dure."[18] Exceptions to searches under warrants were to be closely contained by the rationale undergirding the necessity for the exception, and the scope of a search under one of the exceptions was similarly limited.[19]

During the 1970s the Court was closely divided on which standard to apply.[20] For a while, the balance tipped in favor of the view that warrantless searches are *per se* unreasonable, with a few carefully prescribed exceptions.[21] Gradually, guided by the variable-expectation-of-privacy approach to coverage of the Fourth Amendment, the Court broadened its view of permissible exceptions and of the scope of those exceptions.[22] By 1992, it was no longer the

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[18] Terry v. Ohio, 392 U.S. 1, 20 (1968). In United States v. United States District Court, 407 U.S. 297, 321 (1972), