Warrantless Searches and Seizures: Five Basic Steps

1. Did the officer seize the defendant?
   - No: Fourth Amendment ordinarily does not provide grounds to suppress
   - Yes: If the police initiate an encounter for racial reasons, the evidence may be subject to suppression under the 14th Amendment, whether or not a seizure occurred

2. Did the officer have grounds for the seizure, e.g. . . .
   - No: Suppress evidence discovered as result of unlawful seizure
   - Yes: Was there individualized reasonable suspicion?
     - Yes: If checkpoint, was (a) purpose permissible and (b) operation reasonable?
     - No: Suppress evidence discovered as result of unlawful actions

3. Did the officer act within the scope of the seizure, e.g., . . .
   - No: Suppress evidence discovered as result of unlawful actions
   - Yes: Was duration of stop limited to its purpose?
     - Yes: If frisk of person, (a) were there grounds and (b) was frisk limited?
       - Yes: If sweep of car, (a) were there grounds and (b) was sweep limited?
         - Yes: If custodial interrogation, did officer give Miranda warnings?
         - No: Consider: Questioning unrelated to basis for stop
       - No: Request for consent to search unrelated to stop
         - Yes: Delay for drug dog
         - No: Other actions unrelated to stop
     - No: If checkpoint, were there individualized grounds for further action?

Consider:
- Anonymous tip?
- High crime area?
- Proximity to other suspects?
- Walking away vs. flight?
- Report from other officer?
- Mistake of law?
- Driving?
- Other factors?
- If a car stop, officers may require driver and passengers to exit without specific grounds, but may need grounds to detain passengers
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- If custodial interrogation, did officer give Miranda warnings?
Five Basic Steps (cont'd)

4. Did the officer have grounds to arrest or search, e.g., . . . .
   - Did the person give consent to search?
   - Was there probable cause to arrest or search?
   - If no, suppress evidence discovered as result of unlawful arrest or search.

   Examine whether:
   - Request for consent was within permissible duration of stop
   - Consent was voluntary
   - Person had authority to consent
   - Person gave consent to area searched

5. Did the officer act within the scope of the arrest or search, e.g., . . . .
   - If search of car, was it (a) incident to arrest of occupant or (b) based on probable cause?
   - If search of person, was it (a) incident to arrest or person or (b) based on probable cause and exigent circumstances?
   - If yes, Fourth Amendment ordinarily does not provide grounds to suppress.
   - If no, suppress evidence discovered as result of unlawful actions.