Case 2

Ant v. State

Cases and Related Materials

State v. Rodewald, 376 N.W.2d 416 (Minn. 1985)

New York v. Belton, 453 U.S. 454 (1981)

Thornton v. United States, 541 U.S. 615 (2004)

376 N.W.2d 416
Supreme Court of Minnesota.

STATE of Minnesota, Petitioner, Appellant,
v.
Edward Charles RODEWALD, Respondent.

No. C0–85–700.
|
Nov. 8, 1985.

Defendant was charged with possession of L.S.D. Defendant's motion to suppress evidence seized incident to arrest and to dismiss prosecution was granted by the trial court. The Court of Appeals, 372 N.W.2d 824, affirmed. The Supreme Court, Amdahl, C.J., held that: (1) warrantless search of defendant's wallet at police station subsequent to arrest which revealed L.S.D. blotter was valid search incident to arrest; (2) inventory search of arrestee's wallet was valid, notwithstanding improper motive of officer conducting the search, where inventory was conducted according to standardized department procedures; and (3) police officer's reading of individual cards contained in arrestee's wallet for their informational content did not justify suppression of L.S.D blotter, since even less intrusive examination of wallet's contents would have revealed the blotter.

Reversed and remanded.

West Headnotes (5)

[1] Arrest
Persons and personal effects; person detained for investigation

Warrantless search of defendant's wallet at police station subsequent to defendant's arrest which revealed L.S.D. blotter was a valid search incident to arrest.

11 Cases that cite this headnote

[2] Searches and Seizures
Arrested persons, search of, in general

Police may examine all of the items removed from an arrestee's person or possession whenever arrestee is to be jailed, if the examination is part of a standard police department procedure, even if officer has an ulterior motive or expects to discover evidence.

14 Cases that cite this headnote

[3] Controlled Substances
Persons and Personal Effects, Search of

Search by arresting officer of contents of arrestee's wallet at jail house which revealed L.S.D. blotter was valid inventory search, as search was conducted according to police department standard procedures, even though officer had exploratory motive while conducting inventory.

9 Cases that cite this headnote

[4] Criminal Law
Inevitable discovery

Police officer's reading of individual cards contained in arrestee's wallet for their informational content did not justify suppression of L.S.D. blotter discovered in course of inventory search, even though any illegality in reading of cards might have justified suppression of cards and their contents, where blotter would have been discovered in any case in more limited examination of contents of wallet.

6 Cases that cite this headnote

[5] Criminal Law
Inevitable discovery

L.S.D. blotter discovered during inventory search of arrestee's wallet could not be suppressed on ground that police officer conducting search illegally scrutinized individual cards in the wallet, since the blotter inevitably would have been discovered by jailer if he instead of officer had conducted the search.

15 Cases that cite this headnote

***417** *Syllabus by the Court*

1. Police, on incident-to-arrest grounds, may conduct warrantless search—either at the scene of the arrest or at the police station—of an arrestee's pockets, wallet and other containers immediately associated with the person of the arrestee without having to articulate any need in the particular instance for such a search.

2. Police, pursuant to standardized procedures, may conduct inventory search of any arrestee who is to be jailed and, as part of such a search, may examine all of the items, including the contents of the arrestee's wallet, removed from the arrestee's person or possession.

3. Overintrusive search does not require suppression of items which would have been discovered even if the search had not been overintrusive.

Attorneys and Law Firms

Steven H. Alpert, Rice Co. Atty., Faribault, Paul R. Kempainen, Sp. Asst. Atty. Gen., St. Paul, for appellant.

David Hvistendahl, Northfield, for respondent.

Considered and decided by the court en banc without oral argument.

Opinion

AMDAHL, Chief Justice.

The issue in this case is whether the police violated defendant's Fourth Amendment rights in searching his wallet as part of a search following his arrest on a bench warrant issued after he failed to appear in a family court matter. The search of the wallet resulted in the discovery of a so-called "acid blotter," which is a blotter soaked with acid, in this case L.S.D., that can be chewed and swallowed. Defendant was thereafter charged with possession of L.S.D. The Court of Appeals affirmed the trial court's order granting defendant's motion to suppress the evidence and dismiss the prosecution. *State v. Rodewald,* 372 N.W.2d 824 (Minn.App.1985). We granted the state's petition for review. *State v. Rodewald,* (Minn., filed October 11, 1985). Holding that the police did not violate defendant's Fourth Amendment rights, we reverse and remand for trial.

Officer Richard R. Larson of the Faribault Police Department, who was aware that there was an outstanding bench warrant for defendant's arrest for failure to appear in a family court matter, spotted defendant driving a motorcycle with extremely high handlebars, a violation of the laws regulating motorcycles. After stopping and identifying defendant and verifying that the warrant was still outstanding, he placed defendant under arrest ***418** and frisked him before placing him in the squad car. The frisk resulted in the discovery of a locked-blade knife. At the jail, as part of the booking process, Officer Larson assisted the jailer by conducting a jailhouse or inventory search of defendant's person. While looking through defendant's wallet he found, mixed in with miscellaneous cards and papers, the acid blotter, which he recognized based on his training and experience.

At the omnibus hearing defense counsel elicited testimony from Officer Larson that in going through the wallet he looked at and read or "scanned" each of defendant's various motorcycle club membership cards, with the intent of complying with a general request from someone at the Minnesota Bureau of Criminal Apprehension that he report anything he learned in the course of his duties about area motorcycle club memberships. Larson testified, however, that he was not discriminating against defendant, that the jailhouse search was standard procedure and that he always carefully looked through the wallets of arrestees when he conducted inventory searches. He testified that the acid blotter was substantially different in appearance from the other cards, both in size (it was only ½ inch by ½ inch) and material (it was thicker and more absorbent) and that it was immediately apparent to him that it probably was an illegal acid blotter. Larson could not remember if he prepared an inventory of the items taken from defendant for safekeeping but testified that either the jailer or he did.

The jailer, Deputy Charles D. Aldorfer, testified that it is written jail policy to conduct a search of every person who is jailed after being arrested and that the standard search includes a search of personal effects, including wallets. He testified that he normally conducts the search unless the arresting officer does it for him. He testified that if Larson had not searched defendant's wallet, he would have and that he would have scanned the cards as he looked through

the wallet. He testified also that he was familiar with acid blotters. He testified that an inventory form is filled out for every inmate from whom property is taken but that he was not sure whether it was he or Officer Larson who did it in this case. He testified that he would not have individually listed each item in the billfold—that, *e.g.,* he would have written down "miscellaneous papers" for ordinary identification cards.

The trial court concluded that although it was proper to seize the wallet, it was improper to search it either as an incident of the arrest or for the purpose of inventorying its contents. The trial court reasoned that the search of the wallet was an unjustified exploratory search for contraband and information concerning motorcycle club memberships.

The Court of Appeals ruled that (1) the search of the wallet was not justified as a search incident to arrest, (2) the search was not a valid inventory search, and (3) there was no basis for concluding that the blotter inevitably would have been discovered by a lawful inventory search by the jailer not involving close scrutiny of cards and papers. 372 N.W.2d at 826–28.

[1] 1. The Court of Appeals reasoned that the search was not justified as a search incident to arrest because the search took place at the stationhouse rather than at the scene of the arrest and because the search was unneeded.

In attaching significance to the fact that the search occurred at the stationhouse rather than at the scene of the arrest, the Court of Appeals relied on *New York v. Belton,* 453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768 (1981), and *United States v. Chadwick,* 433 U.S. 1, 97 S.Ct. 2476, 53 L.Ed.2d 538 (1977). *Belton* held that "when a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile." 453 U.S. at 460, 101 S.Ct. at 2864 (footnotes omitted). The Court of Appeals concluded from this language that the case supported a general requirement that an incidental search of the person of an arrestee be ***419** made at the time of the arrest and not delayed until the arrestee is at the station. That this is not so is made clear by *United States v. Edwards,* 415 U.S. 800, 94 S.Ct. 1234, 39 L.Ed.2d 771 (1974), a case upholding the seizure of an arrestee's clothing from him in the jail the morning after his arrest. There the Court stated:

> [O]nce the accused is lawfully arrested and is in custody, the effects in his possession at the place of detention that were subject to search at the time and place of his arrest may lawfully be searched and seized without a warrant even though a substantial period of time has elapsed between the arrest and subsequent administrative processing, on the one hand, and the taking of the property for use as evidence, on the other. This is true where the clothing or effects are immediately seized upon arrival at the jail, held under the defendant's name in the "property room" of the jail, and at a later time searched and taken for use at the subsequent criminal trial. The result is the same where the property is not physically taken from the defendant until sometime after his incarceration.

415 U.S. at 807–08, 94 S.Ct. at 1239 (footnotes omitted). To the same effect, *see State v. Riley,* 303 Minn. 251, 226 N.W.2d 907 (1975), and *State v. Scroggins,* 297 Minn. 144, 210 N.W.2d 55 (1973).

United States v. Chadwick, 433 U.S. 1, 97 S.Ct. 2476, 53 L.Ed.2d 538 (1977) is also inapplicable. It held that once law enforcement officers have reduced to their control luggage and other closed containers not immediately associated with the person arrested, a delay of an hour or so after the arrest destroys any justification for searching the container as an incident of the arrest. *Id.* at 15, 97 S.Ct. at 2485. A wallet is not akin to the container in *Chadwick* since it is immediately associated with the person of the arrestee. As Professor LaFave points out, courts have "consistently" taken the position that "on incident-to-arrest grounds * * * at the station the police may search through the arrestee's pockets, wallet [and] other containers on the person * * * and may seize incriminating objects thereby revealed." 2 W. LaFave, Search and Seizure § 5.3 at 304–05 (1978). *See, e.g., United States v. Castro,* 596 F.2d 674 (5th Cir.), *cert. denied,* 444 U.S. 963, 100 S.Ct. 448, 62 L.Ed.2d 375 (1979) (upholding search of wallet and papers found within at stationhouse

search incident to arrest); *see also State v. Frazier,* 318 N.W.2d 42 (Minn.1982) (stating that search of woman's purse and wallet would have been justified as search incident to arrest if arrest had been valid, which it was not); *State v. Scroggins,* 297 Minn. 144, 210 N.W.2d 55 (1973) (upholding, as search incident to arrest, search at police station of pockets and of billfold of defendant arrested for disorderly conduct).

The Court of Appeals also concluded that the search could not be justified as an incident of the arrest because it was unneeded. Specifically, the court pointed to the lack of need "to disarm [defendant] or prevent the destruction of evidence." 372 N.W.2d at 828. In concluding that this lack of need meant that the search was not valid as a search incident to arrest, the court relied on a statement of Justice Marshall in his concurring opinion in *Illinois v. Lafayette,* 462 U.S. 640, 649, 103 S.Ct. 2605, 2611, 77 L.Ed.2d 65 (1983), where he said that he agreed that the search in that case was a valid inventory search but that it would not have been justified as a search incident to arrest because "[a] warrantless search incident to arrest must be justified by a need to remove weapons or prevent the destruction of evidence." This one-sentence summary of the justification for a search incident to arrest is not an accurate summary of the law but instead is a summary of Justice Marshall's opinion of what the law should be; in fact, in support of it he cites his own dissenting opinion in *United States v. Robinson,* 414 U.S. 218, 251, 94 S.Ct. 467, 484, 38 L.Ed.2d 427 (1973). An examination of the majority opinion in *Robinson* makes it clear that the court there adopted a "bright line" rule allowing a search incident to a custodial arrest whenever such an arrest is made, regardless of whether the officer can articulate ***420** any need in that case for such a search. Specifically, the Court in *Robinson* stated:

> A police officer's determination as to how and where to search the person of a suspect whom he has arrested is necessarily a quick *ad hoc* judgment which the Fourth Amendment does not require to be broken down in each instance into an analysis of each step in the search. The authority to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend upon what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. 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 * * *.

414 U.S. at 235, 94 S.Ct. at 477.

2. The Court of Appeals' analysis of the issue of whether the search was justified as an inventory search is also erroneous. The court ruled that the search was not a valid inventory search because Officer Larson had an exploratory motive and because close scrutiny of personal papers is beyond the scope of an inventory search.

