

**S 1. Rights and Freedoms: Guarantees w/ limits**

Some rights can be limited if legislated, taking a roadside sample if reason to suspect drinking & driving. Can pull you over for a roadblock, etc.

**S 9. Detention or Imprisonment: Everyone has the right not to be arbitrarily detained or imprisoned.**

**Guarantees:** s 10, if detained have right to be advised reasons why, retain counsel, validity of DT determined by court/lawful authority, therefore must determine when at what point detention occurs. Can lawfully resist when arrest is unlawful (*Biron*). **WAS THERE A DETENTION?** “a state agent, by way of physical or psychological restraint takes away an individual's choice simply to walk away”. (Therens). 2 situations where the courts have recognising psychological constraint amounting to detention: 1) where the subject is legally required to comply with direction or demand (roadside breath sample 2) when there is no legal obligation, but a reasonable person would feel obligated (Grant). Explicit interference: physical interference, or physiological where legally req'd to comply w/ express demand. “Compulsory restraint” no legal compulsion but submits to DT because reasonably believes they were being detained... Look to: **Therens Test:** Would a reasonable person in subject's position believe they were being detained? Consider... *Individual's perception* at the time, was PO singling out individual for focussed investigation, or was PO providing general assistance, maintaining general order, making general inquiries regarding particular occurrence. *The nature of the police conduct:* the language used, physical contact, place of interaction, status, level of sophistication, did beh'r or conduct demonstrate authority? *Particular characteristics of the individual:* age, physical stature, minority status, level of sophistication. (Grant) **WAS DETENTION AUTHORISED BY LAW? Was it arbitrary?** DTs not authorised by law are *prima facie* unreasonable (Grant). Look to statutes, look to case law: **Waterfield Test:** (*Mann*): Does PO conduct that gave rise to interference fall within general scope of PO duties? (preserve peace, prevent crime, protect life and property) *If no > unlawful, if yes, this question:* Was the conduct involved in an unjustifiable use of power associated with the duty? Apply **Simpson Test:** Consider the extent to which interference with indiv liberty is necessary in order for PO to perform that duty, the importance of performance of that duty to public good, the nature and extent of interference. **WAS DETENTION REASONABLE?** Look at totality of circumstances underlying PO's suspicion that DT of indiv is reasonable necessary (*Mann*). Apply the **Clayton Factors:** Nature of the situation, how serious the offence is, what info is known to PO about suspect or crime? Extent to which DT was reasonably responsive/tailored to circumstances, including its geographic and temporal scope. **Investigative detention established in Mann:** Brief investigative detention based on “reasonable suspicion” is lawful; therefore detention in absence of at least reasonable suspicion = unlawful, therefore **arbitrary** within s. 9. **Grant:** Non-arbitrary: for detention to be non-arbitrary, must be authorised by a law which is not arbitrary. **General Question of Arbitrariness:** A discretion is arbitrary if there are no criteria, express or implied, which govern its exercise, or has it been authorised? **Define detention:** must be some form of compulsion or coercion that interferes with liberty or freedom, which amounts to detention. **Policy:** Concerned with addressing the power between the state and the person under its control. Person who is detained should retain an informed and effective choice whether to speak to authorities, consistent with overarching principle against self-incrimination. **Invokes:** Charter guarantee, only if someone has been detained that other rights are triggered. (S. 10 if detained, right to be advised of right to counsel) If find unlawful detention, then evidence gained from detention can potentially be excluded under S 24(2). **SETTING UP THE COMMON LAW “TERRAIN”:** *Mann* - entitled to detain the accused for investigative purposes and to conduct a pat-down search to ensure their safety, but the search of pockets was unjustified and the evidence discovered therein must be excluded. DT is allowed if there are *reasonable grounds* to suspect that the individual is connected to a particular crime and that the DT is reasonably necessary on an objective view of the circumstances. *Golden* - If common law right to detain > automatic right to search, limited for purposes of safety. **Grant: not lawful** - was arbitrary and in breach of s 9, police had no info that Grant was involved in criminal activity or whether a crime has been committed. Moment of DT was when he was told to keep his hands in front of him. **Peck: not lawful** - breaches of s 8,9,10 were serious ones, admission of evidence would bring administration of justice into disrepute, articulate psychological factors that influence a person to feel detained. **Mann lawful** - based on rec'd call and he matched description, when: pat down. **Suberu lawful** - issue of whether PO was obliged to caution of rights to counsel, court says no because preliminary investigation and not detention. **Moore lawful** - found that because he had breached a bylaw, under an obligation to provide police with name. **Common law auth'n for investigative detentions:** **Mann:** only justified at common law if the detaining officer has some *articulable cause or reasonable grounds* - the DT must be viewed as necessary on the objective view of the totality of the circumstances, clear connection between the person being detained and the on-going criminal offence. **Grant Test: (Collins test modified for DT):** 1) does the search have leg've authority? (Leg've framework) 2) Was the law reasonable (does the leg've authority violate the charter?) 3) was the search/detention conducted in a reasonable manner? (what happened on the ground?) *Note:* onus on accused to show violation of one of the 3 elements (est'd on a balance of probabilities) > once potential problem est'd, onus shifts to gov't to establish that it was reasonable.

