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Automobile Stops and Searches: The Law in Illinois

*Ralph Ruebner**

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I. INTRODUCTION

Although fourth amendment law recognizes separate and distinct justifications for automobile searches, it is abundantly clear that each automobile search situation is factually unique. In order to illuminate the various legal issues raised by automobile stops and searches, this Article will review relevant decisions of the United States Supreme Court, the Illinois Supreme Court, and the Illinois appellate courts. As the reader will discover, the Illinois courts generally react to the decisions of the U.S. Supreme Court and rarely advance independent analyses or original legal theories in this area of the law.

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II. THE WARRANT REQUIREMENT AND PLAIN VIEW DOCTRINE

A search conducted without a search warrant is presumed to be unreasonable under the fourth amendment.¹ This rule applies also to automobile searches.² There are, however, numerous exceptions to the warrant requirement. Further, a search warrant, drafted to designate specifically what area may be searched and which items may be seized, nevertheless may operate to grant the police *extended authority* to seize additional contraband or evidence of other criminality discovered in plain view. This grant of authority is known as the plain view doctrine.³ The extended authority of the plain view doctrine may be exercised by a police officer who lawfully searches an automobile pursuant to one or more exceptions to the search warrant requirement or during a lawful stop of the automobile. The plain view doctrine is subject to three conditions. First, the officer must make the initial intrusion lawfully.⁴ Second, the discovery of the evidence must have been inadvertent.⁵ Finally, the police must have had probable cause to believe that the item was contraband or evidence of criminality.⁶

III. THE AUTOMOBILE EXCEPTION BASED ON PROBABLE CAUSE

The United States Supreme Court held in *Carroll v. United States*⁷ that police officers may stop a vehicle and search it if they have probable cause to believe that the automobile contains contraband of any kind or the fruits or instrumentalities of a crime.⁸ The right to search does not depend on the right to arrest. Probable cause must be based on objective facts that would justify the issuance of a search warrant and not merely on the subjective good faith of the police officers.⁹ Probable cause may be established by

1. The fourth amendment to the United States Constitution provides as follows: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, . . ." U.S. CONST. amend. IV.

2. *Coolidge v. New Hampshire*, 403 U.S. 443, 454-55 (1971).

3. *Id.* at 465 (stating that it "is well established that under certain circumstances police may seize evidence in plain view without a warrant").

4. *Id.* at 465-68.

5. *Id.*

6. *Id.* at 466. See also *Texas v. Brown*, 460 U.S. 730, 742 (1983) (noting that this final requirement must be viewed in the context of the field of law enforcement, not in the field of academia).

7. 267 U.S. 132 (1925).

8. *Id.* at 154.

9. *United States v. Ross*, 456 U.S. 798, 808 (1982); *Carroll*, 267 U.S. at 161-62.

independent police investigation or by a reliable informant's tip.¹⁰ Probable cause to search may also develop during a lawful stop of an automobile. The Supreme Court held in *United States v. Ross*¹¹ that if the automobile is lawfully stopped, the police may search every part of the vehicle and any container that may conceal the object of their search.¹² The scope of the search is not defined by the nature of the container in which the contraband is secreted, but by the object of the search and those places in which it is reasonable to believe that the object may be found.¹³ Police officers may inspect open containers and may open and inspect closed or locked containers, including the auto trunk.¹⁴

If the purpose of the search is to seize a particular container based on probable cause that the *container* itself contains contraband, the police may stop and search the vehicle for the container without a search warrant, remove the container from the vehicle, and detain the container temporarily.¹⁵ Police officers must, however, obtain a search warrant prior to inspecting the contents of the container.¹⁶ An open question is whether the automobile exception applies to *parked* vehicles.¹⁷ The automobile exception allows police officers to search the vehicle immediately on the road or subsequently at the police station, garage, or lot.¹⁸ A station search may be delayed for a reasonable period of time.¹⁹ What is a reasonable period of time is a factual question in each case.

Illinois cases generally follow *Ross*. In *People v. Clark*,²⁰ a police officer stopped the defendant's car after observing that it was operating with one taillight and that it was swerving from lane to lane.²¹ The officer looked into the car and saw cannabis on the car

10. *Illinois v. Gates*, 462 U.S. 213, 241-46 (1983).

11. 456 U.S. 798 (1982).

12. *Id.* at 821-24.

13. *Id.* at 824.

14. *Id.* at 817-24.

15. *Arkansas v. Sanders*, 442 U.S. 753, 761-65 (1979).

16. *Id.* at 761. *See also* *United States v. Chadwick*, 433 U.S. 1, 11 (1977); *Oklahoma v. Castleberry*, 471 U.S. 146 (1985), *aff'g* *Castleberry v. State*, 678 P.2d 720 (Okla. Cir. 1984).

17. *See, e.g., Ross*, 456 U.S. at 828 (Marshall, J., dissenting) (suggesting that it is not applicable). *See also* *California v. Carney*, 471 U.S. 386 (1985) (holding that under the automobile exception a mobile home traveling on the highway or found stationary in a place not regularly used for residential purposes and readily capable of travel, may be searched without a search warrant).

18. *Chambers v. Maroney*, 399 U.S. 42 (1970).

19. *United States v. Johns*, 469 U.S. 478 (1985).

20. 92 Ill. 2d 96, 440 N.E.2d 869 (1982).

21. *Id.* at 97-98, 440 N.E.2d at 870.

floor.²² The officer searched inside the vehicle and found cannabis in an open cigarette box.²³ The officer then took the keys from the ignition, opened the locked glove compartment, and found three bags of cannabis.²⁴ The Illinois Supreme Court held that the search was justified by the officer's reasonable belief that the car contained cannabis.²⁵ The court reasoned that there was no indication that the stop was a pretext to search or that the officer stopped the car for any reason other than for a traffic violation.²⁶ The court concluded that once the car was stopped, the officer developed probable cause that it contained contraband.²⁷

In *People v. Stout*,²⁸ a police officer stopped the defendant after observing him make an illegal right turn.²⁹ As the officer approached the car he smelled burned marijuana emanating from the passenger compartment.³⁰ The subsequent search of the auto produced a vial of cocaine and codeine capsules.³¹ The Illinois Supreme Court upheld the search under the automobile exception, because the smell gave the officer probable cause to search.³² The Illinois Supreme Court held that "additional corroboration is not required where a trained and experienced police officer detects the odor of cannabis emanating from a defendant's vehicle."³³

22. *Id.* at 98, 440 N.E.2d at 870.

