**LIMITS TO POLICE ACCESS TO DIGITAL DATA**

 **Carpenter v. U.S. 2018.** The Supreme Court in a 5-4 ruling has required that police get a search warrant before obtaining data showing the location of a cell phone user. Justice Roberts in writing for the majority stated, “When the government tracks the location of a cell phone it achieves near perfect surveillance as if it had attached an ankle monitor to the phone user”. The court ruling affirms prior decisions against police searches and asserts again that reasonable expectation of privacy is a 4th Amendment right. The exceptions for a warrant in law enforcement emergencies such as bomb threats, active shooter and child abductions are not affected by this decision.

**A MOTEL ROOM GUEST OF A GUEST HAS**

 **NO REASONABLE EXPECTATION OF PRIVACY**

 **U.S. v. Aiken 17-1036 (1st Cir. 2018).** The First Circuit overruled the District Court and has held that a guest of a guest in a motel room has no reasonable expectation of privacy.

**POINTING A GUN AT A FELONY SUSPECT WHO HAD A**

 **PRIOR CONVICTION FOR UNLAWFULLY POSSESSING**

**A FIREARM IS NOT OBJECTIVELY REASONABLE**

 **Thompson v. Copeland 2018 U.S. LEXIS 6191 (9th Cir 2018).** The officer made a routine traffic stop and learned the driver was a convicted felon for possessing a fire arm. The bad guy was frisked for weapons and removed from the car. An inventory search of the car uncovered a gun in an open garbage bag. The officer then pointed his weapon at the bad guy who was now out of the car and about 15 feet from the gun found in the back seat of the car. The bad guy sued the officer for violating his 4th Amendment rights by using excessive force in pointing a gun at the bad guys head.

While the 9th Circuit ruled against the officer it gave him immunity since it was not clearly established law at the time that the officers could have easily handcuffed the suspect and where the bad guy was not in close proximity to his weapon the officer used Excessive Force.

The court concluded that since the officer was making an arrest at night, the bad guy was not handcuffed and was much bigger than the officer and the suspect had a prior felony conviction involving a gun a reasonable officer may not have known that pointing a gun at the bad guy was a constitutional violation. “Going forward however the law is now clearly established” the 9th Circuit ruled.

**CONSENT TO SEARCH CAR**

**U.S. v. Perales 2018 U.S. App LEXIS 8112 Texas 2018.** An officer made a routine traffic stop and observed the driver had only a 30-day proof of insurance. The officer knew drug dealers frequently purchased short term policies.

The officer had the driver sit in the front seat of his patrol; car while conducting a computer search for about 10 minutes. The bad guy gave the officers inconsistent or deceptive answers to questions. While the officers waited for the computer checks to come back he asked for permission to search the car which the driver granted. Three kilograms of coke were found by a second officer who had been sitting in the back seat of the officer’s patrol car. The bad guy was charged with multiple drug offenses and then filed a motion to suppress the search saying consent was not voluntary.

The court disagreed saying the failure of the officer to return identification documents prior to asking for consent to search did not automatically render the consent involuntary.

The court further noted the officer was cordial and did not threaten or intimidate the bad guy to obtain his consent. The court also found that placing the bad guy in the front seat was not coercion. The court further held the presence of the second officer who remained in the car until consent to search was given did not create a coercive environment.

**3 MINUTE DELAY FOR DRUG DOG TO ARRIVE O.K.**

**U.S. v. Faureau** **2018 U.S. App LEXIS 7413.** Officers followed a known drug dealer and made a traffic stop for a turn signal violation. The bad guy was very nervous when stopped and had engaged in counter surveillance tactics before the stop.

After completing the traffic stop and based upon a tip that there was a hidden compartment in the car a drug dog arrived within 3 minutes of the completion of the stop. The dog alerted, and the drugs were found.

The bad guy filed a motion to suppress contending the duration of the stop was exceeded while waiting for the arrival of the drug dog.

The court found that the bad guy was a known drug dealer, was nervous and had used counter surveillance tactics knowing the officers were following him. The court ruled the officers established reasonable suspicion to detain the bad guy for 3 minutes waiting for the dog to arrive. Once the dog alerted the cops had probable cause to search the car under the auto exception to the 4th Amendment warrant requirement.

**THE AUTO EXCEPTION DOES NOT ALLOW A WARRANTLESS ENTRY**

**OF A HOME OR ITS CURTILAGE TO SEARCH FOR A VEHICLE**

**Collins v. Virginia S.C. 5/28/18 Case #16-1027.** An officer investigating a traffic case learned a motorcycle involved was likely stolen and a Facebook post showed the likely motorcycle parked at the bad guys house. The officer came to the house, saw what appeared to be the subject’s motorcycle under a tarp parked near the front of the house. The officer removed the tarp, confirmed the cycle was the vehicle involved then replaced the tarp and waited for the owner to come home when the officer arrested him.

The court held the scope of the automobile exception extends no further than the auto and does not justify an invasion of the curtilage. Observation from a lawful vantage point is not the same as the right to enter curtilage without a warrant. The definition of curtilage is meant to encompass more than just a structure like a garage or fence according to their ruling.