**S 8. Search or Seizure: Everyone has the right to be secure against unreasonable search or seizure.**

**OVERALL:** Everyone has right to be secure against unreasonable search and seizure. Protect a reasonable exp'n of privacy (*Hunter*). Reasonable search (*Hunter* - gold standard): prior authorisation, RPG for search, search was conducted reasonably and within scope of warrant. No req's if

there is no REP. **Collins** establish reasonableness of warrantless search a) search was authorised by law b) law is reasonable c) search done in reasonable manner **Hunter** (to est. reasonableness of warrantless search, because s.8 is to protect REP) When does the public's interest in being left alone get trumped by the state's interest in achieving its goals? a) balance of interests assessed before the intrusion - obtain a warrant b) independent commission must grant authorisation c) balance of interests assessment will vary with the severity of the predicted harm and of the state infringement d) courts should not read into or read down leg'n authorising search to make it consistent with the Charter. **Gold Standard** prior auth'n, RPG for search, search conducted reasonably and within the scope of the warrant. **POLICY Grant:** General principle that a person's liberty is not to be interfered with unless in accordance with Principles of Fundamental Justice - detention is arbitrary if PO lacked legal grounds. **R. v. AM:** S. 8 must be interpreted purposively to further interests that it was intended to protect (may go beyond privacy, but at least go that far). 1) Recognition of the type of society that Canadians want to live in, 2) focus on the impact on the subject of the s&s: incl. disruption, inconvenience, potential emb'ment. 3) reason why police want info and the gravity of the situation 4) court considers the significance of the info obtained as a result. \* balancing the societal interest protecting indiv'l dignity, integrity, autonomy with effective law enforcement. Balance reasonable expt'n of privacy vs gov't interests in enforcement.

**[1] WAS THERE A SEARCH? 1) Was there a reasonable exp'n of privacy?** Accused must establish this (*MRM*). If no reasonable exp'n of privacy, then was not a search and thus no s. 8 violation. To assess reasonableness of privacy interest court looks at totality of the circumstances (*Tessling*). **Must consider context:** (*Patrick*) > may have exp'n of privacy, but is reduced in some circumstances (*MRM*). **Tessling test:** “purposive approach” > applied in *Patrick* no reasonable exp'n of privacy regarding garbage. *What is the nature or subject matter of evidence gathered by PO?* Did accused have direct interest in the contents? *Did accused have a subjective exp'n of privacy?* Would the exp'n be found *objectively* reasonable by another person? (*Consider: where the search occurred, was it in public view, was it abandoned was in hands of third party & if so was there an obligation of confidentiality? Was PO's technique intrusive in relation to privacy interest? Was evidence gathering technique objectively unreasonable? Did info/content expose intimate/biographic details of accused's lifestyle?*) **Edwards Test (MRM):** Accused's presence at time of search, possession/control of property/place searched; ownership of property/placel historical usage of property/item; ability to regulate access; subjective exp'n of privacy; objective reasonableness of exp'n.