23. *Id.* at 98, 440 N.E.2d at 871.

24. *Id.*

25. *Id.* at 101, 440 N.E.2d at 872.

26. *Id.* at 100, 440 N.E.2d at 872.

27. *Id.* at 101-02, 440 N.E.2d at 872 (citing *United States v. Ross*, 456 U.S. 798, 824).

28. 106 Ill. 2d 77, 477 N.E.2d 498 (1985).

29. *Id.* at 81, 477 N.E.2d at 499.

30. *Id.* at 81, 477 N.E. 2d at 500.

31. *Id.*

32. *Id.* at 87-88, 477 N.E. 2d at 502-03.

33. *Id.* at 88, 477 N.E.2d at 503. In his dissent, Justice Simon noted that the majority's failure to require any corroboration was an abuse of the probable cause requirement. He stated as follows:

[The fourth] amendment protects citizens "against unreasonable searches and seizures." One form of protection against unreasonable intrusions is the warrant which can only be issued upon a finding of probable cause by a neutral and detached magistrate. Many situations, though, do not permit the time required for preintrusion scrutiny involved in obtaining a warrant. The warrantless search, conducted without this protection, must still meet the probable cause requirement when accompanied by some exigent circumstance which justifies forgoing the warrant.

The majority's holding abuses the probable-cause requirement because it does not require *any* corroboration of the officer's sense of smell, a completely subjective ground for probable cause. While an officer trained in odor detection may be very accurate, the Constitution requires more.

Id. at 89, 447 N.E.2d at 503 (Simon, J., dissenting) (citations omitted) (emphasis in original).

In *People v. Smith*,³⁴ a deputy sheriff stopped the defendant's truck because it had an expired safety-inspection sticker.³⁵ Smith met the officer outside the vehicle and produced a driver's license.³⁶ The officer smelled alcohol on defendant's breath, walked over to the vehicle, and observed (from the outside) an open bottle in a brown paper bag on the floor of the passenger compartment.³⁷ He also observed a small 3" by 5" wooden box lying on the floor on the driver's side, underneath the steering wheel.³⁸ He recognized it as a "one-hitter box" which is often used to carry cannabis.³⁹ The officer then entered the vehicle on the passenger side and observed a hypodermic syringe on the floor next to the box.⁴⁰ He placed a cap on the bottle, opened the box, and discovered cannabis, cocaine, and a pipe.⁴¹ The Illinois Supreme Court upheld the search under the automobile exception articulated in *Ross*.⁴² The court reasoned that the stop of the vehicle was lawful because the truck lacked a valid safety-inspection sticker.⁴³ The search was lawful because the police had probable cause to search for alcohol after seeing the open bottle and smelling the defendant's breath.⁴⁴ The officer had probable cause to seize and search the box for drugs based on his experience with, and knowledge of, such containers and his discovery of the syringe.⁴⁵

In *People v. Morales*,⁴⁶ the police, acting on information from an informant, placed the defendant under surveillance.⁴⁷ With the assistance of binoculars, the officers observed the defendant converse with an individual and reach under the trunk of the car to get something.⁴⁸ He repeated this procedure five to seven times within a forty-five minute period. The defendant then appeared to deliver something to several individuals.⁴⁹ The police stopped and searched the defendant and then looked under the rear bumper of

34. 95 Ill. 2d 412, 447 N.E.2d 809 (1983).

35. *Id.* at 415, 447 N.E.2d at 810.

36. *Id.* at 415-16, 447 N.E.2d at 810.

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.* at 417, 447 N.E.2d at 812 (citing *United States v. Ross*, 456 U.S. 798 (1982)).

43. *Smith*, 95 Ill. 2d at 419, 447 N.E.2d at 812.

44. *Id.* at 419-20, 447 N.E.2d at 812.

45. *Id.*

46. 109 Ill. App. 3d 183, 440 N.E.2d 302 (1st Dist. 1982).

47. *Id.* at 184, 440 N.E.2d at 303.

48. *Id.*

49. *Id.* at 184-85, 440 N.E.2d at 303.

the car and seized a jar which contained heroin.⁵⁰ The officer then searched the rest of the car. The defendant was arrested and removed to the police station.⁵¹ The court upheld the search, reasoning that the police had probable cause to believe that the car was being used to transport contraband.⁵²

In *People v. Sturlick*,⁵³ a police officer stopped the defendant's car as it was leaving the scene of a nighttime burglary.⁵⁴ The initial stop of the car was lawful because the car was missing a front license plate and had only one headlight.⁵⁵ The officer questioned the defendant about a box that was located in the car.⁵⁶ The defendant consented to the search of the box.⁵⁷ The police officer found in the box property which did not belong to the defendant.⁵⁸ The officer also noticed screwdrivers underneath the front seat of the car.⁵⁹ The seizure of the screwdrivers was justified under *Ross*.⁶⁰ The officer opened the trunk of the car and recovered more stolen property.⁶¹ The search of the trunk was upheld either because it was consensual or because the police had probable cause from what they saw in the car's interior.⁶²

IV. SEARCH OF AN AUTOMOBILE INCIDENT TO A LAWFUL CUSTODIAL ARREST

When a police officer makes a lawful custodial arrest of a car's driver or passenger, he may contemporaneously, incident to the arrest, search the automobile. The search is limited to the area within the immediate control of the arrestee.⁶³ In *New York v. Belton*,⁶⁴ the Supreme Court held that the entire passenger compartment is included in this area. Therefore, a police officer may search, incident to an arrest, the passenger compartment of the au-

50. *Id.*

51. *Id.*

52. *Id.* at 188, 440 N.E.2d at 305. The court found the result and rationale of *Ross* dispositive of the issues under consideration. *Id.* at 186, 440 N.E.2d at 305.

53. 130 Ill. App. 3d 120, 474 N.E.2d 1 (2d Dist. 1985).

54. *Id.* at 122, 474 N.E.2d at 3.

55. *Id.* at 124, 474 N.E.2d at 5.

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*

60. *Id.* at 126, 474 N.E.2d at 5-6.

61. *Id.* at 123, 474 N.E.2d at 3.

62. *Id.* at 126, 474 N.E.2d at 5-6.

63. *Chimel v. California*, 395 U.S. 752, 762-64 (1969).

