUE: Was the police frisk of the defendant reasonable? ANSWER: Yes. Under the totality of these circumstances, the police were justified in frisking the defendant.

g. People v. Miller, 291 Ill. Dec. 830, (1st Dist., No. 1-03-1708, February 7, 2005) Two police officers were on routine patrol when they were stopped by an individual neither officer knew. The citizen informed the police that he had just observed a black male wearing dark clothing and standing on a street corner one block away display a hand-gun. The police immediately drove to that street corner and, sure enough, standing on that corner was a black male wearing dark clothes. He was the defendant in this case. Although neither officer saw the defendant possess a gun, they approached him in order to conduct a “field interview.” A pat-down of the suspect was conducted and, sure enough, a gun was found in the suspect’s waistband. The suspect then turned and fled. As he ran, a gun fell to the ground. The defendant was later placed under arrest and charged with a weapons violation. ISSUE: Did the police have sufficient justification to conduct a Terry frisk of the defendant here? ANSWER: Yes.

8. Exigent Circumstances.

a. People v. Shanklin, 305 Ill. Dec. 293, (1st Dist., No. 1-04-1360, September 5, 2006) The police in this case were investigating a murder. They believed that the defendant was involved. Knowing that the murder weapon was never found, the police decided to see if the defendant possessed it. They drove to the defendant’s home and knocked on the defendant’s door. His grandmother answered the knock. The police asked to see the defendant. When the grandmother said that she would see if he was home, the police walked past her and entered the defendant’s room. He was lying on his bed. When the defendant started to reach for something next to his bed, the police prevented him from doing so and seized the murder weapon which was found between the bed and the bedroom wall. ISSUE: Did the police have sufficient exigent circumstances here to justify their warrant enter and search of the defendant’s home? ANSWER: No.

b. Brigham City v. Stuart, 126 U. S. 1943, (U. S. Sup. Ct., No. 05-502, May 22, 2006) The police were called about a loud party. Upon arriving at the house, the police noted several persons inside of the house engaged in a loud argument. As the police watched, one of those persons punched another person in the mouth. Based upon these observations, the police entered the house and tried to calm everyone down. Once inside, the police placed the defendant in this case under arrest for numerous charges. ISSUE: Was the entry of the police into this house reasonable? ANSWER: Yes. Under these circumstances, the police did not have to politely knock on the door of the house and wait to be admitted inside.

c. People v. Lewis, 300 Ill. Dec. 618, (2nd Dist., No. 2-05-0111, February 28, 2006) The paramedics received a call about an unconscious person in a local house. The police arrived on the scene to help. While the paramedics worked on the unconscious person, the police looked around to see if they could find out what the man took. They found a metal lockbox that contained ecstasy and heroin in the room. ISSUE: Was this discovery reasonable? ANSWER: Yes. This was an example of the emergency-assistance search exception to the warrant requirement.

d. People v. Smith, 292 Ill. Dec. 915, (Ill. Sup. Ct., No. 98014, March 24, 2005) The car the defendant was riding in was stopped on an Interstate for numerous traffic violations. The driver of the car was arrested for DUI. None of the passengers in the car, including the defendant in this case, could drive the

car away and they were unsuccessful in trying to find a ride. The police offered to give them a lift to the police station. They accepted. Pursuant to police policy, the passengers were patted down for weapons. A gun was found on the defendant. ISSUE: Did sufficient exigent circumstances exist to justify the conduct of the police? ANSWER: The Illinois Supreme Court ruled that the defendant was not detained prior to the discovery of his illegal weapon. Consequently, there was not need to rely upon exigent circumstances.

e. People v. Feddor, 291 Ill. Dec. 207, (2nd Dist., No. 2-03-0825, February 2, 2005) The defendant was driving home on the day in question when it appears he was involved in an accident. The defendant's car was pretty badly damaged. It had suffered "heavy front end damage." In fact, the hood of the defendant's car was folded up over the car's windshield. Notwithstanding this damage, the defendant drove his car the rest of the way home, some one-quarter mile. In order to do this, he had to hang out of the driver's side window to see where he was going. Once he arrived home, the defendant drove his car into his garage and closed the garage door. Thereafter, someone called the police and they followed the defendant home. When no one answered their knock on the defendant's front door, the police were stumped concerning what to do. Eventually, they called the fire department and had them force open the defendant's door. Inside the police found the intoxicated defendant. Thereafter, the defendant was charged with DUI and DWR. ISSUE: Were the defendant's rights violated when the police forced their way into the defendant's home? ANSWER: Yes. The warrantless entry into the defendant's home was found to be unreasonable. The police simply did not adequately explain what emergency situation existed that justified such an entry.