**2) Is the law reasonable?** Balance individual's rights (privacy) w/ gov't interest (protecting public safety and enforcing the law) (*Hunter*). A) When should balance of interests be assessed? B) Who must grant the authorisation? (case law: Judge or other neutral and impartial party capable of acting judicially or a statute. C) On what criteria should balance of interests be assessed? D) *Binnie J.'s test:* (dissent in *AM*) - sniffer dogs at school, less weight. totality of circumstances, why constitutional protection? What kind of society? (age, vulnerability, gender, etc). Impact of search on individual, disruption, inconvenience, embarrassment for innocent individuals subject to “intrusive” search method. Why does PO want info? If to stop immediate threat then more intrusive method is justified. How significant is evidence obtained? Court must consider how meaningful info is to case. Courts must deal with what's presented as reality: social impacts of precedent? Policy considerations? **[2] WAS THE SEARCH REASONABLE? 1) Was there legal authority for the search?** **Hunter:** warrantless search assumed unreasonable, R must show that it was reasonable. Must have authority of warrant issued by J under s. 487 or authority of leg'n providing warrant or warrant-like process. Presumption that warrantless search is unconstitutional but case law permits from warrantless searches: a) S incident to valid arrest > must relate to reasons for the arrest, arrest and detention must both be valid (*Golden*) b) custodial search > strip? > more intrusive search justified because introduced to prison pop'n, for weapons etc. c) S incident to investigative DT > pat down/ frisk > very limited (*Mann*). School officials may do warrantless s&s if acting within scope of job and not as agent of PO (*MRM*) > policy is to protect children at school. *Test:* would search have taken place in same form & manner if no PO involvement if yes, then not acting as agent of PO. **2) If search is w/o warrant, were there RPG for search? Look to objective facts (AM).** Reasonable suspicion lesser standard, but sometimes applied in caselaw (*Kang-Brown*). Both require subjective believe supported by obj've facts that could be adduced in evidence, diff. b/w them is degree of probability that person involved in crim'l act (how likely they did it based on facts (*K-B*). **MRM test:** *Was action justified when it began? le obj've facts support reasonable suspicion/probability? Was search reasonably rel'd to circumstance which justified interference? (if arrested > PO can search to preserve evidence, weapons, as before).* If S conducted because of **informer's tip**, court considers 1) was info predicting offence compelling? 2) was source credible? 3) info corroborated by PO investigation before conducting S (*Martin* 1829). **Strip Search:** 1) AR must be lawful 2) S must be incident to AR who & where 3) must have RPG for strip (weapons, evidence, etc) (*Golden*) Should be at station unless threaten PO safety (*Golden*) Even at station may be unrb'le if no pat down 1st & violates privacy (videotape) (*SF*). **[3] WAS THE SEARCH CONDUCTED REASONABLY?** Onus on R. POs must show reason&restraint during S (*Gogol*) Unnec./excessive force (eg. Cuffs/pepperspray *Hamilton*), unwarranted destruction of property (*Gogol*). Strip S (most circs.), # of POs to conduct S (*Lewis*), videotaping even if at station (*SF*). Consider accused subjective feelings > *Hornick* patrons felt stripped b/c nude when POs arrived, even though POs didn't order to strip.

**TESTS 3 Steps for Legal Search from Collins:** 1) must be auth'd by law a) enabling statute s. 487 (allows someone to issue a warrant, that person must be 'capable of acting in a judicial capacity, and has reasonable and probable grounds to think evidence will be found' or b) common law, allows for certain sit.'s where you don't need a warrant (but in absence of a warrant, there is a *prima facie* presumption that search was unreasonable, which R must rebut with one of the