The leading case dealing with inventory searches made in connection with the jailing of arrestees is *Illinois v. Lafayette,* 462 U.S. 640, 103 S.Ct. 2605, 77 L.Ed.2d 65 (1983). In that case the police conducted an inventory search of the shoulder bag of a person jailed after being arrested for disturbing the peace and they found drugs in the bag. The defendant argued that the bag should have been sealed as a unit without being examined. The Court held that whenever an arrestee is to be jailed, the police, as part of a standarized procedure, may examine "all of the items removed from the arrestee's person or possession * * *." 462 U.S. at 646, 103 S.Ct. at 2609. The Court stated:

> At the station house, it is entirely proper for police to remove and list or inventory property found on the person or in the possession of an arrested person who is to be jailed. A range of governmental interests supports an inventory process. It is not unheard of for persons employed in police activities to steal property taken from arrested persons; similarly, arrested persons have been known to make false claims regarding what was taken from their possession at the station house. A standardized procedure for making a list or inventory as soon as reasonable after reaching the station house not only deters false claims but also inhibits theft or careless handling of articles taken from the arrested person. Arrested persons have also been known to

injure themselves—or others—with belts, knives, drugs, or other items on their person while being detained. Dangerous instrumentalities—such as razors blades, bombs, or weapons—can be concealed in innocent-looking articles taken from the arrestee's possession. The bare recital of these mundane realities justifies reasonable measures by police to limit these risks—either while the items are in police possession or at the time they are returned to the arrestee upon his release. Examining all the items removed from the arrestee's person or possession and listing or inventorying them is an entirely reasonable administrative procedure. It is immaterial whether the police actually fear any particular package or container; the need to protect against such risks arises independently of a particular officer's subjective concerns. [Citation omitted]. Finally, inspection of an arrestee's personal property may assist the police in ascertaining or verifying his identity. [Citation omitted]. In short, every consideration of orderly police administration benefiting both police and the public points toward the appropriateness of the examination of respondent's shoulder bag prior to his incarceration.

***421** Even if less intrusive means existed of protecting some particular types of property, it would be unreasonable to expect police officers in the everyday course of business to make fine and subtle distinctions in deciding which containers or items may be searched and which must be sealed as a unit.

[W]e hold that it is not "unreasonable" for police, as part of the routine procedure incident to incarcerating an arrested person, to search any container or article in his possession, in accordance with established inventory procedures.

462 U.S. at 646–48, 103 S.Ct. at 2609–11. *Lafayette* thus permits the routine examination of the wallet as part of an inventory search of an arrestee being jailed.

[2] **[3]** In an earlier case, *South Dakota v. Opperman,* 428 U.S. 364, 376, 96 S.Ct. 3092, 3100, 49 L.Ed.2d 1000 (1976), the Court, in upholding an inventory search of an impounded automobile, stated in passing, "[T]here is no suggestion whatever that this standard procedure, essentially like that followed throughout the country, was a pretext concealing an investigatory police motive." Relying on this language and on the testimony of Officer Larson that he was looking for drugs and for information as to defendant's membership in motorcycle clubs, the Court of Appeals concluded that the search was an invalid exploratory search. We believe that the Court of Appeals misinterpreted the statement from *Opperman*—which, incidentally, is not quoted in *Lafayette*—as suggesting that it is relevant in cases such as this to inquire into the motives of the officer conducting the search. The case of *Scott v. United States,* 436 U.S. 128, 98 S.Ct. 1717, 56 L.Ed.2d 168 (1978)—decided after *Opperman* but before *Lafayette*—strongly supports the view that such an inquiry is not proper. *Scott,* which we have relied on in numerous cases, stands for the proposition that "a search must be upheld, at least as a matter of federal constitutional law, if there was a valid ground for the search, even if the officers conducting the search based the search on the wrong ground or had an improper motive." *State v. Pleas,* 329 N.W.2d 329, 332 (Minn.1983). As Professor LaFave interprets *Scott* and applies it in this context, courts may inquire under the language of *Opperman* into whether the inventory search was carried out in accordance with standard procedures in the local police department but if the search was carried out in accordance with those procedures it makes no difference whether the officer had an ulterior motive or expected to discover evidence. 1 W. LaFave, Search and Seizure § 1.2(g) at 43–54, particularly at 54 (Supp.1985). *See United States v. Griffin,* 729 F.2d 475, 485 (7th Cir.), *cert. denied,* —— U.S. ——, 105 S.Ct. 117, 83 L.Ed.2d 60 (1984) (officer's suspicion of bag's contents does not invalidate inventory search of bag). In this case, the fact that Officer Larson was looking for drugs and information when he examined the wallet does not mean that the search of it was not a legal inventory search. Whether the search of the wallet was a legal inventory search depends on whether the search was carried out in accordance with the department's standard procedures for inventory searches. It is clear from the testimony of both Officer Larson and Deputy Aldorfer that the search was carried out in accordance with standard procedures.

[4] The Court of Appeals also reasoned that close scrutiny of personal papers is beyond the scope of an inventory search. Justice Powell, in his concurring opinion in *South Dakota v. Opperman,* 428 U.S. 364, 380 n.7, 96 S.Ct. 3092, 3102 n.7, 49 L.Ed.2d 1000 (1976), stated

his opinion that the authority to carry out a standard inventory search of an automobile does not carry with it the general authority to examine the contents of all private papers found in the search. For a discussion of the issue of the likelihood that the United States Supreme Court will hold that some papers—*e.g.,* diaries—are so personal and private as to require more protection than that given other items, *see* 1 W. LaFave, Search and Seizure § 2.6(e) (1978). We discussed ***422** how the issue can arise and summarized some of the different approaches of other courts in *State v. Kindem,* 338 N.W.2d 9, 14–15 (Minn.1983), *cert. denied,* —— U.S. ——, 104 S.Ct. 2352, 80 L.Ed.2d 825 (1984), but we concluded that we did not need to decide the legality of the search and the seizure of the papers in that case. More recently, in *State v. Carr,* 361 N.W.2d 397, 400 (Minn.1985), we stated that "magistrates and reviewing courts should closely scrutinize warrants so that they do not loosely authorize seizure of private papers." In this case, there is no need to decide whether the officer acted illegally in reading the cards for their informational content because it is clear in any event that he could have (under *Lafayette*) and would have examined each of the cards in the wallet at least to determine if they were valuable and if they had to be individually listed and in trying to determine if the wallet contained any contraband; it is also clear that he would have found the acid blotter in so doing. Stated differently, while any illegality in reading the cards might have justified suppression of the cards and their contents, if the state wanted to use them as evidence of something, it does not justify suppression of the acid blotter where the record indicates that the blotter would have been discovered by the officer even if he had limited his examination of the contents of the wallet in such a way as not to actually read the cards. *See State v. Milliman,* 346 N.W.2d 128, 130 (Minn.1984) (overintrusive search does not require suppression of items which would have been discovered even if the search had not been overintrusive).

[5] 3. For the same reason, we believe that the Court of Appeals erred in its analysis of the issue of whether the evidence inevitably would have been discovered lawfully by Deputy Aldorfer. It is clear from the record that Deputy Aldorfer could have and would have examined the contents of the wallet if Officer Larson had not done so and that he would have recognized the acid blotter for what it was and seized it. *Nix v. Williams,* 467 U.S. 431, 104 S.Ct. 2501, 81 L.Ed.2d 377 (1984); *State v. Eppler,* 362 N.W.2d 315 (Minn.1985); *State v. Seefeldt,* 292 N.W.2d 558 (Minn.1980).

Reversed and remanded for trial.

PETERSON, J., took no part in the consideration or decision of this case.

All Citations

376 N.W.2d 416

101 S.Ct. 2860
Supreme Court of the United States

State of NEW YORK, Petitioner,
v.
Roger BELTON.

No. 80–328.
|
Argued April 27, 1981.
|
Decided July 1, 1981.
|
Rehearing Denied Sept. 23, 1981.
|
See 453 U.S. 950, 102 S.Ct. 26.

Defendant was convicted in the Ontario County Court, Stiles, J., of attempted criminal possession of a controlled substance in the sixth degree, and he appealed. The Supreme Court, Appellate Division, 68 A.D.2d 198, 416 N.Y.S.2d 922, affirmed. The Court of Appeals, 50 N.Y.2d 447, 429 N.Y.S.2d 574, 407 N.E.2d 420, reversed. Certiorari was granted. The Supreme Court, Justice Stewart, held that: (1) when a policeman has made a lawful custodial arrest of the occupants of an automobile he may, as a contemporaneous incident of that arrest, search the passenger compartment of the vehicle and may also examine the contents of any container found within the passenger compartment and such "container", i. e., an object capable of holding another object, may be searched whether it is open or closed, and (2) where defendant, an automobile occupant, was subject of lawful custodial arrest on charge of possessing marijuana, search of defendant's jacket, which was found inside passenger compartment immediately following arrest, was incident to lawful custodial arrest, notwithstanding that officer unzipped pockets and discovered cocaine.

Judgment of Court of Appeals reversed.

Justice Rehnquist filed concurring statement.

Justice Stevens filed a statement concurring in the judgment.

Justice Brennan filed a dissenting opinion, in which Justice Marshall joined.

Justice White filed a dissenting opinion, in which Justice Marshall joined.

West Headnotes (4)

[1] Searches and Seizures
Emergencies and Exigent Circumstances; Opportunity to Obtain Warrant

Police may not conduct a search unless they first convince a neutral magistrate that there is probable cause to do so; however, exigencies of a situation may sometimes make exemption from the warrant requirement imperative. U.S.C.A.Const. Amend. 4.

132 Cases that cite this headnote

[2] Arrest
Particular places or objects

When a policeman has made a lawful custodial arrest of the occupants of an automobile he may, as a contemporaneous incident of that arrest, search the passenger compartment of the vehicle and may also examine the contents of any container found within the passenger compartment and such "container", i. e. an object capable of holding another object, may be searched whether it is open or closed. U.S.C.A.Const. Amend. 4.

2923 Cases that cite this headnote

[3] Arrest
Particular places or objects

Arrest
Persons and personal effects; person detained for investigation

On lawful custodial arrest of occupant of an automobile the officer may examine contents of any containers found within the passenger compartment, including closed or open glove compartments, consoles or other receptacles located anywhere within

the passenger compartment as well as luggage, boxes, bags, clothing, and the like. U.S.C.A.Const. Amend. 4.

2084 Cases that cite this headnote

[4] Automobiles
Drugs and narcotics

Where automobile was stopped by state policeman for traveling at excessive rate of speed, policeman discovered that none of the occupants owned the vehicle or was related to the owner and smelled burnt marijuana and observed on the floor an envelope suspected to contain marijuana and officer directed occupants to leave vehicle and arrested them for unlawful possession of marijuana, search of defendant occupant's jacket, which was located inside passenger compartment, was incident to lawful custodial arrest, notwithstanding that officer unzipped pockets thereof and discovered cocaine. U.S.C.A.Const. Amend. 4.

2853 Cases that cite this headnote

**2861 *Syllabus* *

***454** An automobile in which respondent was one of the occupants was stopped by a New York State policeman for traveling at an excessive rate of speed. In the process of discovering that none of the occupants owned the car or was related to the owner, the policeman smelled burnt marihuana and saw on the floor of the car an envelope suspected of containing marihuana. He then directed the occupants to get out of the car and arrested them for unlawful possession of marihuana. After searching each of the occupants, he searched the passenger compartment of the car, found a jacket belonging to respondent, unzipped one of the pockets, and discovered cocaine. Subsequently, respondent was indicted for criminal possession of a controlled substance. After the trial court had denied his motion to suppress the cocaine seized from his jacket pocket, respondent pleaded guilty to a lesser included offense, while preserving his claim that the cocaine had been seized in violation of the Fourth and Fourteenth Amendments. The Appellate Division of the New York Supreme Court upheld the constitutionality of the search and seizure, but the New York Court of Appeals reversed.

Held: The search of respondent's jacket was a search incident to a lawful custodial arrest, and hence did not violate the Fourth and Fourteenth Amendments. The jacket, being located inside the passenger compartment of the car, was "within the arrestee's immediate control" within the meaning of *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685, wherein it was held that a lawful custodial arrest creates a situation justifying the contemporaneous warrantless search of the arrestee and of the immediately surrounding area. Not only may the police search the passenger compartment of the car in such circumstances, they may also examine the contents of any containers found in the passenger compartment. And such a container may be searched whether it is open or closed, since the justification for the search is not that the arrestee has no privacy interest in the container but that the lawful custodial arrest justifies the infringement of any privacy interest the arrestee may have. Pp. 2862–2865.

50 N.Y.2d 447, 429 N.Y.S.2d 574, 407 N.E.2d 420, reversed.

Attorneys and Law Firms

***455** James R. Harvey, Canandaigua, N. Y., for petitioner.

Andrew L. Frey, Washington, D. C., for the U. S., as amicus curiae, by special leave of Court.

Paul J. Cambria, Jr., Buffalo, N. Y., for respondent.

Opinion

Justice STEWART, delivered the opinion of the Court.

When the occupant of an automobile is subjected to a lawful custodial arrest, does the constitutionally permissible scope of a search incident to his arrest include the passenger compartment of the automobile in which he was riding? That is the question at issue in the present case.

