

# Chapter 7— Searches after Arrest

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## Introduction

Searches after arrest require a separate chapter because of their importance in everyday policing. Although the constitutional rule is that arrests are to be made with a warrant, most arrests are made without a warrant. After a valid arrest, the police may conduct a full search of the arrested person and of the vicinity around him or her. The cases briefed in this chapter define the extent of that search.

The two major cases on searches after an arrest are *United States v. Robinson* (414 U.S. 218 [1973]) and *Chimel v. California* (395 U.S. 752 [1969]). In *Robinson*, the Court said that a body search is valid when a full-custody arrest occurs. In *Chimel*, the Court authorized the search of the area within a person's immediate control after an arrest. The Court has authorized officers to search the area of immediate control for two reasons: (1) officer safety and (2) to prevent the destruction of evidence. The problem with *Chimel*, however, is that it does not clearly indicate what is meant by the "area of immediate control." It is clear that this includes the area covered by an arrested person's "wingspan"; however, how much further beyond the wingspan has not been addressed by the Court, other than saying that it is that area from which the arrested person may obtain weapons or destroy evidence.

Most of the cases briefed in this chapter extend the authority of the police to search after an arrest. In *United States v. Edwards*, 415 U.S. 218 (1973), the Court held that a warrantless search at the place of detention is valid even if a substantial period of time has lapsed between the arrest and the search. In *Maryland v. Buie*, 494 U.S. 325 (1990), the Court held that a limited protective sweep during an arrest in a home is allowed if justified. In *Illinois v. LaFayette* (462 U.S. 640 [1982]), the Court said that searching the personal effects of a person under lawful arrest is valid if it is part of the administrative procedure incident to the booking and jailing of the suspect.

Other principles set by the Court in searches after arrest indicate that there are limits to searches after arrest. For example, the warrantless search of a house after an arrest, when the arrest does not take place in a house, is justified only in a few cases (*Vale v. Louisiana*, 399 U.S. 30 [1970]). Although not addressed by the Supreme Court, lower courts have held that body cavity searches after an arrest are unconstitutional unless justified by considerations other than the arrest itself.

The leading cases briefed in this section on searches after arrest are *Chimel v. California* and *United States v. Robinson*.

## **Warden v. Hayden** **387 U.S. 294 (1967)**

**CAPSULE:** A warrantless seizure is valid if probable cause and exigent circumstances are present. “Mere evidence” may be searched, seized, and admitted in court.

**FACTS:** Police went to Hayden’s house pursuant to a call from an individual who had followed a robbery suspect until the suspect entered a house. Hayden’s wife consented to a search of the house. Hayden was arrested when it was determined that he was the only man in the house. An officer, attracted to an adjoining bathroom by the sound of running water, found a shotgun and pistol in a flush tank. Another officer, looking for “a man or the money,” found clothes fitting the description of those worn by the robber in a washing machine. All items of evidence were admitted at the trial. Hayden was convicted of armed robbery.

**ISSUES:**

1. Was the search without a warrant valid? YES.
2. Are items considered “mere evidence” (the pistol, shotgun, and clothes), as distinguished from contraband and instrumentalities of crimes, seizable by the police for use as evidence? YES.

**SUPREME COURT DECISIONS:**

1. The warrantless seizure in this case was valid because probable cause and exigent circumstances were present.
2. There is no difference between “mere evidence” and contraband or instrumentalities of a crime under the provisions of the Fourth Amendment. “Mere evidence” may be searched for, seized, and admitted in court as evidence.

**REASON:** The search was valid because “[s]peed here was essential, and only a thorough search of the house for persons and weapons could have insured that Hayden was the only man present and that the police had control of all weapons which could be used against them or to effect an escape. . . . Nothing in the language of the Fourth Amendment supports the distinction between ‘mere evidence’ and instrumentalities, fruits of crime, or contraband.”

**CASE SIGNIFICANCE:** This case establishes that a warrant is not needed if there is probable cause and “exigent” (emergency) circumstances. This justifies making warrantless searches and seizures. The Court also settled the issue of whether “mere evidence” (as opposed to contraband or illegal items) can be seized by the police. Earlier cases decided by lower courts were divided on the issue. Under this ruling, any evidence, not just contraband, that can help prove the case against the defendant can be seized by the police.