following: i) is it incident to arrest (*Golden*) (and place) (frisk or pat down, incl. car) ii) *plain view doctrine*, see it = no warrant req'd. iii) 911 calls/safety (*Dedman, Hufsky*) iv) w/ consent of subject. 2) Enabling law must be reasonable (poss. S.1 justifications). 3) Search must be conducted in a reasonable manner. **Therens:** Detained when “submits or acquiesces in the deprivation of liberty and reasonably believes that the choice to do otherwise does not exist” **Search Incident to Arrest: (Cloutier v. Langlois)** does not req. reasonable and probable grounds beyond the grounds sufficient to support the lawfulness of the arrest itself ie. must be *valid* - pursuit of justice, safety of PO/public, prevent escape, preserve evidence. *Must not* be abusive, cannot search just because detained, must be arrested. **When a Lawful Arrest:** Police can **Frisk: (Cloutier)** a) right to frisk for weapons and evidence b) don't need separate RPG to believe person has weapons/ evidence c) must be reasonable and for legit law enforcement purpose. Can't invade body (*Stillman*) **Search Car:** accused was in only if reasonably linked to offence under investigation (*R v Caslake*). **In a lawful investigative detention (not arrest):** police may **Protective Frisk Search (R v Mann)** a) right to frisk search for weapons but not evidence b) PO must have RPG that safety of self/public at risk c) must be conducted in reasonable manner **Strip Search (R v Mann)** a) implicitly rejected (only pat-down is justified) b) if every justified for investigative detention would have to be under extremely necessitous circumstances. **Hunter: Assessment of when acceptable invasion of privacy, only free from unreasonable s&s:** based on *When* (a system or prior authorisation NOT subsequent validation) *By whom:* (does not have to be a judge but at minimum able to act judicially) *How* (objective standard or RPG must be established upon oath to believe that offence has been committed or that there is evidence to be found. **Reasonable exp'n of Privacy:** Onus is on the person searched to demonstrate that they had a reasonable exp'n of privacy (*MRM*), while a warrantless search is presumptively unreasonable (*R v AM*). Depends on the totality of circumstances as above. **Informational Privacy (Plant).** 2) Whether the accused has a subjective expectation of privacy 3) Whether that expect'n is objectively reasonable (REP), if there is a REP, conduct the *Hunter* test. **Reasonableness of the Search itself: (MRM)** a) search must be conducted in a reasonable manner b) permissible extent of the search will vary based on the gravity of the suspected infraction c) context of the circumstances, age, gender, etc. d) every search should be conducted in the most sensitive manner possible. **Drug-sniffing R v Kang-Brown** using dogs to detect drugs without RG for search is breach of s.8, diff'd from “meaningless” info like thermal imaging in *Tessling*. Some REP (personal territory) but rebutted w/ reasonable suspicion. *R v AM* search at school, technically warrantless search, it will be reasonable if the officer has reasonable grounds to suspect the presence of contraband. Patrick case with garbage=abandoned.

**S 24 Enforcement of Guaranteed Rights and Freedoms: Exclusion of evidence bringing administration of justice into disrepute. (2) ... pp 1864 MCC '13**

**Collins Test:** If the evidence is admitted, would reasonable, dispassionate person fully advised of factual circumstances believe the system was in disrepute? **1) Trial fairness** - would admission compromise fairness of trial? **A) Stillman** - classify evidence, was it conscriptive (from body) or non-con (not, then go to step 2)? If conscriptive, if it was not discoverable then exclude, if it is go to step 2. If it could have been discovered a different way then it was discoverable (shed hair, DNA on cup, etc). **2) Seriousness of violation** > consider beg'r of POs and nature of the crime, also consider: search committed in bad faith? How obtrusive? What was individual's expectation of privacy in searched area? Were there reasonable grounds? (*all 4 from Mann*) **3) Effect of exclusion on rep'ute of system** > must balance interests of public (safety; punishment) with interests of defendant (charter rights). **Grant Test** (refines the *Stillman test*) > would a reasonable person informed of circumstances and charter values conclude disrepute if evidence admitted? **1) How serious was the state misconduct?** **2) What are the impacts on Charter interests of Dft?** **3) What are societies interests in adjudicating based on the merits?** A) crime control model > admit evidence and let it speak for itself > public right to safety from people who violate society's rules B) Community standards > what are the particular current concerns & norms of society or community? (Concerns with PO brutality or concerns with increased gun violence?) C) PO regulation > to prevent “bad policing” > must hold POs to higher standard because of trust & power they have. **D) Rights protection model** > respect for charter/ individual rights (rights of all of us protected by rights of worst of us).

**S 10. Arrest or Detention: Everyone has the right...**

**Was there an arrest?** Reasonable and probable grounds (RPG). Must have RPG to arrest, based on (*R v Storrey*) > subjective and objective grounds req'd; a reasonable person placed in the position of an officer would believe RPG existed; bias/prejudice will undermine the reasonableness. **Definition of Arrest: (Whitfield)** arrest consists of the actual seizure or touching of someone's body with a view of his detention. The mere pronouncing of words arrest is not an arrest unless the person sought to be arrested submits to the process and goes with the arresting PO. **Policy:** Important to public that PO can react promptly (*Biron*). **Common Law Power of Arrest: Biron:** view that the validity of the arrest must be determined by the circumstances that were apparent to the officer at the time the arrest was made. Ratio: has not deprived the citizen their right to resist unlawful arrest, but resistance may be at own risk if indeed committing an offence and may nevertheless be culpable if used excessive force. **Statute Power of Arrest:** Auth'n for arrest without warrant (s 495.1), 1) a person has committed an indictable offence or the officer has reasonable grounds to believe he has done so 2) a person who he finds committing a criminal offence 3) a person who he has reasonable grounds to believe has a warrant for arrest or committal that is in force in the territory the person is found. **S 25** invoked when an officer has no right to arrest and acted in error. Protects if the officer acted in good faith, even outside of jurisdiction, is protected under “protection of person acting under authority”.