9. Hot Pursuit

a. People v. Wear, 371 Ill. App. 3d 517, (4th Dist., No. 4-06-0353, January 19, 2007) A police officer, believing that the defendant was DUI, followed the defendant as he drove down the street. Eventually, the defendant turned into his driveway, got out of his car, walked toward his house. The officer pulled in behind the defendant's parked car, got out of his squad car, followed the defendant to his house, and repeatedly ordered the defendant to get back into his car. The defendant again ignored the officer. The defendant made it to his front door, turned to the officer and said, "I made it home." The defendant then entered his home and the officer followed him inside. Inside the defendant's house the officer confirmed that the defendant was intoxicated and placed him under arrest. ISSUE: Could the police use the doctrine of "hot pursuit" to justify their warrantless entry into the house? ANSWER: Yes. In this case the Court ruled that hot pursuit justified the entry into the house so that the officer could conduct a Terry detention of the suspect for a suspected DUI.

b. People v. Tillman, 291 Ill. Dec. 107, (1st Dist., No. 1-03-2234, January 14, 2005) The police received a tip that narcotics was being sold in a particular room in a housing project. They went to the high-rise building in which that apartment was located. When the police started walking up the stairs, they spotted two individuals with contraband in their possession. The individuals dropped the contraband and ran up the stairs. The police followed the suspects as they ran into the apartment identified by the snitch. Inside the apartment the police arrested the two suspects and they spotted the defendant in this case, the occupant of the apartment. As the police watched, the defendant, who had something in his hand, hurriedly walked over to a nearby wall and dropped what he had in his hand into a hole in that wall. The police arrested the defendant, kicked another hole in the wall, and retrieved cocaine and a handgun. ISSUE: Was the warrantless entry by the police into the defendant's apartment justified? ANSWER: Yes, the entry was justified by the use of the "hot pursuit" doctrine.

10. What constitutes a seizure: "Community Caretaker Function."

a. People v. Mikrut, 309 Ill. Dec. 717, (2nd Dist., No. 2-06-0376, March 15, 2007) A woman who had been staying at the defendant's house asked the police to help her retrieve her personal belongings from that house because she was moving out. The woman informed the police that the defendant was a convicted felon. The police accompanied the woman to the defendant's house where they were met by the defendant. The defendant opened his front door and objected to the presence of the police. He said he did not want the police in his house. When the police explained that they were there to help the woman move out, the defendant continued to protest but he backed up and entered his living room. The police followed the defendant into his house. The defendant stayed in his living room with two police officers. A third police officer accompanied the woman into a bedroom so that she could get her belongings. In a closet in the bedroom the officer saw a rifle. At first, the defendant denied that he had any firearms. However, when confronted with the rifle, he admitted that he possessed it and a pistol. ISSUE: Were the police acting within their "caretaking function" when they saw the rifle in the closet? ANSWER: No. The police exceeded that function when they followed the woman into the bedroom while she collected her things.

b. People v. Luedemann, 306 Ill. Dec. 94, (Ill. Sup. Ct., No. 100914, October 5, 2006) The defendant in this case was sitting in his car which was parked in front of his girlfriend's house. As the defendant smoked a cigarette, a police officer drove by. Suspicious of the defendant's conduct, the officer drove up to the defendant's car, parked his squad car in the middle of the road, and approached the defendant. As he did so, he pulled out his flashlight and shined it into the interior of the defendant's car. On the floorboard of the defendant's car the officer spotted an open bottle of beer. ISSUE: Did the conduct of the officer fall within the "caretaking function" of his office. ANSWER: No. The officer was acting upon his suspicions of criminal conduct, not upon any belief that the defendant was in need of help. (However, this case declares what that function now is in Illinois.)

c. People v. Feddor, 291 Ill. Dec. 207, (2nd Dist., No. 2-03-0825, February 2, 2005) The defendant was driving home on the day in question when it appears he was involved in an accident. The defendant's car was pretty badly damaged. It had suffered "heavy front end damage." In fact, the hood of the defendant's car was folded up over the car's windshield. Notwithstanding this damage, the defendant drove his car the rest of the way home, some one-quarter mile. In order to do this, he had to hang out of the driver's side window to see where he was going. Once he arrived home, the defendant drove his car into his garage and closed the garage door. Thereafter, someone called the police and they followed the defendant home. When no one answered their knock on the defendant's front door, the police were stumped concerning what to do. Eventually, they called the fire department and had them force open the defendant's door. Inside the police found the intoxicated defendant. Thereafter, the defendant was charged with DUI and DWR. ISSUE: Could the police use their "community care taking function" to justify their conduct? ANSWER: No. That function only works if the police are not investigating a criminal offense. Here the police entered into the defendant's home because they believed that he was DUI.

11. Reasonable Expectation of Privacy

a. People v. Carodine, 311 Ill. Dec. 856, (1st Dist., No. 1-05-2775, May 21, 2007) As the police watched, the defendant was selling illegal drugs as he stood outside of the apartment building in which he

lived. A customer would approach the defendant and hand him money. The defendant would then walk over to the outside of his apartment building and reach up into a clothes dryer vent that protruded out from the apartment building. From the vent the defendant was bring out a bag that contained illegal drugs. The defendant would reach into the bag, retrieve the item his customer had paid for and hand it to the customer. The defendant would then replace the bag back in the dryer vent. A police officer, after witnessing this transaction, approached the defendant, detained him, and reached up into the dryer vent and retrieved the bag. Inside the officer found illegal drugs. ISSUE: Did the police violated the defendant's constitutional rights by searching the dryer vent without first obtaining a search warrant? ANSWER: No.