I

On April 9, 1978, Trooper Douglas Nicot, a New York State policeman driving an unmarked car on the New York Thruway, was passed by another automobile traveling at an excessive rate of speed. Nicot gave chase, overtook the speeding vehicle, and ordered its driver to pull it over to the side of the road and stop. There were four men in the car, one of whom was Roger Belton, the respondent in this case. The policeman asked to see the driver's license and automobile registration, and discovered that none of the men owned the vehicle or was related to its owner. Meanwhile, the policeman **2862 had smelled burnt marihuana and had seen on *456 the floor of the car an envelope marked "Supergold" that he associated with marihuana. He therefore directed the men to get out the car, and placed them under arrest for the unlawful possession of marihuana. He patted down each of the men and "split them up into four separate areas of the Thruway at this time so they would not be in physical touching area of each other." He then picked up the envelope marked "Supergold" and found that it contained marihuana. After giving the arrestees the warnings required by *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694, the state policeman searched each one of them. He then searched the passenger compartment of the car. On the back seat he found a black leather jacket belonging to Belton. He unzipped one of the pockets of the jacket and discovered cocaine. Placing the jacket in his automobile, he drove the four arrestees to a nearby police station.

Belton was subsequently indicted for criminal possession of a controlled substance. In the trial court he moved that the cocaine the trooper had seized from the jacket pocket be suppressed. The court denied the motion. Belton then pleaded guilty to a lesser included offense, but preserved his claim that the cocaine had been seized in violation of the Fourth and Fourteenth Amendments. See *Lefkowitz v. Newsome*, 420 U.S. 283, 95 S.Ct. 886, 43 L.Ed.2d 196. The Appellant Division of the New York Supreme Court upheld the constitutionality of the search and seizure, reasoning that "[o]nce defendant was validly arrested for possession of marihuana, the officer was justified in searching the immediate area for other contraband." 68 A.D.2d 198, 201, 416 N.Y.S.2d 922, 925.

The New York Court of Appeals reversed, holding that "[a] warrantless search of the zippered pockets of an unaccessible jacket may not be upheld as a search incident to a lawful arrest where there is no longer any danger that the arrestee or a confederate might gain access to the article." 50 N.Y.2d 447, 449, 429 N.Y.S.2d 574, 575, 407 N.E.2d 420, 421. Two judges dissented. *457 They pointed out that the "search was conducted by a lone peace officer who was in the process of arresting four unknown individuals whom he had stopped in a speeding car owned by none of them and apparently containing an uncertain quantity of a controlled substance. The suspects were standing by the side of the car as the officer gave it a quick check to confirm his suspicions before attempting to transport them to police headquarters ...." *Id.*, at 454, 429 N.Y.S.2d, at 578, 407 N.E.2d, at 424. We granted certiorari to consider the constitutionally permissible scope of a search in circumstances such as these. 449 U.S. 1109, 101 S.Ct. 917, 66 L.Ed.2d 838.

II

[1] It is a first principle of Fourth Amendment jurisprudence that the police may not conduct a search unless they first convince a neutral magistrate that there is probable cause to do so. This Court has recognized, however, that "the exigencies of the situation" may sometimes make exemption from the warrant requirement "imperative." *McDonald v. United States*, 335 U.S. 451, 456, 69 S.Ct. 191, 193, 93 L.Ed. 153. Specifically, the Court held in *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685, that a lawful custodial arrest creates a situation which justifies the contemporaneous search without a warrant of the person arrested and of the immediately surrounding area. Such searches have long been considered valid because of the need "to remove any weapons that [the arrestee] might seek to use in order to resist arrest or effect his escape" and the need to prevent the concealment or destruction of evidence. *Id.*, at 763, 89 S.Ct., at 2040.

The Court's opinion in *Chimel* emphasized the principle that, as the Court had said in *Terry v. Ohio*, 392 U.S. 1, 19, 88 S.Ct. 1868, 1878, 20 L.Ed.2d 889, "the scope of [a] search must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible." Quoted in *Chimel v. California, supra*, at 762, 89 S.Ct., at 2039. **2863 Thus while the Court in *Chimel* found "ample justification" for a search of "the area from within which [an arrestee] *458 might gain possession of a weapon or destructible evidence," the Court found "no comparable justification ... for routinely searching any

room other than that in which an arrest occurs—or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself." 395 U.S., at 763, 89 S.Ct., at 2040.

Although the principle that limits a search incident to a lawful custodial arrest may be stated clearly enough, courts have discovered the principle difficult to apply in specific cases. Yet, as one commentator has pointed out, the protection of the Fourth and Fourteenth Amendments "can only be realized if the police are acting under a set of rules which, in most instances, makes it possible to reach a correct determination beforehand as to whether an invasion of privacy is justified in the interest of law enforcement." LaFave, "Case-By-Case Adjudication" Versus "Standardized Procedures": The Robinson Dilemma, 1974 S.Ct.Rev. 127, 142. This is because

> "Fourth Amendment doctrine, given force and effect by the exclusionary rule, is primarily intended to regulate the police in their day-to-day activities and thus ought to be expressed in terms that are readily applicable by the police in the context of the law enforcement activities in which they are necessarily engaged. A highly sophisticated set of rules, qualified by all sorts of ifs, ands, and buts and requiring the drawing of subtle nuances and hairline distinctions, may be the sort of heady stuff upon which the facile minds of lawyers and judges eagerly feed, but they may be 'literally impossible of application by the officer in the field.' " *Id.*, at 141.

In short, "[a] single, familiar standard is essential to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront." *Dunaway v. New York*, 442 U.S. 200, 213–214, 99 S.Ct. 2248, 2256–57, 60 L.Ed.2d 824.

***459** So it was that, in *United States v. Robinson*, 414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427, the Court hewed to a straightforward rule, easily applied, and predictably enforced: "[I]n 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." *Id.*, at 235, 94 S.Ct., at 477. In so holding, the Court rejected the suggestion that "there must be litigated in each case the issue of whether or not there was present one of the reasons supporting the authority for a search of the person incident to a lawful arrest." *Ibid.*

But no straightforward rule has emerged from the litigated cases respecting the question involved here—the question of the proper scope of a search of the interior of an automobile incident to a lawful custodial arrest of its occupants. The difficulty courts have had is reflected in the conflicting views of the New York judges who dealt with the problem in the present case, and is confirmed by a look at even a small sample drawn from the narrow class of cases in which courts have decided whether, in the course of a search incident to the lawful custodial arrest of the occupants of an automobile, police may search inside the automobile after the arrestees are no longer in it. On the one hand, decisions in cases such as *United States v. Sanders*, 631 F.2d 1309 (CA8 1980); *United States v. Dixon*, 558 F.2d 919 (CA9 1977); and *United States v. Frick*, 490 F.2d 666 (CA5 1973), have upheld such warrantless searches as incident to lawful arrests. On the other hand, in cases such as *United States v. Benson*, 631 F.2d 1336 (CA8 1980), and *United States v. Rigales*, 630 F.2d 364 (CA5 1980), such searches, in comparable factual circumstances, have been held constitutionally invalid. [1]

****2864** **[2]** **[3]** When a person cannot know how a court will apply a ***460** settled principle to a recurring factual situation, that person cannot know the scope of his constitutional protection, nor can a policeman know the scope of his authority. While the *Chimel* case established that a search incident to an arrest may not stray beyond the area within the immediate control of the arrestee, courts have found no workable definition of "the area within the immediate control of the arrestee" when that area arguably includes the interior of an automobile and the arrestee is its recent occupant. Our reading of the cases suggests the generalization that articles inside the relatively narrow compass of the passenger compartment of an automobile are in fact generally, even if not inevitably, within "the area into which an arrestee might reach in order to grab a weapon or evidentiary ite[m]." *Chimel*, 395 U.S., at 763, 89 S.Ct., at 2040. In order to establish the workable rule this category of cases requires, we read *Chimel* 's definition of the limits of the area that may be searched in light of that generalization. Accordingly, we hold that when a policeman has made a lawful custodial arrest of the occupant of an automobile, [2] he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile. [3]

It follows from this conclusion that the police may also examine the contents of any containers found within the passenger compartment, for if the passenger compartment is within reach of the arrestee, so also will containers in it be within his reach.[4] *United States v. Robinson, supra;* ***461** *Draper v. United States*, 358 U.S. 307, 79 S.Ct. 329, 3 L.Ed.2d 327. Such a container may, of course, be searched whether it is open or closed, since the justification for the search is not that the arrestee has no privacy interest in the container, but that the lawful custodial arrest justifies the infringement of any privacy interest the arrestee may have. Thus, while the Court in *Chimel* held that the police could not search all the drawers in an arrestee's house simply because the police had arrested him at home, the Court noted that drawers within an arrestee's reach could be searched because of the danger their contents might pose to the police. 395 U.S., at 763, 89 S.Ct., at 2040.

It is true, of course, that these containers will sometimes be such that they could hold neither a weapon nor evidence of the criminal conduct for which the suspect was arrested. However, in *United States v. Robinson*, the Court rejected the argument that such a container—there a "crumpled up cigarette package"—located during a search of Robinson incident to his arrest could not be searched: "The authority to search the person incident to a lawful custodial arrest, while based upon the need to disarm and to discover evidence, does not depend on what a court may later decide was the probability in a particular arrest situation that weapons or evidence would in fact be found upon the person of the suspect. 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." 414 U.S., at 235, 94 S.Ct., at 476.

The New York Court of Appeals relied upon *United States v. Chadwick*, 433 U.S. 1, 97 S.Ct. 2476, 53 L.Ed.2d 538, and *Arkansas* ****2865** *v. Sanders*, 442 U.S. 753, 99 S.Ct. 2586, 61 L.Ed.2d 235 in concluding that the search and seizure in the present case were constitutionally invalid.[5] But neither of those ***462** cases involved an arguably valid search incident to a lawful custodial arrest. As the Court pointed out in the *Chadwick* case: "Here the search was conducted more than an hour after federal agents had gained exclusive control of the footlocker and long after respondents were securely in custody; the search therefore cannot be viewed as incidental to the arrest or as justified by any other exigency." 433 U.S., at 15, 97 S.Ct., at 2485. And in the *Sanders* case, the Court explicitly stated that it did not "consider the constitutionality of searches of luggage incident to the arrest of its possessor. See, *e. g., United States v. Robinson*, 414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973). The State has not argued that respondent's suitcase was searched incident to his arrest, and it appears that the bag was not within his 'immediate control' at the time of the search." 442 U.S., at 764, n. 11, 99 S.Ct., at 2593, n. 11. (The suitcase in question was in the trunk of the taxicab. See n. 4, *supra*.)

III

[4] It is not questioned that the respondent was the subject of a lawful custodial arrest on a charge of possessing marihuana. The search of the respondent's jacket followed immediately upon that arrest. The jacket was located inside the passenger compartment of the car in which the respondent had been a passenger just before he was arrested. The jacket was thus within the area which we have concluded was "within the arrestee's immediate control" within the meaning of the *Chimel* case.[6] The search of the jacket, therefore, was a ***463** search incident to a lawful custodial arrest, and it did not violate the Fourth and Fourteenth Amendments. Accordingly, the judgment is reversed.

It is so ordered.

Justice REHNQUIST, concurring.
Because it is apparent that a majority of the Court is unwilling to overrule *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961), and because the Court does not find it necessary to consider the "automobile exception" in its disposition of this case, *ante*, at 2865, n. 6, see *Robbins v. California*, 453 U.S. 420, 437, 101 S.Ct. 2841, 2851, 69 L.Ed.2d 744 (REHNQUIST, J., dissenting), I join the opinion of the Court.

Justice STEVENS, concurring in the judgment.
For the reasons stated in my dissenting opinion in *Robbins v. California, ante*, at 444, 101 S.Ct., at 2855, I agree with Justice BRENNAN, Justice WHITE, Justice MARSHALL, Justice BLACKMUN, and Justice

REHNQUIST that these two cases should be decided in the same way, and I also agree with THE CHIEF JUSTICE, Justice STEWART, Justice BLACKMUN, Justice POWELL, and Justice REHNQUIST that this judgment should be reversed.

Justice BRENNAN, with whom Justice MARSHALL joins, dissenting.

In *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969), this Court carefully analyzed more than 50 years of conflicting precedent governing the permissible scope of warrantless searches incident ****2866** to custodial arrest. The Court today turns its back on the product of that analysis, formulating an arbitrary "bright-line" rule applicable to "recent" occupants of automobiles that fails to reflect *Chimel*'s underlying policy justifications. While the Court claims to leave *Chimel* intact, see *ante*, at 2864, n. 3, I fear that its unwarranted abandonment of ***464** the principles underlying that decision may signal a wholesale retreat from our carefully developed search-incident-to-arrest analysis . I dissent.