64. 453 U.S. 454 (1981).

tomobile and any open or closed container⁶⁵ found in the passenger compartment.⁶⁶ The automobile trunk, however, may not be searched.⁶⁷

The authority to search is derived from the lawfulness of the arrest and its custodial nature.⁶⁸ No additional justification or independent probable cause to search is needed. Thus, police officers have the authority to search for weapons and for fruits of the crime for which the occupant lawfully was arrested.⁶⁹ If, in pursuit of these objectives, police officers come upon evidence of another crime or contraband, that too may be seized.⁷⁰ The search must be conducted at the time and at the place of the arrest. It cannot be postponed or removed to the police station.⁷¹

An officer may, of course, search a person who is under arrest. An essential element of the search incident to arrest exception is the presence of a lawful *custodial* arrest.⁷² In assessing the question of what is a custodial arrest, a judge may look to statutory law, police department policy, or the personal decision of the officer to effectuate a custodial arrest. In the latter situation, the personal decision must have been formulated prior to the search. Further, the officer's decision must be objectively reasonable.⁷³

The Illinois appellate court cases follow the *Belton* approach. It appears that the Illinois Supreme Court has not had occasion to address *Belton* squarely.⁷⁴ For example, in *People v. Worlow*,⁷⁵ a

65. In *Belton*, the Supreme Court defined a "container" as any object capable of holding an object, e.g., glove compartment, console, luggage, box, bag, or clothing. *Belton*, 453 U.S. at 460-61 n.4.

66. *Id.* at 460-61.

67. *Id.* at 460-61 n.4.

68. See, e.g., *Terry v. Ohio*, 392 U.S. 1, 19 (1968) (stating "[t]he scope of [a] search must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible").

69. *Chambers v. Maroney*, 399 U.S. 42, 47-48 (1970).

70. See *Belton*, 453 U.S. 455-56, 462-63. In *Belton*, the defendant was stopped for excessive speed. *Id.* at 455. The officers searched the defendant's car after smelling marijuana. The search resulted in the discovery of marijuana and of cocaine. *Id.* at 456. The United States Supreme Court held that the seizure of the evidence of another crime was valid. *Id.* at 462.

71. *Chambers*, 399 U.S. at 47 (quoting *Preston v. United States*, 376 U.S. 364, 367 (1964)).

72. See *United States v. Robinson*, 414 U.S. 218, 235 (1973) (stating that the fact of the lawful arrest established the authority to search but that in the case of a lawful custodial arrest, a full search is "not only an exception to the warrant requirement . . . , but is also a 'reasonable' search under [the Fourth] Amendment"). See also *Gustafson v. Florida*, 414 U.S. 260, 263-66 (1973).

73. See generally *Robinson*, 414 U.S. 218; *Gustafson*, 414 U.S. 260.

74. The Illinois Supreme Court, however, has recognized the authority of the police to search an automobile incident to arrest. See *People v. Bayles*, 82 Ill. 2d 128, 411

police officer stopped the defendant's car for running a red light.⁷⁶ The officer smelled an alcoholic odor emanating from the car. When questioned, the defendant denied having alcohol in the car. The officer, however, noticed liquid leaking from her purse. The officer then touched the purse and felt the bulge of glass containers. The defendant handed the officer two open beer bottles from her purse. The officer searched the purse and found cannabis.⁷⁷ The search was upheld on three grounds.⁷⁸ First, the officer had probable cause to search the passenger compartment of the car.⁷⁹ Second, the officer reasonably searched her purse because it was within the area over which she had access and control.⁸⁰ Finally, the search was conducted incident to a lawful custodial arrest.⁸¹ The court reasoned that a reasonable person in her situation would have considered herself arrested when the officer received the open beer bottles.⁸²

In *People v. Grigsby*,⁸³ the defendant was suspected of an armed robbery.⁸⁴ Police officers stopped the defendant's car because it had no license plates. The officers arrested the defendant for failure to produce a driver's license, and for driving a vehicle with neither license plates nor a vehicle sticker. The police officer searched the defendant for weapons, put him in the patrol car, and then searched his car. The officer found six hundred dollars in the glove compartment.⁸⁵ The court concluded that the *Belton* decision controlled,⁸⁶ and that the search was proper.⁸⁷

N.E.2d 1346 (1980). See also *People v. Hoskins*, 101 Ill. 2d 209, 217, 461 N.E.2d 941, 945 (1984) (in a search incident to an arrest, not involving an automobile, the Illinois Supreme Court made reference to *Belton*, stating: "the court in *Belton* extended *Robinson* by holding that all containers within the defendant's immediate control could also be searched regardless of the likelihood that a weapon or evidence of criminal conduct would be found.")

75. 106 Ill. App. 3d 112, 435 N.E.2d 795 (5th Dist. 1982).

76. *Id.* at 113, 435 N.E.2d at 796.

77. *Id.*

78. *Id.* at 115, 435 N.E.2d at 797.

79. *Id.*

80. *Id.* at 116, 435 N.E.2d at 797. The court cited to *Belton* in holding that the lawful custodial arrest justified the infringement of any privacy interest the defendant might have had. *Id.*

81. *Id.* (citing *Chimel v. California*, 395 U.S. 152 (1969)).

82. *Worlow*, 106 Ill. App. 3d at 116, 435 N.E.2d at 798.

83. 111 Ill. App. 3d 38, 443 N.E.2d 746 (1st Dist. 1982).

84. *Id.* at 40, 443 N.E.2d at 748.

85. *Id.*

86. The court noted that the *Belton* Court specifically stated that a glove compartment was a container that may be searched. *Id.* at 43, 443 N.E.2d at 749-50 (citing *New York v. Belton*, 453 U.S. 454, 460 n.4).

87. *Grigsby*, 111 Ill. App. 3d at 42, 443 N.E.2d at 750.