R v Banks – squeegeeing  
Reference re: Section 293 of the Criminal Code – polygamy reference  
Donald Marshall, Jr – wrongful conviction murder in park  
R v White – prostitution discrimination (male v. female) and s.213 and the Charter  
Little Sisters Book and Art Emporium v Canada – import. of homosexual materials  
Nederland/LaChance – Aryan killing of aboriginal  
Wilson Nepoose – aboriginal man with RCMP intimidating witnesses  
David Milgaard – wrongful conviction of man, police withheld evidence  
Guy Paul Morin – mentally ill neighbour of victim wrongfully convicted  
Simon Marshall – need for attention led to false confessions  
Steven Truscott – wrongfully convicted for rape and murder (he was 14, victim 12)  
Louise Reynolds – convicted of killing daughter when it was actually pitbull (Dr. Smith)  
Brenda Waudby – accused of killing daughter – convicted on Dr. Smith evidence – babysitter had done it  
Sherry Sherrrett-Robinson – Dr. Smith sudden death  
Tammy Marquardt – Dr. Smith – said strangulation but likely seizure  
Lindy Chamberlain (Aus.) – dingo took baby  
Kathleen Folbigg (Aus.) – serial murder of four children.  
Birmingham Six, Guildford Four, Maguire Seven (UK) – IRA bombings  
R v Gladue – manslaughter of husband, aboriginal issues in sentencing  
R v Hamilton – smuggling cocaine from Jamaica  
R v Inwood – assault on Russian wife and son  
R v Hebb – couldn't pay fine for theft so had to go to jail – Charter 24(1)  
Armstrong v Warkworth – passing sentence in institution (punishment while in prison)  
R v Thompson – student complaints – black v. white discrimination  
R v RDS – Judge Sparks oral reasonings in acquitting RDS based on discrimination (stopped to talk to cousin and was arrested)  
R v Brown – basketball player stopped on DVP for drunk driving  
Jane Doe v Metropolitan Toronto Commissioners of Police – failure to warn of serial rapist  
R v Biron – arrest outside of bar  
R v Chen – citizen's arrest  
R v Grant – firearm and weed from search following detention – helps define detention and use of 24(2)  
R v Suberu – use of stolen credit cards – detained outside of store  
R v Mann – aboriginal in Winnipeg – found something soft in pat down  
R v Peck – black man tackled for walking down alley – found cocaine  
R v Clayton – guns and strip clubs and SUV's  
R v Harrison – stopped for no front license plate while on drug run  
R v Patrick – searching garbage  
Hunter v Southam – Combines Act and searches against corporation  
R v MRM – search by principal  
R v AM – sniffer dog in high school  
R v Kang-Brown – sniffer dog in bus station  
R v Golden – shitting on the floor of Subway  
R v Gogol – search that destroyed house, restrained woman unnecessarily  
R v Hornick – women at bathroom and Liquor Licence Act (what = strip search?)  
R v SF – girls strip searched subsequent to being placed in holding cell  
R v Bonds – woman stopped on streets in Ottawa  
A Feminist Review of Criminal Law  
The Struggle for Survival: Indian Cultures and the Protestant Ethic in British Columbia  
Senseless Drumming and Dancing  
Killing the Shamen  
No Safe Place  
Hollow Water First Nation's Community Holistic Circle  
Healing Project  
Commission of Inquiry into Certain Events at the Prison for Women in Kingston  
Spirit-Murdering the Messenger: The Discourse of Fingerprinting as the Law's Response to Racism (Williams)  
A Queer Response to Bashing: Legislation Against Hate  
The Politics of the Charter  
Whitford – allowed to raise child in jail  
Stillman – can NOT search body for samples  
Moore – rode bicycle through red light  
**R v Banks**2007 ONCA: Squeegee kid challenge to Safe Streets Act - is it criminal? Freedom of Expression (s2b)Appeal rejected, SSA not criminal, violat of express justified s 1 Ref re: s. 293 (polygamy)2011BCSCPolygamy is a crime - constitutional? Charter right to freedom of religion Const because viol s 15 just under s 1, prevents harm to society;  
**R v. Malmo-Levine**: pot possession – is gov't legislative power in this area in contravention of PofJ (harm principle in this case)? – Crt rules no – this case shows the link b/w the power to criminalize and the ability to disenfranchise entire populations;  
**R v Fiddler**1907OntT'wo leaders in the Sucker Clan killed a possessed woman as per their rituals Tried and convicted of murder despite cultural concerns  
**Henco v Haudenosaunee...**2006ONCA All parties want to dissolve injunction, apply to court of appeal Laskin dissolves injunction, protects Aboriginal protestors  
**Donald Marshall Jr.**1989,RC.Royal Commission on DM false conviction for murder, acquaintance with him is killed after asking for money in park, racism leads to convictio n  
**R v White**199NSCACommunicating for prostitution, Def argues women are targeted more by policeNo breach of s 15 because women commit the offence more  
**Little Sisters... v Canada**2000SCCGay and lesbian erotica disproportionately confiscated by customs, affects book store Court finds a violation of s 2(b) and s 15 in law's application  
**R v Nerland**1991SaskNerland owns gun shop, shoots Cree man while he exits, refuses to call ambulance Crown lets accused plead to manslaughter and short sentence