I

It has long been a fundamental principle of Fourth Amendment analysis that exceptions to the warrant requirement are to be narrowly construed. *Arkansas v. Sanders*, 442 U.S. 753, 759–760, 99 S.Ct. 2586, 2590, 61 L.Ed.2d 235 (1979); *Mincey v. Arizona*, 437 U.S. 385, 393–394, 98 S.Ct. 2408, 2414, 57 L.Ed.2d 290 (1978); *Coolidge v. New Hampshire*, 403 U.S. 443, 454–455, 91 S.Ct. 2022, 2032, 29 L.Ed.2d 564 (1971); *Vale v. Louisiana*, 399 U.S. 30, 34, 90 S.Ct. 1969, 1971, 26 L.Ed.2d 409 (1970); *Katz v. United States*, 389 U.S. 347, 357, 88 S.Ct. 507, 514, 19 L.Ed.2d 576 (1967); *Jones v. United States*, 357 U.S. 493, 499, 78 S.Ct. 1253, 1257, 2 L.Ed.2d 1514 (1958). Predicated on the Fourth Amendment's essential purpose of "shield[ing] the citizen from unwarranted intrusions into his privacy," *Jones v. United States*, *supra*, at 498, 78 S.Ct., at 1256, this principle carries with it two corollaries. First, for a search to be valid under the Fourth Amendment, it must be " 'strictly tied to and justified by' the circumstances which rendered its initiation permissible." *Terry v. Ohio*, 392 U.S. 1, 19, 88 S.Ct. 1868, 1878, 20 L.Ed.2d 889 (1968) quoting *Warden v. Hayden*, 387 U.S. 294, 310, 87 S.Ct. 1642, 1651, 18 L.Ed.2d 782 (1967) (Fortas, J., concurring). See *Chimel v. California*, *supra*, at 762, 89 S.Ct., at 2039; *Cupp v. Murphy*, 412 U.S. 291, 295, 93 S.Ct. 2000, 2003, 36 L.Ed.2d 900 (1973). Second, in determining whether to grant an exception to the warrant requirement, courts should carefully consider the facts and circumstances of each search and seizure, focusing on the reasons supporting the exception rather than on any bright-line rule of general application. See *Sibron v. New York*, 392 U.S. 40, 59, 88 S.Ct. 1889, 1900, 20 L.Ed.2d 917 (1968); *Preston v. United States*, 376 U.S. 364, 367, 84 S.Ct. 881, 883, 11 L.Ed.2d 777 (1964). [1]

The *Chimel* exception to the warrant requirement was designed with two principal concerns in mind: the safety of the arresting officer and the preservation of easily concealed or destructible evidence. Recognizing that a suspect might have ***465** access to weapons or contraband at the time of arrest, the Court declared:

> "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." 395 U.S., at 762–763, 89 S.Ct., at 2039–40.

The *Chimel* standard was narrowly tailored to address these concerns: it permits police officers who have effected a custodial arrest to conduct a warrantless search "of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence." *Id.*, at 763, 89 S.Ct., at 2040. It thus places a temporal and a ****2867** spatial limitation on searches incident to arrest, excusing compliance with the warrant requirement only when the search " 'is substantially contemporaneous with the arrest and is confined to the *immediate* vicinity of the arrest.' " *Shipley v. California*, 395 U.S. 818, 819, 89 S.Ct. 2053, 2054, 23 L.Ed. 2d 732 (1969), quoting *Stoner v. California*, 376 U.S. 483, 486, 84 S.Ct. 889, 891, 11 L.Ed.2d 856 (1964). See *United States v. Chadwick*, 433 U.S. 1, 14–15,

97 S.Ct. 2476, 2485, 53 L.Ed.2d 538 (1977); *Dyke v. Taylor Implement Mfg. Co.*, 391 U.S. 216, 220, 88 S.Ct. 1472, 1474, 20 L.Ed.2d 538 (1968); *Preston v. United States, supra*, at 367, 84 S.Ct., at 883; *United States v. Edwards*, 415 U.S. 800, 810, 94 S.Ct. 1234, 1240, 39 L.Ed.2d 771 (1974)(STEWART, J., dissenting). [2] When the arrest has been ***466** consummated and the arrestee safely taken into custody, the justifications underlying *Chimel's* limited exception to the warrant requirement cease to apply: at that point there is no possibility that the arrestee could reach weapons or contraband. See *Chimel v. California, supra*, at 764, 89 S.Ct., at 2040.

In its attempt to formulate a " 'single, familiar standard ... to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront,' " *ante*, at 2863, quoting *Dunaway v. New York*, 442 U.S. 200, 213–214, 99 S.Ct. 2248, 2256–57, 60 L.Ed.2d 824 (1979), the Court today disregards these principles, and instead adopts a fiction—that the interior of a car is *always* within the immediate control of an arrestee who has recently been in the car. The Court thus holds:

> "[W]hen a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile ... [and] may also examine the contents of any containers found within the passenger compartment...." *Ante*, at 2864.

In so holding, the Court ignores both precedent and principle and fails to achieve its objective of providing police officers with a more workable standard for determining the permissible scope of searches incident to arrest.

II

As the facts of this case make clear, the Court today substantially expands the permissible scope of searches incident to arrest by permitting police officers to search areas and containers the arrestee could not possibly reach at the time of arrest. These facts demonstrate that at the time Belton and his three companions were placed under custodial arrest—which was *after* they had been removed from the car, patted down, and separated—none of them could have reached the jackets that had been left on the back seat of the car. The ***467** New York Court of Appeals described the sequence of events as follows:

> "On April 9, 1978 defendant and three companions were traveling on the New York State Thruway in Ontario County when their car was stopped by a State trooper for speeding. Upon approaching the vehicle, the officer smelled the distinct odor of marijuana emanating from within and observed on the floor an envelope which he recognized as a type that is commonly used to sell the substance. At that point the officer ordered the occupants out of the vehicle, patted each down, removed the envelope from the floor and ascertained that it contained a small amount of marijuana.
>
> "*After the marijuana was found, the individuals, still standing outside the car, were placed under arrest. The officer then re-entered the vehicle, searched the passenger compartment* and seized the ****2868** marihuana cigarette butts lying in the ashtrays. He also *rifled through the pockets of five jackets on the back seat*. Upon opening the zippered pocket of one of them, he discovered a small amount of cocaine and defendant's identification." 50 N. Y.2d 447, 449, 429 N.Y.S.2d 574, 575, 407 N.E.2d 420, 421 (1980) (emphasis added). [3]

Concluding that a "warrantless search of the zippered pockets of an *unaccessible jacket* may not be upheld as a search incident to a lawful arrest where there is *no longer any danger that the arrestee or a confederate might gain access to the article," ibid.* (emphasis added), the court further stated:

> "One searches the record in vain for support of the dissenter's claim that at the time of the arrest—the point from which the predicate for the warrantless search is measured—'the jackets were within reach of the four suspects ***468** and had not yet been reduced to the exclusive control of the officer.' " *Id.*, at 452, n. 2, 429 N.Y.S.2d, at 577, n. 2, 407 N.E.2d, at 423, n. 2 quoting *id.*, at 454, 429 N.Y.S.2d, at 578, 407 N.E.2d, at 424 (dissenting opinion).

By approving the constitutionality of the warrantless search in this case, the Court carves out a dangerous precedent that is not justified by the concerns underlying *Chimel*. Disregarding the principle "that the scope of a warrantless search must be commensurate with the

rationale that excepts the search from the warrant requirement," *Cupp v. Murphy*, 412 U.S., at 295, 93 S.Ct., at 2003, the Court for the first time grants police officers authority to conduct a warrantless "area" search under circumstances where there is no chance that the arrestee "might gain possession of a weapon or destructible evidence." *Chimel v. California*, 395 U.S., at 763, 89 S.Ct., at 2040. Under the approach taken today, the result would presumably be the same even if Officer Nicot had handcuffed Belton and his companions in the patrol car before placing them under arrest, and even if his search had extended to locked luggage or other inaccessible containers located in the back seat of the car.

This expansion of the *Chimel* exception is both analytically unsound and inconsistent with every significant search-incident-to-arrest case we have decided in which the issue was whether the police could lawfully conduct a warrantless search of the area surrounding the arrestee. See, *e. g., United States v. Chadwick*, 433 U.S., at 15, 97 S.Ct., at 2485 (search of footlocker "conducted more than an hour after federal agents had gained exclusive control of the footlocker and long after respondents were securely in custody" not incident to arrest); *Coolidge v. New Hampshire*, 403 U.S., at 456–457, and n. 11, 91 S.Ct., at 2032–33, and n. 11 (search of car in driveway not incident to arrest in house); *Chambers v. Maroney*, 399 U.S. 42, 47, 90 S.Ct. 1975, 1979, 26 L.Ed.2d 419 (1970) (warrantless search of car invalid once arrestee has been placed in police custody); *Vale v. Louisiana*, 399 U.S., at 35, 90 S.Ct., at 1972 (area of immediate control does not extend to inside of house when suspect is arrested on front step); *Dyke v. Taylor Implement Mfg. Co.*, 391 U.S., at 220, 88 S.Ct., at 1474 469search of car after occupant placed in custody and taken to courthouse not valid as incident to arrest); *Preston v. United States*, 376 U.S., at 368, 84 S.Ct., at 883 (search of car not valid as incident to arrest: although suspects were in car when arrested, they were in custody at police station when car was searched). These cases demonstrate that the crucial question under *Chimel* is not whether the arrestee could *ever* have reached the area that was searched, but whether he could have reached it at the time of arrest and search. If not, the officer's failure to obtain a warrant may not be excused.[4] By **2869 disregarding this settled doctrine, the Court does a great disservice not only to *stare decisis*, but to the policies underlying the Fourth Amendment as well.

III

The Court seeks to justify its departure from the principles underlying *Chimel* by proclaiming the need for a new "bright-line" rule to guide the officer in the field. As we pointed out in *Mincey v. Arizona*, 437 U.S., at 393, 98 S.Ct., at 2413, however, "the mere fact that law enforcement may be made more efficient can never by itself justify disregard of the Fourth Amendment." Moreover, the Court's attempt to forge a "bright-line" rule fails on its own terms. While the "interior/trunk" distinction may provide a workable guide in certain routine cases—for example, where the officer arrests the driver of a car and then immediately searches the seats and floor—in the long run, I suspect it will create far more problems than it solves. The Court's new approach leaves open too many questions and, more important, it provides the police and the courts with too few tools with which to find the answers.

Thus, although the Court concludes that a warrantless search of a car may take place even though the suspect was *470 arrested outside the car, it does not indicate how long after the suspect's arrest that search may validly be conducted. Would a warrantless search incident to arrest be valid if conducted five minutes after the suspect left his car? Thirty minutes? Three hours? Does it matter whether the suspect is standing in close proximity to the car when the search is conducted? Does it matter whether the police formed probable cause to arrest before or after the suspect left his car? And *why* is the rule announced today necessarily limited to searches of cars? What if a suspect is seen walking out of a house where the police, peering in from outside, had formed probable cause to believe a crime was being committed? Could the police then arrest that suspect and enter the house to conduct a search incident to arrest? Even assuming today's rule is limited to searches of the "interior" of cars—an assumption not demanded by logic—what is meant by "interior"? Does it include locked glove compartments, the interior of door panels, or the area under the floorboards? Are special rules necessary for station wagons and hatchbacks, where the luggage compartment may be reached through the interior, or taxicabs, where a glass panel might separate the driver's compartment from the rest of the car? Are the only containers that may be searched those that are large enough to be "capable of holding another object"? Or does the new rule apply to any container even if it "could hold

neither a weapon nor evidence of the criminal conduct for which the suspect was arrested"? Compare *ante*, at 2864, n. 4, with *ante*, at 2864.

The Court does not give the police any "bright-line" answers to these questions. More important, because the Court's new rule abandons the justifications underlying *Chimel, it offers no guidance to the police officer seeking to work out these answers for himself*. As we warned in *Chimel*: "No consideration relevant to the Fourth Amendment suggests any point of rational limitation, once the search is allowed to go beyond the area from which the person arrested ***471** might obtain weapons or evidentiary items." 395 U.S., at 766, 89 S.Ct., at 2041. See also *Mincey v. Arizona, supra*, at 393, 98 S.Ct., at 2413. By failing to heed this warning, the Court has undermined rather than furthered the goal of consistent law enforcement: it has failed to offer any principles to guide the police and the courts in their application of the new rule to nonroutine situations.