b. People v. Phillips, 294 Ill. Dec. 624, (Ill. Sup. Ct, No. 98070, June 3, 2005) The defendant was having trouble with his computer. He took it to a local shop for repair. The owner of the shop repaired the defendant's computer and tested his work by opening the first file found in the defendant's computer. That file contained child pornography. The owner then called the police who viewed the defendant's file in the owner's workshop. The police then seized the defendant's computer and printed off the information found on that file. All of this was done without any kind of warrant. ISSUE: Was the defendant's Fourth Amendment rights violated by the conduct of the shop owner and the police? ANSWER: No. The shop owner, as a private person, was not bound by the Fourth Amendment. Once the owner viewed the defendant's file and discovered the pornography, the defendant no longer had any privacy interest in that file and the police could view it and download it without violating the Fourth Amendment.

c. People v. London, 294 Ill. Dec. 810, (5th Dist., No. 5-02-0666, June 2, 2005) The owner of a farm house called a plumber to have the unoccupied house winterized. The plumber drove to the house and was surprised to find various personal items inside the house that indicated that someone was residing there. The plumber told the owner and the owner called the Sheriff. A deputy sheriff drove out to the house and confronted various persons there. One of those persons was the defendant in this case. They all denied living in the house. The deputy called the owner and the owner consented to a search of her house. A search of the house revealed a meth lab. ISSUE: Did the police violate the defendant's rights by searching the house? ANSWER: No. The defendant was found to have abandoned any expectation of privacy in the house by denying that she resided there.

d. City of Champaign v. Torres, 291 Ill. Dec. 768, (Ill. Sup. Ct., No. 97926, February 17, 2005) The police received a complaint of loud music coming from a local apartment. An officer was dispatched and he knocked on the door of the apartment. The defendant in this case appeared at the apartment door. He identified himself as a guest at a party being held in the apartment. When the officer asked to speak to the occupant of the apartment, the defendant said he would go get him. The defendant then tried to close the apartment door, but the officer asked him to leave it open. When the officer put his arm inside of the door, the defendant, in an apparent attempt to close the door, slammed the door shut on the officer's arm. This resulted in the arrest of the defendant on a Municipal Code violation of knowingly resisting or obstructing the performance of a peace officer. ISSUE: Could the defendant here avoid the consequences of his conduct by arguing that the officer had violated his Fourth Amendment rights by attempting to illegally enter the apartment? ANSWER: No. The defendant, as only a party guest in the apartment, had no standing to make such an argument. He had no reasonable expectation of privacy in the apartment.

12. DNA Sample Extraction.

a. People v. Garvin, 301 Ill. Dec. 423, (Ill. Sup. Ct., No. 99031, March 23, 2006) The defendant in this case was seen “in and around” a stolen van. Based upon this information, the defendant was arrested. He was subsequently convicted of burglary. The appellate court reversed his conviction based upon a finding that the police lacked probable cause to arrest him. Before the Illinois Supreme Court, the defendant also argued that the mandatory extraction of DNA samples from all felons was unconstitutional. In this case the Supreme Court disagreed with the defendant and declared the statute to be constitutional.

13. Reasonable Suspicion and Probable Cause

a. People v. Lyons, 313 Ill. Dec. 410, (4th Dist., No. 4-06-0110, June 21, 2007) The police decided to set up a sting operation. They obtained the cooperation of a confidential informant. The informant contacted a third party who contacted the defendant in this case in order to set up the purchase of illegal drugs. The defendant brought the drugs to the third party who gave them to the informant. The informant then gave the third party money the police had given him. The third party then gave the money to the defendant. Based upon this evidence, a Sheriff’s deputy and the informant appeared before a trial judge and requested that a warrant to search the defendant’s home be issued. The warrant was issued and a search of the defendant’s home revealed illegal drugs. ISSUE: Did the use of a third party here prevent the police from obtaining sufficient probable cause to support their request for a search warrant? ANSWER: Yes, the evidence the police supplied the judge was sufficient to support the issuance of a search warrant. ISSUE: Further, was the reliability of the informant the police used sufficiently established? ANSWER: Yes, the informant appeared personally before the issuing judge. The judge could then “judge” for himself the reliability of the informant.

b. People v. Smith, 310 Ill. Dec. 178, (1st Dist., No. 1-04-2656, March 30, 2007) A police officer and his confidential informant appeared before a trial judge and requested that a search warrant be issued for a particular house. The officer informed that judge that his informant had purchased illegal drugs from a person who resided in that house about weeks ago and that he had made similar purchases in the last six months. The complaint particularly described the place and the person to be searched. ISSUE: Did the complaint for a search warrant contain enough information to justify the issuance of a warrant and was their sufficient proof of the reliability of the informant? ANSWER: Yes and Yes.

