

# The Fourth Amendment

Search and Seizure



# 4<sup>th</sup> Amendment - Original

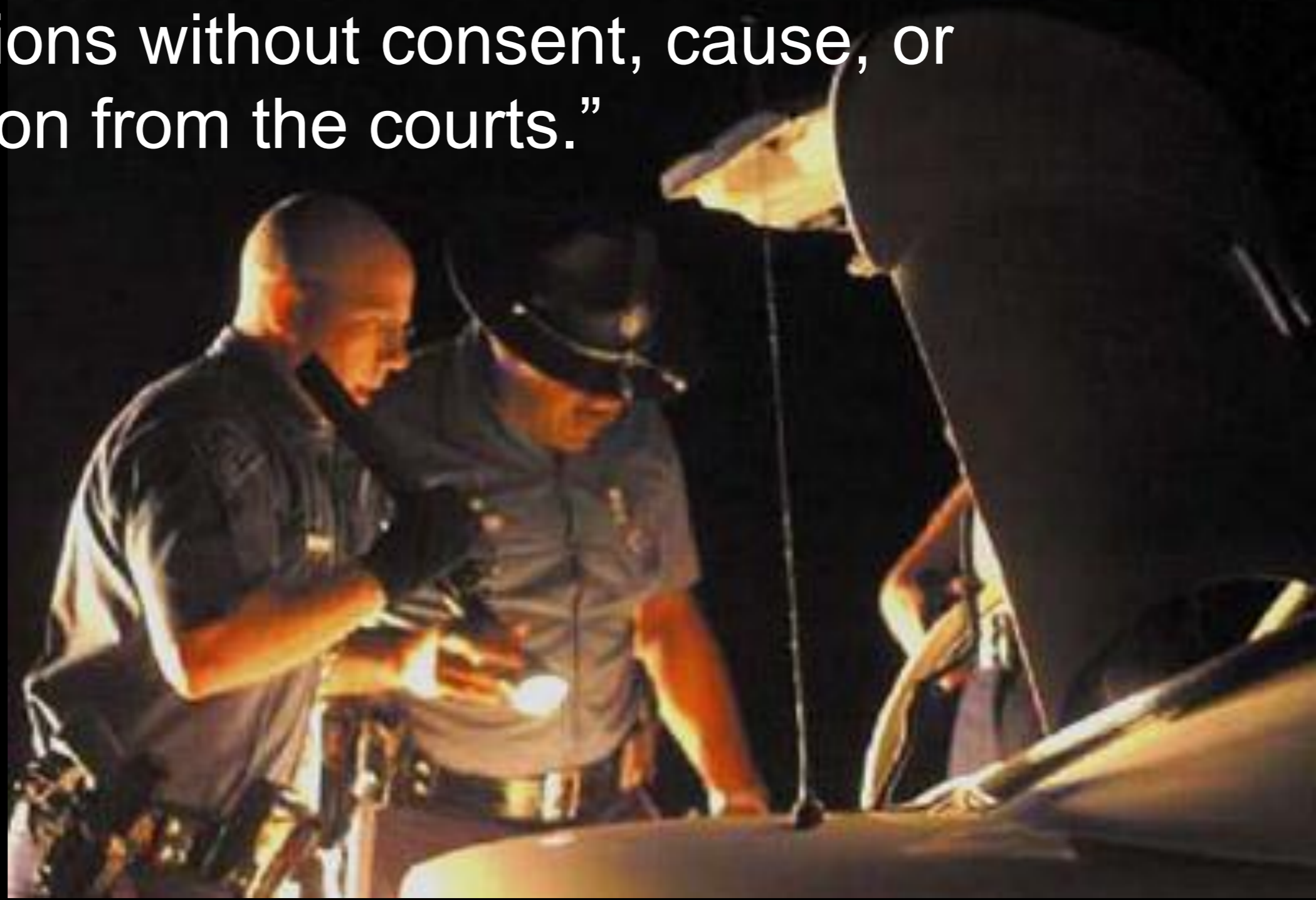
- “The right of the people to be secure in their persons, houses, papers, and effects, against **unreasonable** searches and seizures, shall not be violated, and no warrants shall issue, but upon **probable cause**, supported by oath or affirmation, and particularly **describing** the place to be searched, and the persons or things to be seized.”





# 4<sup>th</sup> Amendment - Modern

- “It is illegal for police to search you or your possessions without consent, cause, or permission from the courts.”





# Probable Cause

- More than a reasonable suspicion
- A combination of facts that makes it more likely that the items sought are where the police believe them to be.





# A Legal Search

1. Consent is given.



# A Legal Search

## 2. A search warrant has been issued.

11/22/2006 01:00 NO. 194 002

POLICE DEPARTMENT  
CITY OF PHOENIX, ARIZONA  
**SEARCH WARRANT**  
COUNTY OF MARICOPA, STATE OF ARIZONA

DR: 2006-62243993

WARRANT NO.  
*SW 2006-004692*

**TO ANY PEACE OFFICER IN THE STATE OF ARIZONA:**

Proof by affidavit having been made this day to me by Officer Kurt Sipmann #7535.

I am satisfied that there is probable cause to believe that

[x] on person(s) of Suspect #1 Webster, Alan Neil B/M, DOB 11/28/1950, black hair, brown eyes, 6'0", 185 lbs., Suspect #2 Webster, Nita M W/F, DOB 10/08/1965, brown hair, brown eyes, 5'05", 120 lbs. and Suspect #3 Campbell, Joseph L. B/M, DOB 04/13/59, black hair, brown eyes, 6'02", 300 lbs.

[x] on the premises described as 2501 E. Van Buren Street, The Flamingo Inn, #219. This being a multi unit motel complex constructed of stucco painted yellow with red trim. Apartment #219 is located in the south east corner of the building. The motel door faces west and is red in color with the number "219" on the door.

in the City of Phoenix, County of Maricopa, State of Arizona, there is now being possessed or concealed certain property, persons or things described as:

Drug Paraphernalia;

A usable amount of crack cocaine, a narcotic drug;

Firearms;

Indicia of occupancy, residency, and/or ownership of the premises described above, including, but not limited to utility, telephone bills, and canceled mail;



# A Legal Search

3. An officer stops a person and thinks they are armed.



# A Legal Search

4. In the process of being arrested (standard pat down).





# A Legal Search

5. An emergency exists (a scream is heard inside a building)



# 4<sup>th</sup> Amendment: Consent Searches

- Verbal Consent must be voluntary
- No threats or intimidation
- Best to have a signed waiver (not under duress).
- Burden is on the prosecutor to prove consent was voluntary
- Search is limited to area for which consent is given
- Consent may be revoked at any time





# Who Can Consent?

- The individual whose person or property is being searched.
- A third party in possession of the property (wife/ room mate/ landlord).





# Illegal Consent Searches

- If officers know the third party (neighbor) giving consent does not have legal authority to do so





# Good Faith

- What if an officer has been given consent by an individual who does not have authority to give consent? (a person who is housesitting saying yes they can search)