The standard announced in *Chimel* is not nearly as difficult to apply as the Court suggests. To the contrary, I continue to believe that *Chimel* provides a sound, workable rule for determining the constitutionality of a warrantless search incident to arrest. ****2870** Under *Chimel*, searches incident to arrest may be conducted without a warrant only if limited to the person of the arrestee, see *United States v. Robinson*, 414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973), or to the area within the arrestee's "immediate control." While it may be difficult in some cases to measure the exact scope of the arrestee's immediate control, relevant factors would surely include the relative number of police officers and arrestees, the manner of restraint placed on the arrestee, and the ability of the arrestee to gain access to a particular area or container. [5] Certainly there will be some close cases, but when in doubt the police can always turn to the rationale underlying *Chimel* —the need to prevent the arrestee from reaching weapons or contraband—before ***472** exercising their judgment. A rule based on that rationale should provide more guidance than the rule announced by the Court today. Moreover, unlike the Court's rule, it would be faithful to the Fourth Amendment.

Justice WHITE, with whom Justice MARSHALL joins, dissenting.

In *Robbins v. California*, 453 U.S. 420, 101 S.Ct. 2841, 69 L.Ed.2d 744, it was held that a wrapped container in the trunk of a car could not be searched without a warrant even though the trunk itself could be searched without a warrant because there was probable cause to search the car and even though there was probable cause to search the container as well. This was because of the separate interest in privacy with respect to the container. The Court now holds that as incident to the arrest of the driver or any other person in an automobile, the interior of the car and any container found therein, whether locked or not, may be not only seized but also searched even absent probable cause to believe that contraband or evidence of crime will be found. As to luggage, briefcases, or other containers this seems to me an extreme extension of *Chimel* and one to which I cannot subscribe. Even if the decision in *Robbins* had been otherwise and *United States v. Chadwick*, 433 U.S. 1, 97 S.Ct. 2476, 53 L.Ed.2d 538 (1977), and *Arkansas v. Sanders*, 442 U.S. 753, 99 S.Ct. 2586, 61 L.Ed.2d 235 (1979), had been overruled, luggage found in the trunk of a car could not be searched without probable cause to believe it contained contraband or evidence. Here, searches of luggage, briefcases, and other containers in the interior of an auto are authorized in the absence of any suspicion whatsoever that they contain anything in which the police have a legitimate interest. This calls for more caution than the Court today exhibits, and, with respect, I dissent.

All Citations

453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768

Footnotes

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

1 The state-court cases are in similar disarray. Compare, *e. g., Hinkel v. Anchorage*, 618 P.2d 1069 (Alaska 1980), with *Ulesky v. State*, 379 So.2d 121 (Fla.App.1979).

2 The validity of the custodial arrest of Belton has not been questioned in this case. Cf. *Gustafson v. Florida*, 414 U.S. 260, 266, 94 S.Ct. 488, 492, 38 L.Ed.2d 456 (concurring opinion).

3 Our holding today does no more than determine the meaning of *Chimel* 's principles in this particular and problematic content. It in no way alters the fundamental principles established in the *Chimel* case regarding the basic scope of searches incident to lawful custodial arrests.

4 "Container" here denotes any object capable of holding another object. It thus includes closed or open glove compartments, consoles, or other receptacles located anywhere within the passenger compartment, as well as luggage, boxes, bags, clothing, and the like. Our holding encompasses only the interior of the passenger compartment of an automobile and does not encompass the trunk.

5 It seems to have been the theory of the Court of Appeals that the search and seizure in the present case could not have been incident to the respondent's arrest, because Trooper Nicot, by the very act of searching the respondent's jacket and seizing the contents of its pocket, had gained "exclusive control" of them. 50 N.Y.2d 447, 451, 429 N.Y.S.2d 574, 576, 407 N.E.2d 420, 422. But under this fallacious theory no search or seizure incident to a lawful custodial arrest would ever be valid; by seizing an article even on the arrestee's person, an officer may be said to have reduced that article to his "exclusive control."

6 Because of this disposition of the case, there is no need here to consider whether the search and seizure were permissible under the so-called "automobile exception." *Chambers v. Maroney*, 399 U.S. 42, 90 S.Ct. 1975, 26 L.Ed.2d 419; *Carroll v. United States*, 267 U.S. 132, 45 S.Ct. 280, 69 L.Ed. 543.

1 As we noted in *Go-Bart Importing Co. v. United States*, 282 U.S. 344, 357, 51 S.Ct. 153, 158, 75 L.Ed. 374 (1931): "There is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances."

2 " 'Once an accused is under arrest and in custody, then a search made at another place, without a warrant, is simply not incident to the arrest.' " *Chambers v. Maroney*, 399 U.S. 42, 47, 90 S.Ct. 1975, 1979, 26 L.Ed.2d 419 (1970), quoting *Preston v. United States*, 376 U.S., at 367, 84 S.Ct., at 883.

3 See also 50 N.Y.2d, at 454, n. 2, 429 N.Y.S.2d, at 577, n. 2, 407 N.E.2d, at 423, n. 2; Tr. of Oral Arg. 4–5; App. A–36.

4 " 'We cannot be true to [the Fourth Amendment] and excuse the absence of a search warrant without a showing by those who seek exemption from the constitutional mandate that the exigencies of the situation make that course imperative.' " *Chimel v. California*, 395 U.S., at 761, 87 S.Ct., at 2039, quoting *McDonald v. United States*, 335 U.S. 451, 456, 69 S.Ct. 191, 193, 93 L.Ed. 153 (1948).

5 The Court sets up a strawman when it claims that under the "exclusive control" approach taken by the Court of Appeals, "no search or seizure incident to a lawful custodial arrest would ever be valid; by seizing an article even on the arrestee's person, an officer may be said to have reduced that article to his 'exclusive control.' " *Ante*, at 2865, n. 5. If a police officer could obtain exclusive control of an article by simply holding it in his hand, I would certainly agree with the Court. But as we recognized in *United States v. Chadwick*, 433 U.S. 1, 14–15, 97 S.Ct. 2476, 2485, 53 L.Ed.2d 538 (1977), exclusive control means more than that. It means sufficient control such that there is no significant risk that the arrestee or his confederates "might gain possession of a weapon or destructible evidence." *Chimel v. California*, 395 U.S., at 763, 89 S.Ct., at 2040. The issue of exclusive control presents a question of fact to be decided under the circumstances of each case, just as the New York Court of Appeals has decided it here.

124 S.Ct. 2127
Supreme Court of the United States

Marcus THORNTON, Petitioner,
v.
UNITED STATES.

No. 03–5165.
|
Argued March 31, 2004.
|
Decided May 24, 2004.

Synopsis

Background: Defendant was convicted in the United States District Court for the Eastern District of Virginia, Rebecca Beach Smith, J., of possession with intent to distribute cocaine base and two firearm offenses, and he appealed. The United States Court of Appeals for the Fourth Circuit, 325 F.3d 189, affirmed. Certiorari was granted.

Holding: The United States Supreme Court, Chief Justice Rehnquist, held that the Fourth Amendment allows an officer to search vehicle's passenger compartment as a contemporaneous incident of arrest, even when officer does not make contact until the person arrested has already left the vehicle.

Affirmed.

Justice O'Connor filed an opinion concurring in part.

Justice Scalia filed an opinion concurring in the judgment, in which Justice Ginsburg joined.

Justice Stevens filed a dissenting opinion, in which Justice Souter joined.

West Headnotes (1)

[1] **Arrest**
Particular places or objects

Arrest
Search not incident to arrest; time and distance factors

Once a police officer makes a lawful custodial arrest of an automobiles's occupant, the Fourth Amendment allows the officer to search the vehicle's passenger compartment as a contemporaneous incident of arrest, even when an officer does not make contact until the person arrested has already left the vehicle; stress of arrest is no less merely because the arrestee exited his car before the officer initiated contact, nor is an arrestee less likely to attempt to lunge for a weapon or to destroy evidence if he is outside of, but still in control of, the vehicle. U.S.C.A. Const.Amend. 4.

752 Cases that cite this headnote

****2127** *Syllabus* *

Before Officer Nichols could pull over petitioner, petitioner parked and got out of his car. Nichols then parked, accosted petitioner, and arrested him after finding drugs in his pocket. Incident to the arrest, Nichols searched petitioner's car and found a handgun under the driver's seat. Petitioner was charged with federal drug and firearms violations. In denying his motion to suppress the firearm as the fruit of an unconstitutional search, the District Court found, *inter alia,* the automobile search valid under *New York v. Belton,* 453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768, in which this Court held that, when a police officer makes a lawful custodial arrest of an automobile's occupant, the Fourth Amendment allows the officer to search the vehicle's passenger compartment as a contemporaneous incident of arrest, *id.,* at 460, 101 S.Ct. 2860. Petitioner appealed his conviction, arguing that *Belton* was limited to situations where the officer initiated contact with an arrestee while he was still in the car. The Fourth Circuit affirmed.

Held: *Belton* governs even when an officer does not make contact until the person arrested has left the vehicle. In *Belton,* the Court placed no reliance on the fact that the officer ordered the occupants out of the vehicle, or initiated contact with ****2128** them while they remained within it. And here, there is simply no basis to conclude that the span of the area generally within the arrestee's immediate control is determined by whether the arrestee exited the vehicle at the officer's direction, or whether the officer initiated contact with him while he was in the car. In all relevant aspects, the arrest of a suspect who is next to a vehicle presents identical concerns regarding officer safety and evidence destruction as one who is inside. Under petitioner's proposed "contact initiation" rule, officers who decide that it may be safer and more effective to conceal their presence until a suspect has left his car would be unable to search the passenger compartment in the event of a custodial arrest, potentially compromising their safety and placing incriminating evidence at risk of concealment or destruction. The Fourth Amendment does not require such a gamble. *Belton* allows police to search a car's passenger compartment incident to a lawful arrest of both "occupant[s]" and "recent occupant[s]." *Ibid.* While an arrestee's status as a "recent occupant" may turn on his temporal or spatial relationship to ***616** the car at the time of the arrest and search, it certainly does not turn on whether he was inside or outside the car when the officer first initiated contact with him. Although not all contraband in the passenger compartment is likely to be accessible to a "recent occupant," the need for a clear rule, readily understood by police and not depending on differing estimates of what items were or were not within an arrestee's reach at any particular moment, justifies the sort of generalization which *Belton* enunciated. Under petitioner's rule, an officer would have to determine whether he actually confronted or signaled confrontation with the suspect while he was in his car, or whether the suspect exited the car unaware of, and for reasons unrelated to, the officer's presence. Such a rule would be inherently subjective and highly fact specific, and would require precisely the sort of ad hoc determinations on the part of officers in the field and reviewing courts that *Belton* sought to avoid. Pp. 2130–2133.

325 F.3d 189, affirmed.

REHNQUIST, C. J., delivered the opinion of the Court except as to footnote 4. KENNEDY, THOMAS, and BREYER, JJ., joined that opinion in full, and O'CONNOR, J., joined as to all but footnote 4. O'CONNOR, J., filed an opinion concurring in part, *post,* p. 2133. SCALIA, J., filed an opinion concurring in the judgment, in which GINSBURG, J., joined, *post,* p. 2133. STEVENS, J., filed a dissenting opinion, in which SOUTER, J., joined, *post,* p. 2138.

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Opinion

****2129** Chief Justice REHNQUIST delivered the opinion of the Court except as to footnote 4.

***617** In *New York v. Belton,* 453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768 (1981), we held that when a police officer has made a lawful custodial arrest of an occupant of an automobile, the Fourth Amendment allows the officer to search the passenger compartment of that vehicle as a contemporaneous incident of arrest. We have granted certiorari twice before to determine whether *Belton's* rule is limited to situations where the officer makes contact with the occupant while the occupant is inside the vehicle, or whether it applies as well when the officer first makes contact with the arrestee after the latter has stepped out of his vehicle. We did not reach the merits in either of those two cases. *Arizona v. Gant,* 540 U.S. 963, 124 S.Ct. 461, 157 L.Ed.2d 308 (2003) (vacating and remanding for reconsideration in light of *State v. Dean,* 206 Ariz. 158, 76 P.3d 429 (2003) (en banc)); *Florida v. Thomas,* 532 U.S. 774, 121 S.Ct. 1905, 150 L.Ed.2d 1 (2001) (dismissing for lack of jurisdiction). We now reach that question and

conclude that *Belton* governs even when an officer does not make contact until the person arrested has left the vehicle.

Officer Deion Nichols of the Norfolk, Virginia, Police Department, who was in uniform but driving an unmarked police car, first noticed petitioner Marcus Thornton when petitioner slowed down so as to avoid driving next to him. Nichols suspected that petitioner knew he was a police officer and for some reason did not want to pull next to him. His suspicions aroused, Nichols pulled off onto a side street ***618** and petitioner passed him. After petitioner passed him, Nichols ran a check on petitioner's license tags, which revealed that the tags had been issued to a 1982 Chevy two-door and not to a Lincoln Town Car, the model of car petitioner was driving. Before Nichols had an opportunity to pull him over, petitioner drove into a parking lot, parked, and got out of the vehicle. Nichols saw petitioner leave his vehicle as he pulled in behind him. He parked the patrol car, accosted petitioner, and asked him for his driver's license. He also told him that his license tags did not match the vehicle that he was driving.