**R v Gladue**1999 SCCAboriginal accused who stabs and kills her fiance while extremely intoxicated  
**R v Hamilton**2004ONCAJamaican women swallow cocaine (smuggle), trial judge uses systemic racial factorsCA says trial judge went outside of bounds, inadequate sentence  
**R v Inwood**1989ONCA Accused assaults wife and infant son (both facts and judgment included)Original sentence was too short, but CA does not reincarcerate  
**R v Hebb** 1989 NvScMentally ill woman on welfare ordered to be jailed after unable to pay \$500 fine, Offends s. 15, (diff standard for young people), order quashed  
**Armstrong v Warkworth**1990FedArmstrong found guilty of cannabis possession while in prison, but not given counselNo absolute right to counsel if trial can be heard fairly  
**R v Thompson**1990NvScIncident at school, RCMP interviews 7 white and 1 black witness, s 15 challenge made,No discrim, not required that equal numbers be interviewed  
**R v RDS** 1997SCCBblack youth charged in N.S. with resisting arrest, judge acquitted, considered racismCA overturns acquittal, SCC restores, says judge was appropriate  
**R v Brown**2003ONCAYoung black male, stopped for speeding, given breathalyzer, judge seems biasedAppeals judge finds bias, upheld by the Court of Appeal  
**Jane Doe v Metropolitan...**1998OntJane Doe raped at knife point, sues police for neg. investigation, failure to warn, s. 15Court finds her rights were breached, awards damages  
**R v Biron**1976SCCPolice raid bar, patron acted drunk, refused to give ID, arrested, charged with resisting.Can lawfully resist an officer if the arrest is unlawful (it is a risk)  
**R v Chen**2010OntGrocer charged with assault and confinement after tying up shoplifter (citizen's arrest)Citizen arrest was lawful, judge has reas. doubt about exc. Force  
**R v Grant**2009SCCGrant walking near school, asked to put his hands in front of him, gun/weed foundCourt finds that he was detained, should have been given rights  
**R v Suberu**2009SCC,Companion to Grant, fraudulent use of credit cards, officer spoke to suspect near van,No detention, s. 10(b) not engaged **R v Mann** 2004 SCC, Officers do pat down search of someone who matches a description, find pot in pocket  
**R v Peck**2001Ont: Police suspected Peck was drug dealer, Peck ran, they found cocaine in his pocket,No reason for detention except race, evidence inadmissible  
**R v Clayton**2007SCC911 call: people showing guns in parking lot, police stop and search first car leaving lot,Police suspicions were reasonable, search therefore reasonable  
**R v Grant (cont'd)** Analysis of whether the evidence collected from Grant should be excluded Include evidence, no disrepute, 3 factors to weigh  
**R v Harrison** Pulls over SUV for no front licence plate (on hunch), finds cocaine in boxesFocus is on officer's conduct, exclude evidence, acquittal  
**R v Patrick**2009SCCPolice collected evidence against Patrick from his garbage left out for collection. Abandoned garbage has no reasonable expectation of privacy  
**Hunter v Southam Inc**1984SCC,Broad powers given under Combines Act to search premises of business, Charter is new,Broad powers of Director inconsistent with Charter, struck down  
**R v