c. People v. Green, 294 Ill. Dec. 314, (2nd Dist, No. 2-03-1345, July 6, 2005) Based upon an anonymous tip about a “white male” placing a backpack behind a house, the police went to the house and located the backpack. Inside the backpack was a disassembled Meth lab. At this same time, the police noticed the defendant in this case, a white female, walking nervously up and down in front of this same house. She was carrying another backpack and she was talking on a cell-phone. The police approached the defendant, talked to her, and eventually ordered her to accompany them to the rear of the house. One thing led to another and, eventually, the police took a peak inside of the girl’s backpack. Inside the backpack meth was found. ISSUE: Did the police have sufficient probable cause to seize and search the defendant’s backpack? ANSWER: No. **(NOTE: This case was originally release on May 5, 2005. Subsequently, it was withdrawn and re-released on July 6, 2005.)**

d. People v. Jones, 294 Ill. Dec. 129, (Ill. Sup. Ct., No. 97683, May 19, 2005) The defendant’s taillights were not working. He was stopped by the police. As the arresting officer was talking to the defendant, he noticed a small wooden box which, according to the officer, appeared to him to be drug paraphernalia. It was a “one-hitter” box. Based upon this, the officer seized the box, opened it, and

discovered cannabis. He then placed the defendant under arrest. ISSUE: Was the warrantless search by the police of this “one-hitter” box legal? ANSWER: Yes. The officer had sufficient probable cause to believe that the box constituted drug paraphernalia and that it did contain contraband.

e. People v. Donath, 293 Ill. Dec. 120, (1st Dist., No. 1-04-0458, April 13, 2005) Based upon a series of very complex events, the police received information from foreign sources that the defendant had distributed child pornography from his computer one time. It was said that he “uploaded” this material onto some other person’s computer. Based upon this information, the police obtained and executed a search warrant. The trouble was that by the time the police got all of their ducks in a row and were ready to proceed, five months had passed since this “upload” had occurred. ISSUE: Does uploading child pornography on one occasion, five months previously constitute probable cause for a search warrant? ANSWER: It does in this case. This is a very good “computer” case.

14. Inevitable Discovery

a. People v. Sutherland, 2006 WL 2690150, (Ill. Sup. Ct., No. 99047, September 21, 2006) The defendant was suspected of kidnapping, sexually assaulting, and murdering a ten-year-old girl. The police obtained Illinois search warrants for the defendant’s person, his vehicle, and his possessions. The trouble was, however, those items were located in Montana. The Illinois warrants were executed in Montana and the defendant, his car, and his possessions were searched in Montana and brought back to Illinois. The defendant moved to suppress the items arguing that the Illinois warrants were no good in Montana. This motion was denied and the defendant was convicted and sentenced to death. ISSUE: Were samples of the defendant’s hair obtained with an invalid Illinois search warrant executed in Montana? ANSWER: Yes. However, the evidence would have been inevitably discovered based upon the evidence the police found in the defendant’s abandoned property.

15. Abandonment

a. People v. Keys, 314 Ill. Dec. 481, (4th Dist., No. 4-06-0378, July 31, 2007) While he was stopped at a stop light, a police officer had his picture taken by the driver of a car that had pulled up next to him. The officer reported this incident to his fellow officers and later that day one of those officers pulled that car over and ordered its occupants to get out. When the officer attempted to pat down one of those occupants, the man broke free and fled. Eventually, the police chased the man down and placed him under arrest. Along the path the defendant used to flee, the police found three bags of heroin. ISSUE: Did the defendant abandon his drugs after he broke free from the police? ANSWER: Yes. This court ruled that the alleged illegality of the defendant’s initial made no difference because he abandoned the drugs after he fled.

b. People v. Novakowski, 306 Ill. Dec. 417 (1st Dist., No. 1-05-0547, October 6, 2006) While investigating a recent burglary (in which nothing had been taken), a police officer noticed the defendant walking down a nearby street. He was carrying a backpack. When the defendant noticed the officer looking at him, he dropped his backpack to the ground and walked toward the officer. The officer recognized the defendant as a suspect in series of recent burglaries. When the officer asked the defendant about his backpack, he merely “chuckled.” The defendant then gave the officer conflicting explanations about his conduct. According to the officer, these answers were evasive and the defendant appeared to be very nervous. The backpack was then seized and inside was the proceeds of another, unreported burglary.

ISSUE: Was the search of the backpack reasonable. ANSWER: Yes. The defendant abandoned the backpack when he dropped it upon seeing the police.

c. People v. Sutherland, 2006 WL 2690150, (Ill. Sup. Ct., No. 99047, September 21, 2006) The defendant was suspected of kidnapping, sexually assaulting, and murdering a ten-year-old girl. The police obtained Illinois search warrants for the defendant's person, his vehicle, and his possessions. The trouble was, however, those items were located in Montana. The Illinois warrants were executed in Montana and the defendant, his car, and his possessions were searched in Montana and brought back to Illinois. The defendant moved to suppress the items arguing that the Illinois warrants were no good in Montana. This motion was denied and the defendant was convicted and sentenced to death. ISSUE: Did the defendant abandon his possessions in Montana? ANSWER: Yes. Therefore, an invalid search warrant did not result in the suppression of evidence.

d. People v. London, 294 Ill. Dec. 810, (5th Dist., No. 5-02-0666, June 2, 2005) The owner of a farm house called a plumber to have the unoccupied house winterized. The plumber drove to the house and was surprised to find various personal items inside the house that indicated that someone was residing there. The plumber told the owner and the owner called the Sheriff. A deputy sheriff drove out to the house and confronted various persons there. One of those persons was the defendant in this case. They all denied living in the house. The deputy called the owner and the owner consented to a search of her house. A search of the house revealed a meth lab. ISSUE: Did the police violate the defendant's rights by searching the house? ANSWER: No. The defendant was found to have abandoned any expectation of privacy in the house by denying that she resided there.