## **Chimel v. California** **395 U.S. 752 (1969)**

**CAPSULE:** After an arrest, police may search the area within a person's immediate control.

**FACTS:** Chimel was suspected of having robbed a coin shop. Armed with an arrest warrant (but without a search warrant), police officers went to Chimel's house and were admitted by his wife. Chimel was not at home, but was immediately arrested when he arrived. The police asked Chimel if they could "look around." Chimel denied the request, but the officers searched the entire house anyway and discovered some stolen coins. At the trial, the coins were introduced as evidence over Chimel's objection. Chimel was convicted of robbery.

**ISSUE:** In the course of making a lawful arrest, may officers search the immediate area where the person was arrested without a search warrant? YES.

**SUPREME COURT DECISION:** After making an arrest, the police may search the area within the person's immediate control. The purpose of such a search is to discover and remove weapons and to prevent the destruction of evidence.

**REASON:** "When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. And the area into which an arrestee might reach in order to grab a weapon or evidentiary items must, of course, be governed by a like rule. . . . There is ample justification, therefore, for a search of the arrestee's person and the area within his immediate control."

**CASE SIGNIFICANCE:** *Chimel* categorically states that the police may search the area in the arrestee's "immediate control" when making a valid arrest, whether the arrest takes place with or without a warrant. That area of "immediate control" is defined by the Court as "the area from within which he might gain possession of a weapon or destructible evidence." *Chimel* therefore authoritatively settled an issue over which lower courts had given inconsistent and diverse rulings. The current rule is that the police may search without a warrant after a lawful arrest, but the extent of that search is limited to the area of the arrestee's "immediate control." The safest, and most limited, interpretation of the term "area of immediate control" is a person's wingspan, where it might be possible to grab a weapon or destroy evidence. Some lower

courts have given a more liberal interpretation to include such areas as the whole room in which the person is arrested. This interpretation appears to go beyond what the Court had in mind in *Chimel*.

## **Vale v. Louisiana 399 U.S. 30 (1970)**

**CAPSULE:** The warrantless search of a house after an arrest with a warrant, when the arrest does not take place in a house, is justified only in “a few specifically established and well-delineated exceptions.”

**FACTS:** After obtaining an arrest warrant, the police set up surveillance outside Vale’s home. While watching the house, they observed what they suspected to be an exchange of drugs between Vale and a known addict. After the exchange of narcotics, the police blocked the path of the addict, arrested Vale on the front steps of his home, and searched the house without a search warrant. Narcotics were found in a bedroom. Vale was convicted of possession of heroin.

**ISSUE:** May the police make a warrantless search of a house incident to an arrest without exigent circumstances and when the person was not arrested in the house? NO.

**SUPREME COURT DECISION:** The warrantless search of a house incident to an arrest when the arrest does not take place in the house is justified only in “a few specifically established and well-delineated exceptions.” The facts in this case did not come under one of those exceptions.

**REASON:** “If a search of a house is to be upheld as incident to an arrest, that arrest must take place inside the house . . . not somewhere outside—whether two blocks away, *James v. Louisiana*, 382 U.S. 36 (1965), 20 feet away, *Shipley v. California*, 395 U.S. 818 (1969), or on the sidewalk near the front steps.”

**CASE SIGNIFICANCE:** The Court in this case gave a narrow interpretation to the phrase “area of immediate control,” where a search incident to an arrest is valid. In this case, the arrest took place at the front steps of the house. The subsequent search of the house did not come under the area of allowable search and, therefore, the evidence obtained was not admissible in court.

## **United States v. Robinson 414 U.S. 218 (1973)**

**CAPSULE:** A body search is valid when a full custody arrest occurs.

**FACTS:** Based on a previous investigation, a police officer stopped Robinson on the suspicion that he was operating a motor vehicle after his license had been revoked. After making a full-custody arrest with probable cause, the officer made a search of Robinson's person. He felt an unrecognizable object in Robinson's left breast pocket, but admitted in court that he knew it was not a weapon. The officer removed the object, which turned out to be a "crumpled-up cigarette package" that contained fourteen gelatin capsules of heroin. The capsules were admitted as evidence in Robinson's trial and he was convicted of possession of heroin.

**ISSUE:** Is it constitutional for a police officer to search (as opposed to merely frisking) a person's body after a lawful custodial arrest even though the officer does not fear for his or her personal safety or believe that evidence will be destroyed? YES.