MRM**1998SCCPrincipal, in presence of police, asked student to reveal contents of sock, was drugs MRM not detained, vice-principal not agent of police, no s.10(b)  
**R v AM**2008SCCPrincipal invites police sniffer dogs to school, identify and search backpack, find drugs  
**R v Kang-Brown**2008SCC,RCMP using sniffer dogs at bus stations, found drugs in bag, Inadequate grounds for search, conviction set aside (majority)  
**R v Golden**2001SCCStrip search conducted in a Subway store, removing cocaine from between buttocks Search unreasonable, could have been done at police station  
**R v Gogol**1994OntPolice find marijuana in underwear drawer, handcuff G, destroy property, verbal abuse, Violation of rights, did not need to be cuffed, evidence excluded  
**R v Hornick**2002OntWomen's bath house entered by five male officers for Liquor Licence Act violations, Counts as strip search, finds breach of rights under s 8, Women ask evidence seized in bath house search to be excluded under s.24(2)Breach is serious, evidence excluded  
**R v SF** 2003OntTwo teenage girls strip searched by police as part of police procedure Court finds search unnecessary, unreasonable: breach of s 8 No evidence was found, so what remedy can the Court use, can't erase strip search Court stays charges against girls  
**R v Bonds**2010OntWomen maliciously stripped, left naked in cell, after questioning police for stopping her, Causes judge to halt all proceedings against Bonds  
**R. v. Banks** at squeegee case, Safe Streets Act  
**R v Malmo-Levine**; R. v. Caine, [2003]. 2 dudes in a van by ocean Caine;weed activist Malmo s.7life lib free not deprived except for Pof F] **R v Fiddler Windigo** – sucker tribe  
**R. v. White** – decoy prostitution  
Little Sisters Book and Art Emporium v. Canada Analysis -- Homoerotica confiscated by border ppl  
**R. v. Manchester Plastics** corporate crimes no stigma  
**R. v. Hamilton** – 2 Jamaican mother smuggling cocaine into Canada **R. v. Gladue** must consider circumstance when sentencing abs **R v. Johnson** - sentencing circle  
R. v. Inwood – abusive man, threatens her and baby, 5 women testify to his character but not considered in sentencing  
**R. v. Hebb** –steals pack of smokes **R v. Smith** mentally ill man put in jail for 4mos at prison conditions are first regarded as substandard b SCC refused to condemn frisk searching and unscheduled surveillance of male prisoner by female guards  
**R. v. Thompson** F: Racial fights in a high school in N.S./ 3 black defendants charged and convicted. No whites convicted  
Eleanor Bumpers – old lady killed by cop, rent overdue/eviction and big deal was cop shot had (holding knife) but shot her again (dead  
R v. RDS (African judge) believed RDS' story. Made comments that led to her decision being challenged as biased  
R v. Lewis Police acted on incomplete information when searching 13 Rastafarians in home,major drug raid, no drugs Garner died of police shot  
R. V. Brown toro raptor pulled over, was stop about race or did cop have articulable cause – yes!  
Jane Doe v. Metro TO Commission of Police – Police knew at time of attack that victim was a likely target (cited avoidance of panic/hysteria), but did not warn women in area.