V. ADMINISTRATIVE CHECKPOINTS

Generally, a police officer cannot stop a motorist on the road unless there is at least articulable and reasonable suspicion that he or she is unlicensed or that the automobile is not registered. Accordingly, the Supreme Court held in *Delaware v. Prouse*⁸⁸ that a random stop to investigate license or registration status is unreasonable. On the other hand, an objectively reasonable traffic checkpoint, such as a roadblock stopping all motorists, or some motorists, pursuant to a prior specified plan (such as every tenth vehicle) is permissible even without articulable suspicion.⁸⁹

Illinois applies *Prouse* liberally. In *People v. Franks*,⁹⁰ the police set up a portable weigh station for trucks.⁹¹ Every truck of a specified type and class that approached the station was weighed.⁹² The defendant was stopped and then ticketed for driving an overweight truck. The court ruled that the stop was lawful and noted that the *Prouse* decision never was intended to prohibit roadside truck weigh stations.⁹³

In *People v. Meitz*,⁹⁴ the police set up a "stakeout" at an apartment complex which was the site of recent auto thefts.⁹⁵ The police officers had been instructed to stop every late model General Motors car leaving the complex between 9:00 p.m. and 4:00 a.m. on Thursdays and Sundays for two weeks.⁹⁶ The police stopped the defendant, a driver of a General Motors car, and then arrested him for auto theft.⁹⁷ The court found the stop to be lawful.⁹⁸ The court applied *Prouse* and reasoned that stopping all cars of the same type as those stolen was reasonable.⁹⁹

In *People v. Lust*,¹⁰⁰ the police established a "safety check" station for trucks.¹⁰¹ They let some trucks pass without inspection in order to avoid traffic congestion.¹⁰² The defendant was stopped

88. 440 U.S. 648 (1979).

89. *Id.* at 664 (Blackmun, J., concurring).

90. 72 Ill. App. 3d 940, 391 N.E.2d 574 (3d Dist. 1979).

91. *Id.* at 941, 391 N.E.2d at 575.

92. *Id.* at 942, 391 N.E.2d at 575.

93. *Id.* at 943, 391 N.E.2d at 576 (citing *Delaware v. Prouse*, 440 U.S. at 663 n. 26).

94. 95 Ill. App. 3d 1033, 420 N.E.2d 1119 (2d Dist. 1981).

95. *Id.* at 1034, 420 N.E.2d at 1120.

96. *Id.*

97. *Id.* at 1035, 420 N.E.2d at 1121.

98. *Id.* at 1039, 420 N.E.2d at 1123-24.

99. *Id.*

100. 119 Ill. App. 3d 509, 456 N.E.2d 980 (4th Dist. 1983).

101. *Id.* at 510, 456 N.E.2d at 981.

102. *Id.* at 511, 456 N.E.2d at 981.

and arrested for driving on a revoked license.¹⁰³ The court found the stop lawful.¹⁰⁴ The court noted that the *Prouse* Court specifically provided that questioning of all oncoming traffic at roadblock type stops was a viable method of circumventing the intrusiveness of indiscrete spot checks of autos.¹⁰⁵

In *People v. Long*,¹⁰⁶ the police set up a driver's license checkpoint.¹⁰⁷ The defendant stopped his car approximately one hundred yards before he would have reached the checkpoint.¹⁰⁸ A police officer approached the vehicle and administered a field sobriety test after detecting the odor of liquor on the defendant's breath.¹⁰⁹ The defendant was arrested for driving under the influence of intoxicating liquor ("DUI").¹¹⁰ The court held the stop was lawful under *Prouse*.¹¹¹ The court noted, as did the *Lust* court, that the *Prouse* court sought to prevent the unconstrained exercise of discretion by police officers.¹¹² The driver's license checkpoint at issue did not allow the police such unconstrained discretion, and, therefore, was lawful.¹¹³

In *People v. Bartley*,¹¹⁴ a temporary roadblock was set up to check drivers' licenses and to identify DUI drivers during the holiday season.¹¹⁵ Police officers stopped the defendant at the checkpoint and then arrested him for DUI.¹¹⁶ The Illinois Supreme Court found the stop lawful.¹¹⁷ The court reasoned that a roadblock set up to identify those driving under the influence is lawful because it serves a compelling state interest in reducing alcohol-related highway accidents.¹¹⁸ The court concluded that this interest outweighed minimal intrusion on motorists.¹¹⁹

103. *Id.*

104. *Id.* at 512, 456 N.E.2d at 983.

105. *Id.* at 512, 456 N.E.2d at 982-83 (citing *Delaware v. Prouse*, 440 U.S. 648, 663 (1979)).

106. 124 Ill. App. 3d 1030, 465 N.E.2d 123 (3d Dist. 1984).

107. *Id.* at 1031, 465 N.E.2d at 124.

108. *Id.* at 1032, 465 N.E.2d at 124.

109. *Id.* at 1032, 465 N.E.2d at 125.

110. *Id.*

111. *Id.* at 1034, 465 N.E.2d at 126.

112. *Id.* at 1034, 465 N.E.2d at 125-26 (citing *Delaware v. Prouse*, 440 U.S. 648, 663).

113. *Long*, 124 Ill. App. 3d at 1034, 465 N.E.2d at 126.

114. 109 Ill. 2d 273, 486 N.E.2d 880 (1985).

115. *Id.* at 278, 486 N.E.2d at 881-82.

116. *Id.* at 279, 486 N.E.2d at 883.

117. *Id.* at 292, 486 N.E.2d at 889.

118. *Id.*

119. *Id.* at 292-93, 486 N.E.2d at 889.

VI. INVENTORY SEARCHES

Under the Supreme Court's decision in *South Dakota v. Opperman*, a lawfully seized car may be searched without a search warrant, without probable cause, or without articulable suspicion if it is inspected routinely to secure and inventory its contents.¹²⁰ The authority to search typically is derived from police department policy.¹²¹ Random searches are not permitted.¹²² The search power extends to closed containers found in the vehicle itself.¹²³ An open question is whether the inventory rationale applies to the search of the auto trunk.

Illinois courts apply *Opperman* liberally. In *People v. Clark*,¹²⁴ the defendant's car stalled on the street.¹²⁵ When police officers arrived to assist, the defendant failed to produce a driver's license.¹²⁶ One of the police officers observed open beer cans in the car. The defendant was arrested for illegally transporting alcoholic liquor. An inventory search of the vehicle produced stolen checks.¹²⁷ The search was upheld under *Opperman*, because it was the policy of the police department to remove, secure, and inventory articles of value in a car that was about to be towed and impounded.¹²⁸

In *People v. Dennison*,¹²⁹ police officers placed the defendant into custody for suspected auto theft.¹³⁰ The officers discovered some car parts in his yard, arrested the defendant and impounded his vehicle.¹³¹ At the police station, the officers searched his station wagon.¹³² They found a tool box, examined its contents, and discovered papers which bore the name of the owner of the stolen parts.¹³³ The court held that the seizure of the box was proper but that the search of its interior was not.¹³⁴ The court reasoned that

120. *South Dakota v. Opperman*, 428 U.S. 364, 372-76 (1976).