**SUPREME COURT DECISION:** A body search is valid in any situation in which a full-custody arrest occurs. There is no requirement that officers fear for their safety or believe that they will find evidence of a crime before the body search can be made.

**REASON:** "A custodial arrest of a suspect based on probable cause is a reasonable intrusion under the Fourth Amendment; that intrusion being lawful, a search incident to the arrest requires no additional justification. It is the fact of the lawful arrest which establishes the authority to search, and we hold that in the case of a lawful custodial arrest a full search of the person is not only an exception to the warrant requirement of the Fourth Amendment, but is also a 'reasonable' search under that Amendment."

**CASE SIGNIFICANCE:** *Robinson* allows the search of a person's body after a lawful arrest. Prior to *Robinson*, courts allowed a full body search (as opposed to a frisk) only if the officer feared for his or her personal safety. In this case, the officer had probable cause to make the arrest (therefore the arrest was valid), but admitted that he could not tell what the object was and did not feel that there were reasons to fear for his safety. Under the then-prevailing standard, the search would have been invalid. *Robinson*, therefore, expands the scope of search incident to a valid arrest and does away with the "fear for personal safety" limitation. It differs from *Chimel* in that the *Chimel* case deals with the "area within the arrestee's immediate control," whereas *Robinson* specifically refers to body searches. The suspect's body is obviously within the area of immediate control, but the authority to search it was not necessarily

included in *Chimel* because a person's body enjoys greater protection from governmental intrusion than the area around the person.

## **United States v. Edwards 415 U.S. 800 (1974)**

**CAPSULE:** After a lawful arrest and detention, any search conducted at the place of detention, which would have been lawful at the time of the arrest, may be conducted without a warrant, even though a substantial period of time may have elapsed between the arrest and the search.

**FACTS:** Edwards was arrested shortly after 11:00 P.M., charged with attempting to break into a post office, and taken to jail. Subsequent investigation at the scene of the crime revealed that the attempted entry was made through a wooden window that had been forced open with a pry bar, leaving paint chips on the window sill. The next morning substitute clothes were purchased for Edwards and his clothes were seized and held as evidence. Examination of the clothes revealed paint chips matching those taken from the window. His motion to suppress the evidence seized from his clothes was denied and Edwards was convicted.

**ISSUE:** Is a warrantless seizure of clothes taken from a suspect several hours after being placed in custody valid under the Fourth Amendment? YES.

**SUPREME COURT DECISION:** After being lawfully arrested and placed in custody, any search conducted at the place of detention that would have been lawful at the time of the arrest may be conducted without a warrant, even though a substantial period of time may have elapsed between the arrest and the search.

**REASON:** "This [search and seizure] was and is a normal incident of a custodial arrest and a reasonable delay in effectuating it does not change the fact that Edwards was no more imposed upon than he could have been at the time and place of the arrest or immediately upon arrival at the place of detention."

**CASE SIGNIFICANCE:** A search incident to an arrest does not have to take place immediately after the arrest as long as such arrest is justified, as in this case. The key is whether the arrest was valid. If the arrest was valid and the suspect is in custody, the search may take place at a later time and the evidence will be admissible in court. There is reason to believe that the Court in this case would have considered the search valid even if substitute clothing was available at the time Edwards was placed in custody.

## **Illinois v. LaFayette** **462 U.S. 640 (1982)**

**CAPSULE:** Searching the personal effects of a person under lawful arrest is valid if it is part of the administrative procedure incident to the booking and jailing of the suspect.

**FACTS:** After Lafayette was arrested for disturbing the peace, he was taken to the booking room at the police station where an officer removed the contents of a shoulder bag he was carrying. The officer found amphetamine pills. Lafayette was charged with violating the Illinois Controlled Substances Act. At the pretrial hearing, the trial court ordered the evidence suppressed. The prosecutor argued that the search was valid under a previous court ruling and that it was standard procedure to inventory everything in the possession of an arrested person.

**ISSUE:** Was the warrantless search of defendant's shoulder bag valid? YES.

**SUPREME COURT DECISION:** It is not a violation of the Fourth Amendment for the police to search the personal effects of a person under lawful arrest if the search is part of the routine administrative procedure incident to the booking and jailing of the suspect.