16. Plain View

a. People v. Hillsman, 298 Ill. Dec. 469, (4th Dist., No. 4-04-0022, December 7, 2005) The police received a report that an individual was in a local hospital emergency room complaining of a gun-shot wound. Officers were dispatched to the hospital and they found the defendant in this case undergoing treatment for a shoulder wound. In a basket under the table upon which the defendant was placed were the defendant's clothes. The police noticed that they had blood on them. Without asked the defendant, the police seized the clothes and left the hospital. As it turns out, the blood on the clothes did not all come from this defendant. Evidence of murder was also found on those clothes. ISSUE: Did the police violated this defendant's Fourth Amendment rights by seizing his clothes without placing him under arrest and without a warrant? ANSWER: No. The clothes the police seized were properly taken under the Plain View doctrine.

17. Consent

a. People v. Parker, ____ Ill. Dec. ____, (1st Dist., No. 1-06-1637, October 9, 2007) **On the day in question, the police knocked on the defendant's front door. The defendant was asleep in a nearby bedroom. The police asked the defendant's live-in girlfriend for consent to search her home. She consented and signed a consent form. The police then entered the defendant's home, woke him up, and searched the house. Crack cocaine was discovered. The trial court suppressed the evidence discovered by the police after ruling that the consent of the girlfriend was insufficient to authorize a**

warrantless police search. The trial court ruled that the defendant was present in the house and his girlfriend's consent was therefore invalid. **ISSUE: Was the girlfriend's consent valid? ANSWER: Yes.** The defendant could have prevented the police from searching if he had been at the door and if he had refused consent to search. The defendant was not there when the police obtained their consent from his girlfriend. He therefore "lost out" on his opportunity to deny consent. Further, the defendant never objected to the presence of the police once they were inside of his home. Therefore, the consent of the girlfriend was valid.

b. People v. Shinohara, 313 Ill. Dec. 515, (1st Dist., No. 1-03-0668, June 29, 2007) The defendant called the police and asked them to remove a 17-year-old girl from his apartment. The girl claimed that the defendant and picked her up off of the street and sexually assaulted her in his apartment. The defendant denied this charge but he admitted that he had digitally recorded their sexual acts and downloaded them on his computer. The girl then admitted to the police that no sexual assault had occurred. Notwithstanding this statement of the "victim," the police asked for consent to look at the defendant's apartment and his computer in order to confirm his version of the story. The defendant agreed and the police took the computer to their station. At the station the police viewed a file on the computer and confirmed that the defendant had recorded the nude girl. The police then seized the computer and obtained a warrant to search the rest of the files on that computer. **ISSUE: Did the defendant properly consent to a search of his computer when the police failed to inform him of the actual reason for their requested search. ANSWER: Yes.** The consent was proper even though the police actually were looking for evidence of other offenses committed by the defendant.

c. People v. Mikrut, 309 Ill. Dec. 717, (2nd Dist., No. 2-06-0376, March 15, 2007) A woman who had been staying at the defendant's house asked the police to help her retrieve her personal belongings from that house because she was moving out. The woman informed the police that the defendant was a convicted felon. The police accompanied the woman to the defendant's house where they were met by the defendant. The defendant opened his front door and objected to the presence of the police. He said he did not want the police in his house. When the police explained that they were there to help the woman move out, the defendant continued to protest but he backed up and entered his living room. The police followed the defendant into his house. The defendant stayed in his living room with two police officers. A third police officer accompanied the woman into a bedroom so that she could get her belongings. In a closet in the bedroom the officer saw a rifle. At first, the defendant denied that he had any firearms. However, when confronted with the rifle, he admitted that he possessed it and a pistol. **ISSUE: Did the police have consent to enter the defendant's house? ANSWER: No.** The police relied upon the consent of the woman. However, in this case the defendant objected to the police entry. The consent of the woman was no good where the defendant objected. This is a pure Randolph v. Georgia case.

d. People v. Plante, 308 Ill. Dec. 856, (3rd Dist., No. 3-05-0075, January 26, 2007) A police officer was investigating the theft of telephone service. He drove to the defendant's home and asked if he possessed any stolen property. The defendant denied that he had any such property and said that the police could enter his home and look around if they wished. The officer searched the house and then left. He came back ten minutes later and brought another officer with him. The police informed the defendant that they were investigating stolen tool boxes and asked to search his house again. The defendant again agreed to the search. With the consent of the defendant, the police searched the defendant's entire house, including his basement. They then left again. A short time later the police again returned to the defendant's house. This time the defendant met them on his front porch. When the police asked to speak to the defendant, he asked if they could speak outside. The officers replied "No." The defendant then turned and re-entered the

defendant's home (for a third time). In the basement the police found a methamphetamine lab. ISSUE: Did the police have consent to enter the defendant's home the third time? ANSWER: No. This time the defendant did not consent to the police entry. Actually, the defendant objected, this was enough.

e. People v. Shanklin, 305 Ill. Dec. 293, (1st Dist., No. 1-04-1360, September 5, 2006) The police in this case were investigating a murder. They believed that the defendant was involved. Knowing that the murder weapon was never found, the police decided to see if the defendant possessed it. They drove to the defendant's home and knocked on the defendant's door. His grandmother answered the knock. The police asked to see the defendant. When the grandmother said that she would see if he was home, the police walked past her and entered the defendant's room. He was lying on his bed. When the defendant started to reach for something next to his bed, the police prevented him from doing so and seized the murder weapon which was found between the bed and the bedroom wall. ISSUE: Did the police have sufficient exigent circumstances here to justify their warrant enter and search of the defendant's home? ANSWER: No.

f. Georgia v. Randolph, 126 S. Ct. 1515, (U. S. Sup. Ct, No. 04-1067, March 22, 2006) The defendant's estranged wife gave the police permission to search their marital residence for illegal controlled substances after the defendant had expressly refused to grant their request for consent to search. The search was made and illegal drugs were found. ISSUE: Was this search reasonable? ANSWER: No.

g. People v. Kveton, 298 Ill. Dec. 601, (2nd Dist., No. 2-04-0204, December 5, 2005) The police received an anonymous tip that the defendant possessed a quantity of cannabis. Two officers drove to the defendant's home and watched as the defendant approached. The officers then drove their car across traffic and pulled up in front of the defendant. One officer got out of the car and informed the defendant that they (the police) knew that he possessed cannabis. The officer then asked for consent to search the defendant and his backpack. In response to this request, the defendant merely lowered his head and sighed deeply. The police then took a look inside of the defendant's backpack and discovered cannabis. They then entered the defendant's home and discovered additional cannabis. ISSUE: Did the defendant consent to the search of his backpack? ANSWER: No. The defendant merely acquiesced to the demands of the police. He did not give his voluntary consent.

h. People v. London, 294 Ill. Dec. 810, (5th Dist., No. 5-02-0666, June 2, 2005) The owner of a farm house called a plumber to have the unoccupied house winterized. The plumber drove to the house and was surprised to find various personal items inside the house that indicated that someone was residing there. The plumber told the owner and the owner called the Sheriff. A deputy sheriff drove out to the house and confronted various persons there. One of those persons was the defendant in this case. They all denied living in the house. The deputy called the owner and the owner consented to a search of her house. A search of the house revealed a meth lab. ISSUE: Did the police violate the defendant's rights by searching the house? ANSWER: No. The police properly relied upon the consent of the owner of the house to conduct their search. Whether or not she had the authority to consent did not matter. The police reasonably relied upon the apparent authority of the owner of the house to give her consent.

i. People v. Smith, 292 Ill. Dec. 915, (Ill. Sup. Ct., No. 98014, March 24, 2005) The car the defendant was riding in was stopped on an Interstate for numerous traffic violations. The driver of the car was arrested for DUI. None of the passengers in the car, including the defendant in this case, could drive the car away and they were unsuccessful in trying to find a ride. The police offered to give them a lift to the police station. They accepted. Pursuant to police policy, the passengers were patted down for weapons. A gun was found on the defendant. ISSUE: Did the defendant consent to the police offer of a ride and, thus, to

the frisk of his person. ANSWER: Yes. The Supreme Court determined that the defendant did voluntarily consent.

18. Sufficiency of the Search Warrant

a. People v. McCarty and Reynolds, 306 Ill. Dec. 570, (Ill. Sup. Ct., No. 100469 & 100813, September 5, 2006) The police obtained a warrant to search the “trailer of Roger McCarty” for “methamphetamine, records of drug transactions, drug paraphernalia, and United States Currency.” The trailer in question was located in a rural area and the warrant indicated that the trailer was “located approximately $\frac{3}{4}$ of a mile south of the intersection” of two local roads, “being the 3rd trailer east” of that intersection, and a “camper located in the woods east of the trailer.” The deputy executing the warrant was familiar with the location and the trailers. The warrant was executed and contraband was seized. ISSUE: Did the warrant adequately describe the place to be searched and the items to be seized, and was the warrant too vague? ANSWER: Yes and No. The police did the best they could under these circumstances. The description listed in the warrant and the knowledge of the deputies was sufficient.