121. The *Opperman* Court noted that the question of the authority to search was entirely different from the question of the reasonableness of that search. *Id.* at 372 (quoting *Cooper v. California*, 386 U.S. 58, 61 (1967)).

122. *Id.* at 372.

123. *Colorado v. Bertine*, 107 S. Ct. 738 (1987).

124. 65 Ill. 2d 169, 357 N.E.2d 798 (1976).

125. *Id.* at 171, 357 N.E.2d at 799.

126. *Id.* at 172, 357 N.E.2d at 799.

127. *Id.*

128. *Id.* at 174, 357 N.E.2d at 800-01.

129. 61 Ill. App. 3d 473, 378 N.E.2d 220 (5th Dist. 1978).

130. *Id.* at 475, 378 N.E.2d at 222.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.* at 477, 378 N.E.2d at 223.

the inventory rationale of *Opperman* did not extend to a search of a closed container.¹³⁵ The validity of this decision must be questioned in light of *Bertine*.¹³⁶

In *People v. Hardy*,¹³⁷ the defendant was arrested in a car which had stolen license plates on it.¹³⁸ The police conducted an inventory search before towing the vehicle. During the inventory search, a police officer looked under the hood to see if the battery was there.¹³⁹ He discovered a bottle that contained thirty grams of heroin.¹⁴⁰ The court held that the search was valid under *Opperman* because it was conducted pursuant to police procedure.¹⁴¹

In *People v. Von Hatten*,¹⁴² the police officers arrested the defendant in his hotel room and had his car towed in accordance with the wishes of the hotel manager.¹⁴³ The police conducted an inventory search that produced cannabis and stolen property.¹⁴⁴ The court held that the search was unlawful because the car was parked lawfully at the hotel.¹⁴⁵ The court reasoned that because the police could not take custody of the car, an inventory was improper.¹⁴⁶

In *People v. Bayles*,¹⁴⁷ the defendant was involved in a serious auto accident that caused his car to flip upside-down.¹⁴⁸ Several items were thrown from the car when it flipped, including a suitcase and a cloth drawstring sack.¹⁴⁹ The defendant requested that the suitcase be guarded because it contained something very valuable, and the police officers were informed of his request.¹⁵⁰ The

135. *Id.* at 478-79, 378 N.E.2d at 224.

136. See Comment, *Colorado v. Bertine: An Expansion of the Vehicle Inventory Doctrine as Applied to Vehicles and the Impact on Illinois Law*, 19 LOY. U. CHI. L.J. 1101 (1988) (stating that under the United State Supreme Court's analysis in *Bertine*, inventory searches of the contents of closed containers found in an impounded vehicle are reasonable under the fourth amendment if conducted pursuant to standard procedures).

137. 77 Ill. App. 3d 37, 395 N.E.2d 743 (3d Dist. 1979).

138. *Id.* at 39, 395 N.E.2d at 744.

139. *Id.*

140. *Id.*

141. *Id.* at 39, 395 N.E.2d at 745 (citing *South Dakota v. Opperman*, 428 U.S. 364 (1976)).

142. 52 Ill. App. 3d 338, 367 N.E.2d 556 (4th Dist. 1977).

143. *Id.* at 340, 367 N.E.2d at 558.

144. *Id.*

145. *Id.* at 342, 367 N.E.2d at 559. The court also noted that there were no exigent circumstances that would have warranted the car being searched. *Id.*

146. *Id.* See also *People v. Valdez*, 81 Ill. App. 3d 25, 400 N.E.2d 1096 (2d Dist. 1980).

147. 82 Ill. 2d 128, 411 N.E.2d 1346 (1980).

148. *Id.* at 131, 411 N.E.2d at 1347.

149. *Id.* at 132, 411 N.E.2d at 1347.

150. *Id.* at 132-33, 411 N.E.2d at 1347.

officers opened the sack and found cannabis.¹⁵¹ They additionally opened a shaving kit, which they had seen inside the car, and found \$1,255 in cash.¹⁵² Finally, they opened the suitcase and discovered a brick of marijuana.¹⁵³ The Illinois Supreme Court found the search of the suitcase was improper.¹⁵⁴ The court concluded that inventorying contents of a suitcase found in a lawfully impounded vehicle, in the absence of exigent circumstances, was unreasonable.¹⁵⁵

In *People v. Braasch*,¹⁵⁶ a state trooper stopped the defendant for his failure to use a turn signal, and then arrested him for driving under the influence.¹⁵⁷ The officer placed the defendant in the squad car and then conducted an inventory search of the car's interior and trunk.¹⁵⁸ In the trunk, the officer found a closed brown paper bag which contained cannabis.¹⁵⁹ The appellate court found the search of the trunk and the bag proper under *Opperman*.¹⁶⁰ The court reasoned that because an inventory search may be conducted of a closed container found in possession of a person,¹⁶¹ it may also be conducted on an automobile containing a closed container.¹⁶²

VII. INVESTIGATIVE STOPS AND SEARCHES BASED ON ARTICULABLE SUSPICION

The United States Supreme Court has held that a brief investigative stop of a vehicle based on articulable suspicion of criminality, which is objectively reasonable, is permissible.¹⁶³ And, articulable suspicion may be established by the personal observation and experience of a police officer;¹⁶⁴ information obtained from a victim, witness, or an informant which is corroborated by independent po-

151. *Id.* at 132, 411 N.E.2d at 1348.

152. *Id.* at 133, 411 N.E.2d at 1348.

153. *Id.*

154. *Id.* at 141, 411 N.E.2d at 1352.

155. *Id.* But see *Bertine*, *supra* note 136.

156. 122 Ill. App. 3d 747, 461 N.E.2d 651 (2d Dist. 1984).

157. *Id.* at 749, 461 N.E.2d at 653.

158. *Id.*

159. *Id.*

160. *Id.* at 756, 461 N.E.2d at 655.

161. *Id.* at 755, 461 N.E.2d at 657. See *Illinois v. Lafayette*, 462 U.S. 640 (1982) (holding that it was not unreasonable for police to search a container in accordance with established inventory procedures upon incarcerating an arrested person at the station house).

162. *Braasch*, 122 Ill. App. 3d at 755, 461 N.E.2d at 657.

163. *United States v. Sharpe*, 470 U.S. 675 (1985).