Petitioner appeared nervous. He began rambling and licking his lips; he was sweating. Concerned for his safety, Nichols asked petitioner if he had any narcotics or weapons on him or in his vehicle. Petitioner said no. Nichols then asked petitioner if he could pat him down, to which petitioner agreed. Nichols felt a bulge in petitioner's left front pocket and again asked him if he had any illegal narcotics on him. This time petitioner stated that he did, and he reached into his pocket and pulled out two individual bags, one containing three bags of marijuana and the other containing a large amount of crack cocaine. Nichols handcuffed petitioner, informed him that he was under arrest, and placed him in the back seat of the patrol car. He then searched petitioner's vehicle and found a BryCo 9–millimeter handgun under the driver's seat.

A grand jury charged petitioner with possession with intent to distribute cocaine base, 84 Stat. 1260, 21 U.S.C. § 841(a)(1), possession of a firearm after having been previously convicted of a crime punishable by a term of imprisonment exceeding one year, 18 U.S.C. § 922(g)(1), and possession of a firearm in furtherance of a drug trafficking crime, § 924(c)(1). Petitioner sought to suppress, *inter alia,* the firearm as the fruit of an unconstitutional search. After a hearing, the District Court denied petitioner's motion to suppress, holding that the automobile search was valid under ***619** *New York v. Belton, supra,* and alternatively ****2130** that Nichols could have conducted an inventory search of the automobile. A jury convicted petitioner on all three counts; he was sentenced to 180 months' imprisonment and 8 years of supervised release.

Petitioner appealed, challenging only the District Court's denial of the suppression motion. He argued that *Belton* was limited to situations where the officer initiated contact with an arrestee while he was still an occupant of the car. The United States Court of Appeals for the Fourth Circuit affirmed. 325 F.3d 189 (2003). It held that "the historical rationales for the search incident to arrest doctrine—'the need to disarm the suspect in order to take him into custody' and 'the need to preserve evidence for later use at trial,' " *id.,* at 195 (quoting *Knowles v. Iowa,* 525 U.S. 113, 116, 119 S.Ct. 484, 142 L.Ed.2d 492 (1998)), did not require *Belton* to be limited solely to situations in which suspects were still in their vehicles when approached by the police. Noting that petitioner conceded that he was in "close proximity, both temporally and spatially," to his vehicle, the court concluded that the car was within petitioner's immediate control, and thus Nichols' search was reasonable under *Belton*.[1] 325 F.3d, at 196. We granted certiorari, 540 U.S. 980, 124 S.Ct. 463, 157 L.Ed.2d 370 (2003), and now affirm.

In *Belton,* an officer overtook a speeding vehicle on the New York Thruway and ordered its driver to pull over. 453 U.S., at 455, 101 S.Ct. 2860. Suspecting that the occupants possessed marijuana, the officer directed them to get out of the car and arrested them for unlawful possession. *Id.,* at 454–455, 101 S.Ct. 2860. He searched them and then searched the passenger compartment of the car. *Id.,* at 455, 101 S.Ct. 2860. We considered the constitutionally permissible scope of a search in these circumstances and sought to lay down a workable rule governing that situation.

***620** We first referred to *Chimel v. California,* 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969), a case where the arrestee was arrested in his home, and we had described the scope of a search incident to a lawful arrest as the person of the arrestee and the area immediately surrounding him. 453 U.S., at 457, 101 S.Ct. 2860 (citing *Chimel, supra,* at 763, 89 S.Ct. 2034). This rule was justified by the need to remove any weapon the arrestee

might seek to use to resist arrest or to escape, and the need to prevent the concealment or destruction of evidence. 453 U.S., at 457, 101 S.Ct. 2860. Although easily stated, the *Chimel* principle had proved difficult to apply in specific cases. We pointed out that in *United States v. Robinson,* 414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973), a case dealing with the scope of the search of the arrestee's person, we had rejected a suggestion that " 'there must be litigated in each case the issue of whether or not there was present one of the reasons supporting the authority' " to conduct such a search. 453 U.S., at 459, 101 S.Ct. 2860 (quoting *Robinson, supra,* at 235, 94 S.Ct. 467). Similarly, because "courts ha[d] found no workable definition of 'the area within the immediate control of the arrestee' when that area arguably include[d] the interior of an automobile and the arrestee [wa]s its recent occupant," 453 U.S., at 460, 101 S.Ct. 2860, we sought to set forth a clear rule for police officers and citizens alike. We therefore held that "when a policeman has made a lawful custodial arrest of the occupant of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger ****2131** compartment of that automobile." *Ibid.* (footnote omitted).

In so holding, we placed no reliance on the fact that the officer in *Belton* ordered the occupants out of the vehicle, or initiated contact with them while they remained within it. Nor do we find such a factor persuasive in distinguishing the current situation, as it bears no logical relationship to *Belton's* rationale. There is simply no basis to conclude that the span of the area generally within the arrestee's immediate control is determined by whether the arrestee exited the ***621** vehicle at the officer's direction, or whether the officer initiated contact with him while he remained in the car. We recognized as much, albeit in dicta, in *Michigan v. Long,* 463 U.S. 1032, 103 S.Ct. 3469, 77 L.Ed.2d 1201 (1983), where officers observed a speeding car swerve into a ditch. The driver exited and the officers met him at the rear of his car. Although there was no indication that the officers initiated contact with the driver while he was still in the vehicle, we observed that "[i]t is clear ... that if the officers had arrested [respondent] ... they could have searched the passenger compartment under *New York v. Belton.*" *Id.,* at 1035–1036, and n. 1, 103 S.Ct. 3469.

In all relevant aspects, the arrest of a suspect who is next to a vehicle presents identical concerns regarding officer safety and the destruction of evidence as the arrest of one who is inside the vehicle. An officer may search a suspect's vehicle under *Belton* only if the suspect is arrested. See *Knowles, supra,* at 117–118, 119 S.Ct. 484. A custodial arrest is fluid and "[t]he danger to the police officer flows from *the fact of the arrest,* and its attendant proximity, stress, and uncertainty," *Robinson, supra,* at 234–235, and n. 5, 94 S.Ct. 467 (emphasis added). See *Washington v. Chrisman,* 455 U.S. 1, 7, 102 S.Ct. 812, 70 L.Ed.2d 778 (1982) ("Every arrest must be presumed to present a risk of danger to the arresting officer"). The stress is no less merely because the arrestee exited his car before the officer initiated contact, nor is an arrestee less likely to attempt to lunge for a weapon or to destroy evidence if he is outside of, but still in control of, the vehicle. In either case, the officer faces a highly volatile situation. It would make little sense to apply two different rules to what is, at bottom, the same situation.

In some circumstances it may be safer and more effective for officers to conceal their presence from a suspect until he has left his vehicle. Certainly that is a judgment officers should be free to make. But under the strictures of petitioner's proposed "contact initiation" rule, officers who do so would be unable to search the car's passenger compartment ***622** in the event of a custodial arrest, potentially compromising their safety and placing incriminating evidence at risk of concealment or destruction. The Fourth Amendment does not require such a gamble.

Petitioner argues, however, that *Belton* will fail to provide a "bright-line" rule if it applies to more than vehicle "occupants." Brief for Petitioner 29–34. But *Belton* allows police to search the passenger compartment of a vehicle incident to a lawful custodial arrest of both "occupant[s]" and "recent occupant[s]." 453 U.S., at 460, 101 S.Ct. 2860. Indeed, the respondent in *Belton* was not inside the car at the time of the arrest and search; he was standing on the highway. In any event, while an arrestee's status as a "recent occupant" may turn on his temporal or spatial relationship to the car at the time of the arrest and search, [2] it certainly does not turn on ****2132** whether he was inside or outside the car at the moment that the officer first initiated contact with him.

To be sure, not all contraband in the passenger compartment is likely to be readily accessible to a "recent occupant." It is unlikely in this case that petitioner could have reached under the driver's seat for his gun

once he was outside of his automobile. But the firearm and the passenger compartment in general were no more inaccessible than were the contraband and the passenger compartment in *Belton.* The ***623** need for a clear rule, readily understood by police officers and not depending on differing estimates of what items were or were not within reach of an arrestee at any particular moment, justifies the sort of generalization which *Belton* enunciated. [3] Once an officer determines that there is probable cause to make an arrest, it is reasonable to allow officers to ensure their safety and to preserve evidence by searching the entire passenger compartment.

Rather than clarifying the constitutional limits of a *Belton* search, petitioner's "contact initiation" rule would obfuscate them. Under petitioner's proposed rule, an officer approaching a suspect who has just alighted from his vehicle would have to determine whether he actually confronted or signaled confrontation with the suspect while he remained in the car, or whether the suspect exited his vehicle unaware of, and for reasons unrelated to, the officer's presence. This determination would be inherently subjective and highly fact specific, and would require precisely the sort of ad hoc determinations on the part of officers in the field and reviewing courts that *Belton* sought to avoid. *Id.,* at 459–460, 101 S.Ct. 2860. Experience has shown that such a rule is impracticable, and we refuse to adopt it. So long as an arrestee is the sort of "recent ***624** occupant" of a vehicle such as petitioner was here, officers may search that vehicle incident to the arrest. [4]

****2133** The judgment of the Court of Appeals is affirmed.

It is so ordered.

Justice O'CONNOR, concurring in part.

I join all but footnote 4 of the Court's opinion. Although the opinion is a logical extension of the holding of *New York v. Belton,* 453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768 (1981), I write separately to express my dissatisfaction with the state of the law in this area. As Justice SCALIA forcefully argues, *post,* at 2133–2136 (opinion concurring in judgment), lower court decisions seem now to treat the ability to search a vehicle incident to the arrest of a recent occupant as a police entitlement rather than as an exception justified by the twin rationales of *Chimel v. California,* 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969). That erosion is a direct consequence of *Belton's* shaky foundation. While the approach ***625** Justice SCALIA proposes appears to be built on firmer ground, I am reluctant to adopt it in the context of a case in which neither the Government nor the petitioner has had a chance to speak to its merit.

Justice SCALIA, with whom Justice GINSBURG joins, concurring in the judgment.

In *Chimel v. California,* 395 U.S. 752, 762–763, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969), we held that a search incident to arrest was justified only as a means to find weapons the arrestee might use or evidence he might conceal or destroy. We accordingly limited such searches to the area within the suspect's " 'immediate control' "—*i.e.,* "the area into which an arrestee might reach in order to grab a weapon or evidentiary ite[m]." *Id.,* at 763, 89 S.Ct. 2034. In *New York v. Belton,* 453 U.S. 454, 460, 101 S.Ct. 2860, 69 L.Ed.2d 768 (1981), we set forth a bright-line rule for arrests of automobile occupants, holding that, because the vehicle's entire passenger compartment is "in fact generally, even if not inevitably," within the arrestee's immediate control, a search of the whole compartment is justified in every case.

When petitioner's car was searched in this case, he was neither in, nor anywhere near, the passenger compartment of his vehicle. Rather, he was handcuffed and secured in the back of the officer's squad car. The risk that he would nevertheless "grab a weapon or evidentiary ite[m]" from his car was remote in the extreme. The Court's effort to apply our current doctrine to this search stretches it beyond its breaking point, and for that reason I cannot join the Court's opinion.

I

I see three reasons why the search in this case might have been justified to protect ****2134** officer safety or prevent concealment or destruction of evidence. None ultimately persuades me.

The first is that, despite being handcuffed and secured in the back of a squad car, petitioner might have escaped and ***626** retrieved a weapon or evidence from his vehicle—a theory that calls to mind Judge Goldberg's reference to the mythical arrestee "possessed of the skill of Houdini

and the strength of Hercules." *United States v. Frick,* 490 F.2d 666, 673 (C.A.5 1973) (opinion concurring in part and dissenting in part). The United States, endeavoring to ground this seemingly speculative fear in reality, points to a total of seven instances over the past 13 years in which state or federal officers were attacked with weapons by handcuffed or formerly handcuffed arrestees. Brief for United States 38–39, and n. 12. These instances do not, however, justify the search authority claimed. Three involved arrestees who retrieved weapons concealed *on their own person.* See *United States v. Sanders,* 994 F.2d 200, 210, n. 60 (C.A.5 1993) (two instances); U.S. Dept. of Justice, Federal Bureau of Investigation, Uniform Crime Reports: Law Enforcement Officers Killed and Assaulted 49 (2001). Three more involved arrestees who seized a weapon *from the arresting officer.* See *Sanders, supra,* at 210, n. 60 (two instances); U.S. Dept. of Justice, Federal Bureau of Investigation, Uniform Crime Reports: Law Enforcement Officers Killed and Assaulted 49 (1998). Authority to search the arrestee's own person is beyond question; and of course no search could prevent seizure of the officer's gun. Only one of the seven instances involved a handcuffed arrestee who escaped from a squad car to retrieve a weapon from somewhere else: In *Plakas v. Drinski,* 19 F.3d 1143, 1144–1146 (C.A.7 1994), the suspect jumped out of the squad car and ran through a forest to a house, where (still in handcuffs) he struck an officer on the wrist with a fireplace poker before ultimately being shot dead.