b. People v. Patterson, 299 Ill. Dec. 157, (Ill. Sup. Ct., No. 98641, December 15, 2005) The police suspected the defendant of murdering a drug dealer. The body of the victim was found rapped in a uniquely colored blanket. A search warrant was obtained for the defendant’s house. The warrant listed photographs as things to be seized. During the execution of the warrant, the police found a roll of undeveloped film. They seized it. A picture on the film showed the defendant’s daughter rapped in a blanket that appeared to be identical to the one found at the murder scene. ISSUE: Did the police exceed the scope of their warrant when they seized the undeveloped film. ANSWER: No. According to the Supreme Court, by definition, undeveloped film becomes a “photograph” to moment the picture is taken. Further, the Court ruled that there was no need to obtain another warrant just to search this container of undeveloped film. The original warrant was sufficient.

c. People v. Moser, 293 Ill. Dec. 230, (2nd Dist., No. 2-04-0477, May 19, 2005) A confidential informant signed an affidavit stating that he had just been inside of the defendant’s home and had in there seen a bag of cocaine. Further, he stated that he had, on at least fifteen occasions, purchased cocaine from the defendant. Based upon this information, the police took the informant before a judge and obtained a search warrant. The police then drove to the defendant’s home, walked up to his front door, knocked, and waited approximately 10 minutes before ramming the door down. ISSUE: Did probable cause exist for the issuance of a search warrant where the People failed to offer any evidence concerning the reliability of their informant? ANSWER: Yes. Here the informant himself appeared before the judge. The judge was able to judge for himself whether the informant was credible. No other evidence was necessary.

19. Probationer Searches

a. People v. Ward, 2007 WL 313321, (1st Dist., No. 1-04-1852, September 29, 2006) The police had information that the defendant, a probationer, might be involved in illegal drug activity. However, this information was old and very vague. Further, the police received a vague tip that the defendant was involved in a recent shooting. To investigate these activities, the police drove to the home of the defendant. The defendant saw the police drive up and took off running. The police chased him down, detained him, and searched his person and his home. ISSUE: Did the police reasonably search the person of

the defendant and his home without a warrant? ANSWER: Yes. The information the police possessed, plus the flight of the defendant, justified the search of his person and his home.

b. Samson v. California, 126 U. S. 2193, (U. S. Sup. Ct, No. 04-9728, June 19, 2006) Prior to being released from prison, this defendant signed a paper wherein he agreed to allow a parole agent of the police to search him and his possessions “with or without a warrant and with or without cause.” The defendant was released and, thereafter, the police exercised their rights under this agreement. A search was conducted and methamphetamine was discovered. ISSUE: Was the warrantless and suspicionless search of this defendant proper? ANSWER: Yes. The Fourth Amendment does not prohibit a police officer to from conducting a suspicionless search of a parolee.

c. People v. Wilson, 301 Ill. Dec. 743, (1st Dist, No. 1-03-3552, March 29, 2006) The defendant was released from prison on mandatory supervised release from his conviction for armed violence. That agreement contained a clause with stated that the defendant must consent to a search of his person and property. About one year later, a parole agent received an anonymous tip that the defendant possessed drugs and firearms in his house. The agent and two police officers searched the house without a warrant and discovered illegal drugs. ISSUE: Was the search of the defendant’s home reasonable? ANSWER: It depends. These types of searches must be based upon a reasonable suspicion that the defendant was violating the terms and conditions of his release. Here the trial court failed to make any such determination. For that reason, this case was remanded back for another hearing.

d. People v. Moss, 299 Ill. Dec. 662, (Ill. Sup. Ct., No. 99616, December 15, 2005) The defendant in this case was riding as a passenger in a truck he owned when it was stopped for speeding. The arresting officer then asked for the defendant’s identification and discovered that he was on mandatory supervised release. A condition of that MSR was that the defendant “consent to” searches of his person and his property. The officer also learned that the other occupants of the truck had two prior drug-related arrests. Further, the officer was informed that all three of the suspects were known to possess firearms. The police (backup had arrived) then asked for consent to search the truck. Consent was granted. While one officer search the truck, the other conducted a pat-down of the suspects. On the defendant the officer felt an object that he thought might be a weapon. Retrieving the object, the officer discovered that it was not a weapon, it was a bag of cocaine. ISSUE: Did the defendant’s status as a person on MSR justify a search of his person and his property? ANSWER: No. However, the defendant’s MSR agreement required that he consent to a such a search. Strangely enough, if the defendant refuses to grant such consent, he violates the terms and conditions of his MSR and is subject to arrest. (Interestingly enough, guess what the officer could have done after placing the defendant under arrest for violating his MSR.)

e. People v. Wilson, 296 Ill. Dec. 744, (1st Dist, No. 1-03-3552, September 14, 2005) The defendant in this case was let out of prison on mandatory supervised release. A condition written in that release agreement allowed the police to conduct warrantless searches of his person and property. The police in this case exercised that agreement and searched the defendant’s house. A controlled substance was discovered during their search. ISSUE: Was the search conducted by the police in this case reasonable? ANSWER: No. A search under these circumstances must be based upon no less than reasonable suspicion. The police had no suspicion whatsoever in this case.