164. *Michigan v. Long*, 463 U.S. 1032, 1034 (1983).

lice investigation;¹⁶⁵ or information supplied by another police officer or department.¹⁶⁶

During such an investigatory stop, a police officer may order the occupant out of the car.¹⁶⁷ Further, if the officer is objectively reasonable in fearing for his own safety or for the safety of another, he or she may frisk the occupant for weapons.¹⁶⁸ The officer may question the detainee briefly to learn his or her identity and purpose and demand a driver's license and registration in order to verify or dispel the officer's suspicion.¹⁶⁹ The officer may also engage in a limited search of the interior passenger compartment of the automobile for weapons if he or she has an objectively reasonable belief that the suspect is dangerous and that the suspect may gain immediate control of a weapon.¹⁷⁰ Of course, contraband or evidence of other criminality in plain view may be seized during the "limited" search for weapons. The limited search rule also applies to a non-custodial arrest of the car's occupant.¹⁷¹

In *People v. Brand*,¹⁷² the police observed the defendant driving twenty miles per hour in a forty-five miles per hour zone. The defendant was stopped and subsequently was arrested for driving with a suspended license.¹⁷³ The court held that the stop was improper because the police officer lacked articulable suspicion.¹⁷⁴ The State failed to demonstrate that the defendant's manner of driving was hazardous to other motorists, or in any other way provided the officers with an articulable circumstance warranting the stopping of his vehicle.¹⁷⁵

In *People v. Jackson*,¹⁷⁶ police received information that a ring of car thieves was using a tow truck and observation car equipped with a citizens band radio to steal cars.¹⁷⁷ Officers later observed the defendant driving a tow truck with a car in tow, followed by a

165. *Adams v. Williams*, 407 U.S. 143 (1972).

166. *United States v. Hensley*, 469 U.S. 221 (1985).

167. *Pennsylvania v. Mimms*, 434 U.S. 106 (1977).

168. *Adams*, 407 U.S. 143.

169. *Long*, 463 U.S. at 1034.

170. *Id.*

171. *Id.* The Court stressed that this type of "close range" police investigation can put officers in an extremely vulnerable position in which a search is the only way to insure their safety. *Id.*

172. 71 Ill. App. 3d 698, 390 N.E.2d 65 (1st Dist. 1979).

173. *Id.* at 699, 390, N.E.2d at 66-67.

174. *Id.* at 700, 390 N.E.2d at 67.

175. *Id.* at 700-01, 390 N.E.2d at 68.

176. 77 Ill. App. 3d 117, 395 N.E.2d 976 (1st Dist. 1979).

177. *Id.* at 119, 395 N.E.2d at 978.

car with a CB antenna.¹⁷⁸ The defendant was stopped by the police.¹⁷⁹ The court held that the stop was reasonable and lawful based on articulable suspicion.¹⁸⁰

In *People v. Deppert*,¹⁸¹ police officers noticed a car traveling five to ten miles per hour in a thirty-five miles per hour zone at approximately 4:00 a.m.¹⁸² It appeared to the officers that the driver was unfamiliar with the area.¹⁸³ The defendant turned around in a railroad yard which was private property and was stopped by police.¹⁸⁴ The court found the stop was unlawful reasoning that the officers had no reasonable or articulable suspicion that the defendant was engaged in criminal activity.¹⁸⁵

In *People v. Jackiewicz*,¹⁸⁶ the police observed the defendant's car leaving from the rear entrance of a business that had been victimized by recent thefts and vandalism.¹⁸⁷ The business was not open at the time.¹⁸⁸ The officers noticed that the defendant and his passenger appeared "jittery."¹⁸⁹ The police stopped the defendant's car. The court upheld the stop based on articulated suspicion.¹⁹⁰

In *People v. Kunath*,¹⁹¹ police observed a car "slid[e] through" a stop sign.¹⁹² Later, the police observed the same car driving the wrong way down an unmarked apartment driveway. When the officer eventually approached the car, he saw the passenger reach underneath the car seat. The ensuing search of the automobile revealed various items of contraband.¹⁹³ At trial, the police con-

178. *Id.* at 120, 395 N.E.2d at 978.

179. *Id.*

180. *Id.* at 122-23, 395 N.E.2d at 980. The record reflected that the officer received information regarding a particular operation and that the information was corroborated by the facts. Taken together, the circumstances warranted the stop and subsequent investigation. *Id.*

181. 83 Ill. App. 3d 375, 403 N.E.2d 1279 (3d Dist. 1980).

182. *Id.* at 377, 403 N.E.2d at 1280.

183. *Id.* at 378, 403 N.E.2d at 1281.

184. *Id.* The defendant subsequently was searched and was arrested for unlawful use of weapons after the officer found a gun and ammunition on the floorboard of the car. *Id.*

185. *Id.* at 381-82, 403 N.E.2d at 1283.

186. 96 Ill. App. 3d 222, 421 N.E.2d 385 (4th Dist. 1981).

187. *Id.* at 222-23, 421 N.E.2d at 386.

188. *Id.*

189. *Id.* at 223, 421 N.E.2d at 386.

190. *Id.* at 224, 421 N.E.2d at 386-87. The court noted the similarity of this case to the *Deppert* case. The court was able, however, to distinguish the *Deppert* case because here, the likelihood that the defendant's car had been hidden on private property late at night and long enough for a theft to have occurred formed the basis for reasonable suspicion of criminality. *Id.*

191. 99 Ill. App. 3d 201, 425 N.E.2d 486 (2d Dist. 1981).

192. *Id.* at 202, 425 N.E.2d at 487.

193. *Id.*

ceded that no violation of the law had occurred, nonetheless they had stopped the defendant.¹⁹⁴ The appellate court found the stop unlawful because it entailed an impermissible infringement of the passenger's personal freedom.¹⁹⁵ The court held that the officers acted without probable cause in stopping the vehicle.¹⁹⁶

In *People v. Garman*,¹⁹⁷ two young girls waived down the police because a man in a car startled them by screaming at them.¹⁹⁸ The girls indicated they could not understand what the man said.¹⁹⁹ The girls then identified defendant's car and the defendant himself.²⁰⁰ An officer stopped the defendant, questioned him, and then arrested him for driving under the influence.²⁰¹ The appellate court concluded that the stop was unlawful, because the police could not have developed articulable suspicion from the information obtained.²⁰²

In *People v. Houldridge*,²⁰³ a police officer observed the defendant driving erratically.²⁰⁴ The officer stopped the defendant after a license plate check revealed that the vehicle registration had expired.²⁰⁵ The officer approached the car, smelled burned cannabis, and then observed some furtive movements by the passengers of the car. The officer then ordered the defendant and the passengers to place their hands on the dashboard. The officer shone a flashlight into the car, saw a plastic bag containing what appeared to be cannabis, seized the cannabis, and arrested the defendant.²⁰⁶ The court found the search proper because the officer had probable cause to search the car.²⁰⁷ Additionally, the furtive movements of

194. *Id.* at 203, 425 N.E.2d at 487.

195. *Id.* at 205, 425 N.E.2d at 489. *See also* *People v. Grotti*, 112 Ill. App. 3d 718, 445 N.E.2d 946 (5th Dist. 1983).

196. *Kunath*, 99 Ill. App. 3d at 205, 425 N.E.2d at 490.

197. 123 Ill. App. 3d 682, 463 N.E.2d 158 (3d Dist. 1984).

198. *Id.* at 683, 463 N.E.2d at 159.

199. *Id.*

200. *Id.*

201. *Id.* at 683-84, 463 N.E.2d at 159.

202. *Id.* at 685, 463 N.E.2d at 160.

203. 117 Ill. App. 3d 1059, 454 N.E.2d 769 (4th Dist. 1983).

204. *Id.* at 1061, 454 N.E.2d at 770.

205. *Id.* at 1061, 454 N.E.2d at 771.

206. *Id.*

207. *Id.* at 1064, 454 N.E.2d at 771-72. The court noted that the weaving of the car coupled with the information that the registration had expired provided an adequate basis for an investigatory stop of the auto. *Id.* The court also indicated that the burning odor of the marijuana could provide an officer with probable cause to believe a crime was being committed, and therefore, could serve as another basis for a warrantless search under *Ross*. *Id.* (citing *Ross*, 456 U.S. 798).

the passengers provided further justification for the search.²⁰⁸ The officer reasonably could have feared that the defendant or a passenger might gain access to weapons.²⁰⁹

In *People v. Johnson*,²¹⁰ the court applied *Michigan v. Long* to justify a limited search.²¹¹ In *Johnson*, a murder took place at a rest stop along an interstate highway.²¹² A dispatch over the state police emergency network described a suspect vehicle as a silver, newer model car, with license XF 7184.²¹³ The police stopped defendant's car, a 1980 silver Chevy Malibu, license QV 7834, forty miles northwest, for driving with only one headlight.²¹⁴ The defendant left the car and exclaimed that he was lost.²¹⁵ An officer searched the passenger compartment of the car.²¹⁶ The court held that the limited search of the vehicle and its occupants was reasonable because the officer believed he was dealing with a criminal, not just an ordinary traffic offender.²¹⁷

VIII. CONSENT

Consent is the ultimate authority to search without a search warrant, without probable cause, or without articulable suspicion. Consent must be given by one who has sole authority to consent,²¹⁸ or by a person who shares the authority with another.²¹⁹ The consent must be voluntary.²²⁰ Voluntariness is determined under the "totality of the circumstances" test.²²¹

In *People v. Corral*,²²² a police officer stopped the defendant's truck for speeding.²²³ The defendant failed to produce a logbook, bill of lading, letter of authorization for his passenger, or a medical

208. *Id.* (citing *Michigan v. Long*, 463 U.S. 1032 (1983)).

209. *Houldridge*, 117 Ill. App. 3d at 1064, 454 N.E.2d at 773.

210. 123 Ill. App. 3d 1008, 463 N.E.2d 877 (4th Dist. 1984).

211. *Id.* at 1012, 463 N.E.2d at 881 (citing *Michigan v. Long*, 463 U.S. 1032 (1983)).

212. *Johnson*, 123 Ill. App. 3d at 1010, 463 N.E.2d at 879.

213. *Id.*

214. *Id.*

215. *Id.* at 1010, 463 N.E.2d at 880.

216. *Id.* at 1011, 463 N.E.2d at 880.

217. *Id.* at 1012, 463 N.E.2d at 881.

218. *Stoner v. California*, 376 U.S. 483 (1964).

219. *United States v. Matlock*, 415 U.S. 164 (1974). The shared authority rests on mutual use of the property (car or effects within it) by persons who generally have joint access or control for most purposes. *Id.* at 169-70 n.4.

220. *Bumper v. North Carolina*, 391 U.S. 543 (1968).

221. *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).

222. 147 Ill. App. 3d 668, 498 N.E.2d 287 (4th Dist. 1986).

223. *Id.* at 669, 498 N.E.2d at 288.

card.²²⁴ As a result he was required to rest for eight hours before he could continue his driving. At the suppression hearing, the officer testified that he and his partner were acting upon a telephone call from the Illinois Department of Criminal Investigation ("the IDCI") which informed them of the description of the defendant's truck and of the possibility that it was transporting a quantity of drugs. At the police station, a police officer learned that this truck's cargo was chili peppers. Acting on instructions from the IDCI, the officer then told the defendant that the Department of Agriculture would probably want to check his cargo. The defendant signed a consent to search form, and the police meticulously searched the entire vehicle, including the defendant's suitcases.²²⁵ The officers found cannabis and a quantity of heroin in the suitcases and on the truck's interior structure.²²⁶

The trial court's order to suppress was affirmed on appeal.²²⁷ The appellate court affirmed the suppression, reasoning that the defendant's consent to search was limited to his cargo.²²⁸ This limited consent did not allow the police to search suitcases located within the vehicle or to search the interior structure of the vehicle.²²⁹ The court noted that the information the officers received regarding the truck carrying drugs was too attenuated to provide probable cause to search.²³⁰ The officers knew only that the defendant's vehicle was proceeding in excess of the speed limit.²³¹

The defendant in *People v. Whitfield*²³² was a prison guard at the Menard Correctional Center in Chester.²³³ As the defendant entered work one morning, he was stopped and searched.²³⁴ The search produced cigarette packs which contained cannabis, cocaine, and heroin.²³⁵ A deputy sheriff then arrested the defend-

224. *Id.* at 670, 498 N.E.2d at 289.

225. *Id.*

226. *Id.* at 670-71, 498 N.E.2d at 289.

227. *Id.* at 675, 498 N.E.2d at 291.