R. v Chen et al: F:Grocer charge w/ assault/forcible confinement/exercises s 494 citizen arrest on the  
R. v. Therens : does demand by a PO to accompany to police station for breathalyzer (s.254) amounts to detention under s.10 Detention here refers to a restraint of liberty other than arrest //This restraint need not be physical (Psychological compulsion)  
R. Grafe Police officers stopped R, gives false info b/c warrant, officers later realized and arrest for impersonation. I: Did orig. stop on the street constitute a detention?  
R.v. Griffiths PO commanded him to come over & spit out what was in mouth – cocaine. Held: The evidence was admissible. detention was illegal b/c only hunch search was illegal because the officer told Griffiths to spit out what was in his mouth while he was detained and it did not form part of the arrest. However, minor breach of his Charter rights  
R. v. Peck (2001) (Ont Sup. Ct) – Accused walking down alley with two girls, on way to mall. Alley notorious for drug dealing but also legitimate activity. evid. That PO saw end of plastic bad stick out from 30 yards away was rejected.  
R.v.Mann looks like B&E suspect, Pat him down, search in pocket, find MJ. Arrested for possession for the purpose of trafficking. The police=entitled to detain Mann for investigative purposes, have commonlaw power to frisk person being investigated only to ensure the safety of officers (used Waterfeild test to determine this). Search of M's pockets=unjustified,  
R.v. Clayton roadblock on exist from stripclub/911 call of BL guys with guns in parking lot/Gave some car descriptions//stopped car did not match description but guys did//found handguns.]: within com/law power to stop on recent info  
Moore – PO can arrest if you don't give name and address if they have witnessed you committing a crime (ie: running a red light on your bike)  
R.v.Harrison SUV w friend-PO saw no front license plate/Bad in Ont/pulled them over/realized registered in alberta okay for noplate/vehicle rented in Van/NO grounds to believe offence/But POfthought car looked lived in/driving limit(rare) /contradictory stories/Harrison could Not provide License/Arrested for suspended license//Cop search car /4mil of coke  
R.v. Grant 3POs monitor criminal area near schools/young black man walking&fidgeting/1uni'dofficer ask name&address/ instructed Grant to keep hands out/2 plain cloth officers came&stood behind 1st officer, blocking Grant's way/ asked whether he had anything/answered “small bag of weed” &gun/Officers arrested&searched, seizing mj&gun – rights viol- detention arbitrary  
R.v. Suberu: F:2guys/shopping/spree/gift-cards-Fraud//PO-Show up catch guy-another guy in store/"it was him im leaving"-Cop says wait I need to talk to you b4 you go//Get info from suberu while sit in his van-PO notice bags in back from LCBO where giftcard used//and licence plate came over radio as he spoke and arrested him on probable grounds.  
Hunter v. Southam – Search of newspaper office using Combines Inv. Act --Heart of s.8 = reasonable expectation of privacy/ Analysis: Reasonable law requires prior authorization warrantless searches are the exception not the norm. decision in Southam reveals the courts failure to distinguish between the privacy or interests of corporations and those of human beings  
R. v. M.R.M. SCC/ VP (in presence of RCMP) searched a student suspected of carrying drugs (found marijuana in sock) /School constitute part of the gov't and therefore the Charter applies/ Cooperation is not sufficient to indicate that the VP was acting as agent on behalf of the police/ R. v. A.M., s. 8 rights = violated when sniffer-dog searched unattended backpack in the gym of his school finding drugs in his possession. Found that police do not have the right to use dogs to conduct random searches of public spaces when such search is not specifically authorized by statute.  
R. v. Kang-Brown. (similar to R. v. AM, busstop) CA said no breach of privacy and no detention b/c: (1) purely public place (not the yard of a home) (2) dog only yielded a crude information (yes or no to presence of unknown quantity of an unknown illegal drug) (3) no intimate details of private lives could possibly be revealed, (4) odors came out passively and detected by something similar to (but more sensitive than) an ordinary human nose. SCC - concurred it did constitute a “search” within s. 8 = violation  
R. v. Golden/in store, ripped clothes off accused b/c couldn't find drugs in store and assumed was on person, accused clenched buttocks, crapped himself, police got dirty cleaning gloves and pulled it out it Does the common law search incidental to arrest include the power to strip search?// onlyreasonable where 1. it is authorized by law; 2. the law itself is reasonable; and 3. the search is conducted in a reasonable manner/ if these conditions met, then no violation of s. 8 - if not met, then violation//strip search only ok in unique circumstances at border crossings (R. v. Simmons) and bedpan vigils. (R. v. Monney)  
R. v. Gogol/ seeks the exclusion of the evidence that half a gram of marijuana was found amongst her undergarments in her dresser drawer –was kept in handcuffs by the table for a period of at least an hour and a half/ when Ms. Gogol was handcuffed, she was not informed her rights/ in addition, the search was accompanied by unnecessary damage to the accused's property/ general rule for the search of a premises = non-molestation of occupants, they should be restrained so far as is necessary  
R. v. Hornick –Hornick and Aitcheson organized women's only event. Many of the attendees were partially unclothed. Following an investigation by two female undercover police officers, several male officers entered the premises to further investigate alleged violations of the Liquor Lic. Act.  
R. v. S.F. Girls strip searched at station, no reason for strip search, no consulting parents, no giving girl her glasses, no cover of body from camera.  
R. v. Collins –appellant was ‘throat holded’ by a police officer b/c she was suspected of having a green balloon full of heroin in her mouth/// the force used by cop was ‘considerable’/ R. v. Stillman: last person to see murder victim alive, victim bitten so police want imprints, no provision at time – could only get them with consent, police badger him, he cries, blows his nose. Cops throw away imprints b/c got as a result of intimidation but keep Kleenex for DNA b/c conscriptive and discoverable.