D. "Knock and Announce" Rule in Illinois:

1. Execution of a search warrant.

a. People v. Chapman, ___ Ill. Dec. ___, (4th Dist., No. 4-06-0228, October 11, 2007) The police were executing a warrant to search the defendant's home. Prior to making their entry, they detonated a DEF-TEC device in the front yard of the house. That device produces a loud bang and gives off a very bright light. According to the police, the device was used as a tool by the police when they are executing a search warrant. The purpose of the device was to alert anyone inside or outside of the house that the police were there executing a search warrant. Seconds after the device detonated, the police announced that they had a warrant and were going to enter the house. The police then entered the house and conducted their search. **ISSUE:** Did the use of this device violate the "knock and announce" rules in Illinois because it prevented the occupants of the house from hearing the police announce their presence? **ANSWER:** No. The trial court properly ruled that the police did, in fact, knock and announce. Further, the Court noted, almost as an afterthought, that even if the police had failed to knock and announce, that error would not necessarily have required the suppression of evidence. However, because they had already determined that the police had not violated the knock and announce rule, they would decline to rule on the defendant's invitation to address the appropriate remedy for such a violation.

b. People v. Moser, 293 Ill. Dec. 230, (2nd Dist., No. 2-04-0477, May 19, 2005) A confidential informant signed an affidavit stating that he had just been inside of the defendant's home and had in there seen a bag of cocaine. Further, he stated that he had, on at least fifteen occasions, purchased cocaine from the defendant. Based upon this information, the police took the informant before a judge and obtained a search warrant. The police then drove to the defendant's home, walked up to his front door, knocked, and waited approximately 10 seconds before ramming the door down. **ISSUE:** Did the police violate the defendant's "knock and announce" rights? **ANSWER:** No. In this case, ten seconds was enough time to allow the defendant to open his door if he was going to do so.

2. What happens of this Rule is violated?

a. Hudson v. Michigan, 126 U. S. 2159, (U. S. Sup Ct, No. 04-1360, June 15, 2006) The Detroit police were executing a warrant to search this defendant's home. When executing this warrant, the police failed to "knock and announce". (The police admitted as much) **ISSUE:** Must the evidence the police seized during their execution of the warrant be suppressed based upon their failure to "knock and announce"? **ANSWER:** No. According to the U. S. Supreme Court, the evidence did not need to be suppressed. The social benefit of deterring crime outweighed the deterrence benefits of suppressing the evidence.

E. Anticipatory Search Warrants

a. United States v. Grubbs, 126 S. Ct. 1494, (U. S. Sup. Ct, No. 04-1414, March 21, 2006) The defendant ordered child pornography from an undercover police agent. Prior to the delivery of the tape, the police obtained an anticipatory search warrant that allowed for a search of the defendant's residence once the

tape was delivered. The tape was delivered and the warrant was executed. ISSUE: Was the use of this anticipatory search warrant constitutional? ANSWER: Yes.

F. In the United States Supreme Court

a. **Brendlin v. California**, _____ U. S. _____, (U. S. Sup. Ct., No. 06-8120, June 18, 2007) Issue: May a passenger in a car that has been stopped by the police challenge the legality of that stop?

a. United States v. Grubbs, 126 S. Ct. 1494, (U. S. Sup. Ct, No. 04-1414, March 21, 2006) Issue: Did the People's use of an anticipatory search warrant violated this defendant's Fourth Amendment rights?

b. Georgia v. Randolph, 126 U. S. 1515, (U. S. Sup. Ct, No. 04-1067, March 22, 2006) Issue: May one who shares a residence with another deny the police consent to search that residence even if the other resident grants such consent?

c. Muehler v. Mena, 125 S. Ct. 1465, (U. S. Sup. Ct., No. 03-1423, March 22, 2005) Issue: Did the police violate the defendant's rights by keeping her handcuffed during the search of her home or by questioning her during that search?

d. Illinois v. Harris, 125 S. Ct. 1292, (U. S. Sup. Ct., No. 03-1224, February 22, 2005) Issue: Did the police violated the defendant's rights by running a warrant check on him?

e. Illinois v. Caballes, 125 S. Ct. 834, (U. S. Sup. Ct., No. 03-923, January 24, 2005) Issue: Did the police violated the defendant's rights by running a drug dog around the outside of his car during a legal traffic stop?

f. Thornton v. United States, 124 S. Ct. 2127, (U. S. Sup. Ct., No. 03-5165, May 24, 2004) The Belton rule authorizing thorough searches of cars pursuant to a lawful arrest is re-affirmed. (But just barely.)

g. Groh v. Ramirez, 540 U. S. 551, (U. S. Sup. Ct., No. 02-811, February 24, 2004) The complete failure to describe what items are to be seized renders a search warrant defective.

h. Illinois v. Lidster, 540 U.S. 419, (U. S. Sup. Ct., No. 02-1060, January 13, 2004) An informational roadblock was not unconstitutional.

i. Maryland v. Pringle, 540 U.S. 366, 124 S. Ct. 795, 157 L. Ed 769, (U. S. Sup. Ct., No. 02-809, December 15, 2003) All may be arrested in a car that contains contraband if the actual possessor of that substance is unknown.

F. For copies of back issues of this Quarterly and for a list of cases from previous years see my Web Site at www.illinoisprosecutorservices.com .