228. *Id.* at 674, 498 N.E.2d at 291-92. The court focused on the officer's reference to an agricultural inspection which was in reality a mere ruse to permit a full scale search of the vehicle. Under these circumstances the trial court was correct in concluding that the defendant had consented only to an inspection of his cargo by the Department of Agriculture. *Id.*

229. *Id.*

230. *Id.* at 673, 498 N.E.2d at 291.

231. *Id.*

232. 140 Ill. App. 3d 433, 488 N.E.2d 1087 (5th Dist. 1986).

233. *Id.* at 436, 488 N.E.2d at 1089.

234. *Id.*

235. *Id.*

ant.²³⁶ The defendant's car was parked outside the Center and subsequently was searched.²³⁷ As a condition of employment, the defendant had previously signed a waiver and consent form to search his car.²³⁸ Further, the defendant gave the officers verbal permission to search the vehicle.²³⁹ The search of the car produced more drugs contained in cigarette packages.²⁴⁰ The court found the search proper.²⁴¹ The court concluded that the authorities did not exceed the scope of the consent because, upon taking the job, the defendant had been advised that his car would be subject to searches on the prison grounds, and additionally because the defendant verbally consented to the search at the time of his arrest.²⁴²

IX. STANDING — EXCLUSIONARY RULE

Although the fourth amendment protects a citizen against an unreasonable search or seizure, the suppression remedy is not automatic. A defendant must have standing to seek suppression of evidence.²⁴³ Courts measure standing by the "legitimate expectation of privacy" test.²⁴⁴ Under this test, the defendant must establish that he had exhibited an actual expectation of privacy (a subjective prong) and that his expectation was reasonable, *i.e.*, that this is the type of privacy expectation which society wishes to protect (an objective prong).²⁴⁵ To validate the objective prong, the defendant must allege and establish a property interest in either the automobile or the property seized from the automobile. This requirement is essential to contesting a vehicle search.²⁴⁶

In *People v. Johnson*,²⁴⁷ the defendant was charged with rape and murder.²⁴⁸ The police had learned that the vehicle which was used

236. *Id.*

237. *Id.* at 436-37, 488 N.E.2d at 1090.

238. *Id.* at 440, 488 N.E.2d at 1091.

239. *Id.* at 440, 488 N.E.2d at 1090.

240. *Id.* at 437, 488 N.E.2d at 1090.

241. *Id.* at 440, 488 N.E.2d at 1091.

242. *Id.*

243. *United States v. Salvucci*, 448 U.S. 83 (1980). The Court held that a defendant charged with crimes of possession may only claim the benefits of the exclusionary rule if his own fourth amendment rights have been violated. *Id.* at 95. *See also* *Brown v. United States*, 411 U.S. 730 (1973); *Alderman v. United States* 394 U.S. 165, 174 (1969) (other rejections of attempts to vicariously assert the violations of fourth amendment rights of others as grounds for standing.).

244. *Rakas v. Illinois*, 439 U.S. 128 (1978).

245. 389 U.S. 347, 353 (1967). *See also* *People v. Flowers*, III Ill. App. 3d 348, 352, 444 N.E.2d 242, 246-47 (2d Dist. 1982).

246. *Rakas*, 439 U.S. at 143-44 n.12.

247. 114 Ill. 2d 170, 499 N.E.2d 1355 (1986).

248. *Id.* at 179, 499 N.E.2d at 1358.

to commit the crimes belonged to the defendant's stepfather.²⁴⁹ They obtained consent from the defendant's stepfather to search it.²⁵⁰ The defendant sought to suppress various items seized from the vehicle.²⁵¹ The trial court denied the motion to suppress.²⁵² On appeal, the Illinois Supreme Court held that the defendant did not have standing to contest the search.²⁵³ The court utilized the rationale articulated in the United States Supreme Court case *Rakas v. Illinois*²⁵⁴ to analyze whether the defendant had a reasonable expectation of privacy.²⁵⁵ Thus, the court analyzed whether the defendant was legitimately in the area searched; whether the defendant had a possessory interest in the area searched or in the property seized; and, whether the defendant had the right to exclude others from using the property.²⁵⁶ The court found that the defendant drove the truck six months prior to the search; that there was no continuous use or right of access; that he was not in possession of the truck or in the area when it was searched; that he failed to claim any property interest in the truck; and that he stored no personal items in the truck.²⁵⁷ Therefore, the court concluded the defendant lacked standing to contest the search.²⁵⁸

In *People v. Neal*,²⁵⁹ a state trooper was suspected of issuing false traffic citations for the Illinois State Police.²⁶⁰ Investigators searched his patrol car and discovered twelve to thirteen unofficial citations in his raincoat pouch which was found in the automobile.²⁶¹ The court held that the defendant did not have standing to contest the search.²⁶² Although he had a subjective expectation of privacy concerning the patrol car, that expectation was objectively unreasonable because the car and the raincoat were state owned. The court noted that the items were subject to periodic inspection by superiors with or without notice, and that the defendant was aware that his superiors could inspect his car in his presence or out

249. *Id.* at 184, 499 N.E.2d at 1361.

250. *Id.* at 187, 499 N.E.2d at 1362.

251. *Id.* at 191, 499 N.E.2d at 1364.

252. *Id.*

253. *Id.* at 193, 499 N.E.2d at 1364.

254. 439 U.S. 128.

255. *Johnson*, 114 Ill. 2d at 191, 499 N.E.2d at 1364.

256. *Id.* at 191-92, 499 N.E.2d at 1364.

257. *Id.* at 192, 499 N.E.2d at 1364-65.

258. *Id.* at 193, 499 N.E.2d at 1365.

259. 109 Ill. 2d 216, 486 N.E.2d 898 (1985).

260. *Id.* at 218, 486 N.E.2d at 900.

261. *Id.* at 219, 486 N.E.2d at 900.

262. *Id.* at 222, 486 N.E.2d at 900-01.

of his presence.²⁶³ Thus, the defendant failed the objective prong of the standing test.

X. CONCLUSION

In the real world of police work, it is difficult to delineate a search within a particular legal justification. Most situations implicate a number of exceptions to the search warrant requirement. Illinois cases seem to blend these distinct theories of justification. What matters to Illinois courts is whether the police conduct was reasonable under the fourth amendment. When faced with automobile search issues, Illinois courts generally adhere to the interpretation of the fourth amendment as expressed by the United States Supreme Court.²⁶⁴

263. *Id.*

264. *See, e.g.,* *People v. Tisler*, 103 Ill. 2d 226, 469 N.E.2d 147 (1984).