Of course, the Government need not document specific instances in order to justify measures that avoid obvious risks. But the risk here is far from obvious, and in a context as frequently recurring as roadside arrests, the Government's inability to come up with even a single example of a handcuffed arrestee's retrieval of arms or evidence from his vehicle ***627** undermines its claims. The risk that a suspect handcuffed in the back of a squad car might escape and recover a weapon from his vehicle is surely no greater than the risk that a suspect handcuffed in his residence might escape and recover a weapon from the next room—a danger we held insufficient to justify a search in *Chimel, supra,* at 763, 89 S.Ct. 2034.

The second defense of the search in this case is that, since the officer could have conducted the search at the time of arrest (when the suspect was still near the car), he should not be penalized for having taken the sensible precaution of securing the suspect in the squad car first. As one Court of Appeals put it: " '[I]t does not make sense to prescribe a constitutional test that is entirely at odds with safe and sensible police procedures.' " *United States v. Mitchell,* 82 F.3d 146, 152 (C.A.7 1996) (quoting *United States v. Karlin,* 852 F.2d 968, 971 (C.A.7 1988)); see also *United States v. Wesley,* 293 F.3d 541, 548–549 (C.A.D.C.2002). The weakness of this argument is that it assumes that, one way or another, the search must take place. But conducting a *Chimel* search is not the Government's right; it is an exception—justified by necessity—to a rule that would otherwise render the search unlawful. If "sensible police procedures" require that suspects be handcuffed and put in squad cars, then police should handcuff suspects, put them in squad cars, and not conduct ****2135** the search. Indeed, if an officer leaves a suspect unrestrained nearby just to manufacture authority to search, one could argue that the search is unreasonable *precisely because* the dangerous conditions justifying it existed only by virtue of the officer's failure to follow sensible procedures.

The third defense of the search is that, even though the arrestee posed no risk here, *Belton* searches in general are reasonable, and the benefits of a bright-line rule justify upholding that small minority of searches that, on their particular facts, are not reasonable. The validity of this argument rests on the accuracy of *Belton's* claim that the passenger compartment is "in fact generally, even if not inevitably," within the suspect's immediate control. 453 U.S., at 460, 101 S.Ct. 2860. ***628** By the United States' own admission, however, "[t]he practice of restraining an arrestee on the scene before searching a car that he just occupied is so prevalent that holding that *Belton* does not apply in that setting would ... 'largely render *Belton* a dead letter.' " Brief for United States 36–37 (quoting *Wesley, supra,* at 548). Reported cases involving this precise factual scenario—a motorist handcuffed and secured in the back of a squad car when the search takes place—are legion. See, *e.g., United States v. Doward,* 41 F.3d 789, 791 (C.A.1 1994); *United States v. White,* 871 F.2d 41, 44 (C.A.6 1989); *Mitchell, supra,* at 152; *United States v. Snook,* 88 F.3d 605, 606 (C.A.8 1996); *United States v. McLaughlin,* 170 F.3d 889, 890 (C.A.9 1999); *United States v. Humphrey,* 208 F.3d 1190, 1202 (C.A.10 2000); *Wesley, supra,* at 544; see also 3 W. LaFave, Search and Seizure § 7.1(c), pp. 448–449, n. 79 (3d ed.1996 and Supp.2004) (citing cases). Some courts uphold such searches even when the squad car carrying the handcuffed arrestee has already left the scene. See, *e.g., McLaughlin,*

supra, at 890–891 (upholding search because only five minutes had elapsed since squad car left).

The popularity of the practice is not hard to fathom. If *Belton entitles* an officer to search a vehicle upon arresting the driver despite having taken measures that eliminate any danger, what rational officer would not take those measures? Cf. Moskovitz, A Rule in Search of a Reason: An Empirical Reexamination of *Chimel* and *Belton,* 2002 Wis. L.Rev. 657, 665–666 (citing police training materials). If it was ever true that the passenger compartment is "in fact generally, even if not inevitably," within the arrestee's immediate control at the time of the search, 453 U.S., at 460, 101 S.Ct. 2860, it certainly is not true today. As one judge has put it: "[I]n our search for clarity, we have now abandoned our constitutional moorings and floated to a place where the law approves of purely exploratory searches of vehicles during which officers with no definite objective or reason for the search are allowed to rummage around in a car to see what they might find." ***629** *McLaughlin, supra,* at 894 (Trott, J., concurring). I agree entirely with that assessment.

II

If *Belton* searches are justifiable, it is not because the arrestee might grab a weapon or evidentiary item from his car, but simply because the car might contain evidence relevant to the crime for which he was arrested. This more general sort of evidence-gathering search is not without antecedent. For example, in *United States v. Rabinowitz,* 339 U.S. 56, 70 S.Ct. 430, 94 L.Ed. 653 (1950), we upheld a search of the suspect's place of business after he was arrested there. We did not restrict the officers' search authority to "the area into which [the] arrestee might reach in order to grab a weapon or evidentiary ite[m]," ****2136** *Chimel,* 395 U.S., at 763, 89 S.Ct. 2034, and we did not justify the search as a means to prevent concealment or destruction of evidence.[1] Rather, we relied on a more general interest in gathering evidence relevant to the crime for which the suspect had been arrested. See 339 U.S., at 60–64, 70 S.Ct. 430; see also *Harris v. United States,* 331 U.S. 145, 151–152, 67 S.Ct. 1098, 91 L.Ed. 1399 (1947); *Marron v. United States,* 275 U.S. 192, 199, 48 S.Ct. 74, 72 L.Ed. 231 (1927); *Agnello v. United States,* 269 U.S. 20, 30, 46 S.Ct. 4, 70 L.Ed. 145 (1925); cf. *Weeks v. United States,* 232 U.S. 383, 392, 34 S.Ct. 341, 58 L.Ed. 652 (1914).

Numerous earlier authorities support this approach, referring to the general interest in gathering evidence related to the crime of arrest with no mention of the more specific interest in preventing its concealment or destruction. See *United States v. Wilson,* 163 F. 338, 340, 343 (C.C.S.D.N.Y.1908); *Smith v. Jerome,* 47 Misc. 22, 23–24, 93 N.Y.S. 202, 202–203 (Sup.Ct.1905); *Thornton v. State,* 117 Wis. 338, 346–347, 93 N.W. 1107, 1110 (1903); *Ex parte Hurn,* 92 Ala. 102, 112, 9 So. 515, 519–520 (1891); ***630** *Thatcher v. Weeks,* 79 Me. 547, 548–549, 11 A. 599, 599–600 (1887); 1 F. Wharton, Criminal Procedure § 97, pp. 136–137 (J. Kerr 10th ed.1918); 1 J. Bishop, Criminal Procedure § 211, p. 127 (2d ed. 1872); cf. *Spalding v. Preston,* 21 Vt. 9, 15, 1848 WL 1924 (1848) (seizure authority); *Queen v. Frost,* 9 Car. & P. 129, 131–134 (1839) (same); *King v. Kinsey,* 7 Car. & P. 447 (1836) (same); *King v. O'Donnell,* 7 Car. & P. 138 (1835) (same); *King v. Barnett,* 3 Car. & P. 600, 601 (1829) (same). Bishop's 1872 articulation is typical:

> "The officer who arrests a man on a criminal charge should consider the nature of the charge; and, if he finds about the prisoner's person, or otherwise in his possession, either goods or moneys which there is reason to believe are connected with the supposed crime as its fruits, or as the instruments with which it was committed, or as directly furnishing evidence relating to the transaction, he may take the same, and hold them to be disposed of as the court may direct." Bishop, *supra,* § 211, at 127.

Only in the years leading up to *Chimel* did we start consistently referring to the narrower interest in frustrating concealment or destruction of evidence. See *Sibron v. New York,* 392 U.S. 40, 67, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968); *Preston v. United States,* 376 U.S. 364, 367, 84 S.Ct. 881, 11 L.Ed.2d 777 (1964).

There is nothing irrational about broader police authority to search for evidence when and where the perpetrator of a crime is lawfully arrested. The fact of prior lawful arrest distinguishes the arrestee from society at large, and distinguishes a search for evidence of *his* crime from general rummaging. Moreover, it is not illogical to assume that evidence of a crime is most likely to be found where the suspect was apprehended.

Nevertheless, *Chimel's* narrower focus on concealment or destruction of evidence also has historical support. See ***631** *Holker v. Hennessey,* 141 Mo. 527, 539–540, 42

S.W. 1090, 1093 (1897); *Dillon v. O'Brien,* 16 Cox C.C. 245, 250 (Exch. Div.Ir.1887); *Reifsnyder v. Lee,* 44 Iowa 101, 103 (1876); S. Welch, Essay on the Office of Constable 17 (1758). [2] And some of the authorities **2137 supporting the broader rule address only searches of the arrestee's *person,* as to which *Chimel's* limitation might fairly be implicit. Moreover, carried to its logical end, the broader rule is hard to reconcile with the influential case of *Entick v. Carrington,* 19 How. St. Tr. 1029, 1031, 1063–1074 (C.P. 1765) (disapproving search of plaintiff's private papers under general warrant, despite arrest). But cf. *Dillon, supra,* at 250–251 (distinguishing *Entick*); *Warden, Md. Penitentiary v. Hayden,* 387 U.S. 294, 303–304, 87 S.Ct. 1642, 18 L.Ed.2d 782 (1967).

In short, both *Rabinowitz* and *Chimel* are plausible accounts of what the Constitution requires, and neither is so persuasive as to justify departing from settled law. But if we are going to continue to allow *Belton* searches on *stare decisis* grounds, we should at least be honest about why we are doing so. *Belton* cannot reasonably be explained as a mere application of *Chimel.* Rather, it is a return to the broader sort of search incident to arrest that we allowed before *Chimel*—limited, of course, to searches of motor vehicles, a category of "effects" which give rise to a reduced expectation of privacy, see *Wyoming v. Houghton,* 526 U.S. 295, 303, 119 S.Ct. 1297, 143 L.Ed.2d 408 (1999), and heightened law enforcement needs, see *id.,* at 304, 119 S.Ct. 1297; *Rabinowitz, supra,* at 73, 70 S.Ct. 430 (Frankfurter, J., dissenting).

Recasting *Belton* in these terms would have at least one important practical consequence. In *United States v. Robinson,* 414 U.S. 218, 235, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973), we held that authority to search an arrestee's person does not depend on the actual *632 presence of one of *Chimel's* two rationales in the particular case; rather, the fact of arrest alone justifies the search. That holding stands in contrast to *Rabinowitz,* where we did not treat the fact of arrest alone as sufficient, but upheld the search only after noting that it was "not general or exploratory for whatever might be turned up" but reflected a reasonable belief that evidence would be found. 339 U.S., at 62–63, 70 S.Ct. 430; see also *Smith,* 47 Misc., at 24, 93 N.Y.S., at 203 ("This right and duty of search and seizure extend, however, only to articles which furnish evidence against the accused"); cf. *Barnett, supra,* at 601 (seizure authority limited to relevant evidence); Bishop, *supra,* § 211, at 127 (officer should "consider the nature of the charge" before searching). The two different rules make sense: When officer safety or imminent evidence concealment or destruction is at issue, officers should not have to make fine judgments in the heat of the moment. But in the context of a general evidence-gathering search, the state interests that might justify any overbreadth are far less compelling. A motorist may be arrested for a wide variety of offenses; in many cases, there is no reasonable basis to believe relevant evidence might be found in the car. See *Atwater v. Lago Vista,* 532 U.S. 318, 323–324, 121 S.Ct. 1536, 149 L.Ed.2d 549 (2001); cf. *Knowles v. Iowa,* 525 U.S. 113, 118, 119 S.Ct. 484, 142 L.Ed.2d 492 (1998). I would therefore limit *Belton* searches to cases where it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.

In this case, as in *Belton,* petitioner was lawfully arrested for a drug offense. It was reasonable for Officer Nichols to believe that further contraband or similar evidence relevant to the crime for which he **2138 had been arrested might be found in the vehicle from which he had just alighted and which was still within his vicinity at the time of arrest. I would affirm the decision below on that ground. [3]

Justice STEVENS, with whom Justice SOUTER joins, dissenting.