**REASON:** "The governmental interests [of searching at the station house may be even greater] than those supporting a search immediately following arrest" because some necessary searches cannot be done in public, but all searches may be done in private at the station. Furthermore, "at the station house, it is entirely proper for police to remove and list . . . property found on the person or in the possession of an arrested person [about] to be jailed. A standardized procedure for making a list or inventory as soon as reasonable after reaching the station not only deters false claims but also inhibits theft or careless handling of articles taken from the arrested person" and protects everyone from dangerous weapons. Additionally, "[the] inspection of an arrestee's personal property may assist the police in ascertaining or verifying his identity."

**CASE SIGNIFICANCE:** In this case, the Court said that the warrantless search of the suspect's bag was justified because it was part of a valid inventory search. Lafayette had argued that the search was invalid either as a search incident to a lawful arrest or as part of the inventory search. The Court disagreed, saying that what the police did in this case was reasonable under the Fourth Amendment, hence giving broad authority to the police when making inventory searches. The Court approved of inventory searches for the following reasons: (1) protection of a suspect's property, (2) deterrence of false claims of theft against the police, (3) security, and (4) identification of the suspect. All these, said the Court, benefit both the police and the public.

## **Maryland v. Buie** **494 U.S. 325 (1990)**

**CAPSULE:** A limited protective sweep during arrest in a home is allowed if justified.

**FACTS:** After surveillance, six or seven police officers obtained and executed arrest warrants for Buie and an accomplice in connection with an armed robbery. Upon reaching Buie's house, the officers "fanned out through the first and second floors." One of the officers observed the basement so that no one would surprise the officers. This officer shouted into the basement and ordered anyone there to come out. A voice asked who was there. The officer ordered the person to come out three more times before Buie emerged from the basement. After placing Buie under arrest, another officer entered the basement to see whether there was anyone else there. Once in the basement, the officer noticed in plain view a red running suit similar to the one worn by one of the suspects in the robbery. The running suit was admitted as evidence at Buie's trial over his objection, and he was convicted of robbery with a deadly weapon and using a handgun in the commission of a felony.

**ISSUE:** May officers conduct a warrantless protective sweep of the area in which a suspect is arrested in order to determine whether another person might be there who would be a danger to the officers? YES.

**SUPREME COURT DECISION:** "The Fourth Amendment permits a properly limited protective sweep in conjunction with an in-home arrest when the searching officer possesses a reasonable belief based on specific and articulable facts that the area to be swept harbors an individual posing a danger to those on the arrest scene."

**REASON:** "We . . . hold that as an incident to the arrest the officers could, as a precautionary matter and without probable cause or reasonable suspicion, look in closets and other spaces immediately adjoining the place of arrest from which an attack could be immediately launched. Beyond that, however, we hold that there must be articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the scene. This no more and no less was required in *Terry* and *Long* and, as in those cases, we think this balance is the proper one."

"We should emphasize that such a protective sweep, aimed at protecting the arresting officers, if justified by the circumstances, is nevertheless not a full search of the premises, but may extend only to cursory inspection of those spaces where a person may be found. The sweep lasts no longer than is necessary to dispel the reasonable suspicion of danger and in any event no longer than it takes to complete the arrest and depart the premises."

**CASE SIGNIFICANCE:** This case is significant because it authorizes the practice in some police departments of conducting a “protective sweep” during an arrest. It is important for police officers to note, however, that *Buie* does not give the police unlimited authority, when making an arrest, to search the whole house. The protective sweep allowed by *Buie* is limited in scope. The following limitations (taken from the language of the court’s decision) must be observed:

1. There must be articulate facts which . . . would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger;
2. Such a protective sweep is not a full search of the premises, but may extend only to a cursory inspection of the spaces where a person may be found; and
3. The sweep lasts no longer than is necessary to dispel the reasonable suspicion of danger and in any event no longer than it takes to complete the arrest and depart the premises.

The police must be careful to observe the above limitations, otherwise the search becomes invalid.

*Buie* does not indicate a broadening of the Court’s ruling in *Chimel v. California*, in which the Court said that once a lawful arrest has been made, the police may search any area within the suspect’s “immediate control.” The Court itself distinguished *Chimel* from *Buie* as follows:

1. *Chimel* was concerned with a full-blown, top-to-bottom search of an entire house for evidence of the crime for which the arrest was made, not the more limited intrusion contemplated by a protective sweep; and
2. The justification for the search incident to arrest in *Chimel* was the threat posed by the arrestee, not the safety threat posed by the house or more properly by unseen third parties in the house.