*633 Prior to our decision in *New York v. Belton,* 453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768 (1981), there was a widespread conflict among both federal and state courts over the question "whether, in the course of a search incident to the lawful custodial arrest of the occupants of an automobile, police may search inside the automobile after the arrestees are no longer in it." *Id.,* at 459, 101 S.Ct. 2860. In answering that question, the Court expanded the authority of the police in two important respects. It allowed the police to conduct a broader search than our decision in *Chimel v. California,* 395 U.S. 752, 762–763, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969), would have permitted, [1] and it authorized them to open closed containers that might be found in the vehicle's passenger compartment. [2]

*634 *Belton's* basic rationale for both expansions rested not on a concern for officer safety, but rather on an overriding desire to hew "to a straightforward rule, easily applied, and predictably enforced." 453 U.S., at

459, 101 S.Ct. 2860.[3] When the case was decided, I was persuaded that the important interest in clarity and certainty adequately justified the modest extension of the *Chimel* rule to permit an officer to examine the interior of a car pursuant to an arrest for a traffic violation. ****2139** But I took a different view with respect to the search of containers within the car absent probable cause, because I thought "it palpably unreasonable to require the driver of a car to open his briefcase or his luggage for inspection by the officer." *Robbins v. California,* 453 U.S. 420, 451–452, 101 S.Ct. 2841, 69 L.Ed.2d 744 (1981) (dissenting opinion).[4] I remain convinced that this aspect of the *Belton* opinion was both unnecessary and erroneous. Whether one agrees or disagrees with that view, however, the interest in certainty that supports *Belton's* bright-line rule surely does not justify an expansion of the rule that only blurs those clear lines. Neither the rule in *Chimel* nor *Belton's* modification of that rule would have allowed the search of petitioner's car.

A fair reading of the *Belton* opinion itself, and of the conflicting cases that gave rise to our grant of certiorari, makes ***635** clear that we were not concerned with the situation presented in this case. The Court in *Belton* noted that the lower courts had discovered *Chimel's* reaching-distance principle difficult to apply in the context of automobile searches incident to arrest, and that "no straightforward rule ha[d] emerged from the litigated cases." 453 U.S., at 458–459, 101 S.Ct. 2860. None of the cases cited by the Court to demonstrate the disarray in the lower courts involved a pedestrian who was in the vicinity, but outside the reaching distance, of his or her car.[5] Nor did any of the decisions cited in the petition for a writ of certiorari[6] present such a case.[7] Thus, *Belton* was demonstrably concerned only with the narrow but common circumstance of a search occasioned by the arrest of a suspect who was seated in or driving an automobile at the time the law enforcement official approached. Normally, after such an arrest has occurred, the officer's ****2140** safety is no ***636** longer in jeopardy, but he must decide what, if any, search for incriminating evidence he should conduct. *Belton* provided previously unavailable and therefore necessary guidance for that category of cases.

The bright-line rule crafted in *Belton* is not needed for cases in which the arrestee is first accosted when he is a pedestrian, because *Chimel* itself provides all the guidance that is necessary. The only genuine justification for extending *Belton* to cover such circumstances is the interest in uncovering potentially valuable evidence. In my opinion, that goal must give way to the citizen's constitutionally protected interest in privacy when there is already in place a well-defined rule limiting the permissible scope of a search of an arrested pedestrian. The *Chimel* rule should provide the same protection to a "recent occupant" of a vehicle as to a recent occupant of a house.

Unwilling to confine the *Belton* rule to the narrow class of cases it was designed to address, the Court extends *Belton's* reach without supplying any guidance for the future application of its swollen rule. We are told that officers may search a vehicle incident to arrest "[s]o long as [the] arrestee is the sort of 'recent occupant' of a vehicle such as petitioner was here." *Ante,* at 2132. But we are not told how recent is recent, or how close is close, perhaps because in this case "the record is not clear." 325 F.3d 189, 196 (C.A.4 2003). As the Court cautioned in *Belton* itself, "[w]hen a person cannot know how a court will apply a settled principle to a recurring factual situation, that person cannot know the scope of his constitutional protection, nor can a policeman know the scope of his authority." 453 U.S., at 459–460, 101 S.Ct. 2860. Without some limiting principle, I fear that today's decision will contribute to "a massive broadening of the automobile exception," *Robbins,* 453 U.S., at 452, 101 S.Ct. 2841 (STEVENS, J., dissenting), when officers have probable cause to arrest an individual but not to search his car.

Accordingly, I respectfully dissent.

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Footnotes

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.,* 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

1 The Court of Appeals did not reach the District Court's alternative holding that Nichols could have conducted a lawful inventory search. 325 F.3d, at 196.

2 Petitioner argues that if we reject his proposed "contact initiation" rule, we should limit the scope of *Belton* to "recent occupant[s]" who are within "reaching distance" of the car. Brief for Petitioner 35–36. We decline to address petitioner's argument, however, as it is outside the question on which we granted certiorari, see this Court's Rule 14.1(a), and was not addressed by the Court of Appeals, see *Peralta v. Heights Medical Center, Inc.,* 485 U.S. 80, 86, 108 S.Ct. 896, 99 L.Ed.2d 75 (1988). We note that it is unlikely that petitioner would even meet his own standard as he apparently conceded in the Court of Appeals that he was in "close proximity, both temporally and spatially," to his vehicle when he was approached by Nichols. 325 F.3d 189, 196 (C.A.4 2003).

3 Justice STEVENS contends that *Belton's* bright-line rule "is not needed for cases in which the arrestee is first accosted when he is a pedestrian, because *Chimel* [v. *California,* 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969),] itself provides all the guidance that is necessary." *Post,* at 2140 (dissenting opinion). Under Justice STEVENS' approach, however, even if the car itself was within the arrestee's reaching distance under *Chimel,* police officers and courts would still have to determine whether a particular object within the passenger compartment was also within an arrestee's reaching distance under *Chimel.* This is exactly the type of unworkable and fact-specific inquiry that *Belton* rejected by holding that the entire passenger compartment may be searched when " 'the area within the immediate control of the arrestee' ... arguably includes the interior of an automobile and the arrestee is its recent occupant." 453 U.S., at 460, 101 S.Ct. 2860.

4 Whatever the merits of Justice SCALIA's opinion concurring in the judgment, this is the wrong case in which to address them. Petitioner has never argued that *Belton* should be limited "to cases where it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle," *post,* at 2137–38, nor did any court below consider Justice SCALIA's reasoning. See *Pennsylvania Dept. of Corrections v. Yeskey,* 524 U.S. 206, 212–213, 118 S.Ct. 1952, 141 L.Ed.2d 215 (1998) (" 'Where issues are neither raised before nor considered by the Court of Appeals, this Court will not ordinarily consider them' " (quoting *Adickes v. S.H. Kress & Co.,* 398 U.S. 144, 147, n. 2, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970))). The question presented—"[w]hether the bright-line rule announced in *New York v. Belton* is confined to situations in which the police initiate contact with the occupant of a vehicle while that person is in the vehicle," Pet. for Cert. —does not fairly encompass Justice SCALIA's analysis. See this Court's Rule 14.1(a) ("Only the questions set out in the petition, or fairly included therein, will be considered by the Court"). And the United States has never had an opportunity to respond to such an approach. See *Yee v. Escondido,* 503 U.S. 519, 536, 112 S.Ct. 1522, 118 L.Ed.2d 153 (1992). Under these circumstances, it would be imprudent to overrule, for all intents and purposes, our established constitutional precedent, which governs police authority in a common occurrence such as automobile searches pursuant to arrest, and we decline to do so at this time.

1 We did characterize the entire office as under the defendant's "immediate control," 339 U.S., at 61, 70 S.Ct. 430, but we used the term in a broader sense than the one it acquired in *Chimel.* Compare 339 U.S., at 61, 70 S.Ct. 430, with 395 U.S., at 763, 89 S.Ct. 2034.

2 *Chimel's* officer-safety rationale has its own pedigree. See *Thornton v. State,* 117 Wis. 338, 346–347, 93 N.W. 1107, 1110 (1903); *Ex parte Hurn,* 92 Ala. 102, 112, 9 So. 515, 519–520 (1891); *Closson v. Morrison,* 47 N.H. 482, 484–485 (1867); *Leigh v. Cole,* 6 Cox C.C. 329, 332 (Oxford Cir. 1853); Welch, Essay on the Office of Constable, at 17.

3 The Court asserts that my opinion goes beyond the scope of the question presented, citing this Court's Rule 14.1(a). *Ante,* at 2132–2133, n. 4. That Rule, however, does not constrain our authority to reach issues presented by the case, see *Vance v. Terrazas,* 444 U.S. 252, 259, n. 5, 100 S.Ct. 540, 62 L.Ed.2d 461 (1980); *Tennessee Student Assistance Corporation v. Hood, ante,* 541 U.S., at 443, 124 S.Ct. 1905, and in any event does not apply when the issue is necessary to an intelligent resolution of the question presented, see *Ohio v. Robinette,* 519 U.S. 33, 38, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996).

1 The Court gleaned from the case law "the generalization that articles inside the relatively narrow compass of the passenger compartment of an automobile are in fact generally, even if not inevitably, within 'the area into which an arrestee might reach in order to grab a weapon or evidentiary ite[m].' " *Belton,* 453 U.S., at 460, 101 S.Ct. 2860 (quoting *Chimel,* 395 U.S., at 763, 89 S.Ct. 2034). "In order to establish the workable rule this category of cases require[d]," the Court then read "*Chimel's* definition of the limits of the area that may be searched in light of that generalization." 453 U.S., at 460, 101 S.Ct. 2860. Thus, *Belton* held "that when a policeman has made a lawful custodial arrest of the occupant

of an automobile, he may, as a contemporaneous incident of that arrest, search the passenger compartment of that automobile." *Ibid.* (footnote omitted).

2 Because police lawfully may search the passenger compartment of the automobile, the Court reasoned, it followed "that the police may also examine the contents of any containers found within the passenger compartment, for if the passenger compartment is within reach of the arrestee, so also will containers in it be within his reach .... Such a container may, of course, be searched whether it is open or closed, since the justification for the search is not that the arrestee has no privacy interest in the container, but that the lawful custodial arrest justifies the infringement of any privacy interest the arrestee may have." *Id.,* at 460–461, 101 S.Ct. 2860 (footnote omitted).

3 The Court extolled the virtues of " '[a] single, familiar standard ... to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront.' " *Id.,* at 458, 101 S.Ct. 2860 (quoting *Dunaway v. New York,* 442 U.S. 200, 213–214, 99 S.Ct. 2248, 60 L.Ed.2d 824 (1979)).

4 In *Robbins,* a companion case to *Belton,* the Court held that police officers cannot open closed, opaque containers found in the trunk of a car during a lawful but warrantless search. 453 U.S., at 428, 101 S.Ct. 2841 (plurality opinion). Because the officer in *Robbins* had probable cause to believe the car contained marijuana, I would have applied the automobile exception to sustain the search. *Id.,* at 452, 101 S.Ct. 2841 (dissenting opinion). But I expressed concern that authorizing police officers to search containers in the passenger compartment without probable cause would "provide the constitutional predicate for broader vehicle searches than any neutral magistrate could authorize by issuing a warrant." *Ibid.*

5 See *United States v. Benson,* 631 F.2d 1336, 1337 (C.A.8 1980) (defendant arrested "while sitting in a car"); *United States v. Sanders,* 631 F.2d 1309, 1311–1312 (C.A.8 1980) (occupants in car at time officers approached); *United States v. Rigales,* 630 F.2d 364, 365 (C.A.5 1980) (defendant apprehended during traffic stop); *United States v. Dixon,* 558 F.2d 919, 922 (C.A.9 1977) ("[T]he agents placed appellant under arrest while he was still in his car"); *United States v. Frick,* 490 F.2d 666, 668, 669 (C.A.5 1973) (defendant arrested "at his car in the parking lot adjacent to his apartment building"; at time of arrest, attache case in question was lying on back seat of car "approximately two feet from the defendant" and "readily accessible" to him); *Hinkel v. Anchorage,* 618 P.2d 1069 (Alaska 1980) (defendant arrested while in car immediately following collision); *Ulesky v. State,* 379 So.2d 121, 123 (Fla.App.1979) (defendant arrested while in car during traffic stop).

6 Pet. for Cert. in *New York v. Belton,* O.T.1980, No. 80–328, p. 7.

7 See *United States v. Agostino,* 608 F.2d 1035, 1036 (C.A.5 1979) (suspect in car when notified of police presence); *United States v. Neumann,* 585 F.2d 355, 356 (C.A.8 1978) (defendant stopped by police while in car); *United States v. Foster,* 584 F.2d 997, 999–1000 (C.A.D.C.1978) (suspects seated in parked car when approached by officer); *State v. Hunter,* 299 N.C. 29, 33, 261 S.E.2d 189, 192 (1980) (defendant pulled over and arrested while in car); *State v. Wilkens,* 364 So.2d 934, 936 (La.1978) (defendant arrested in automobile).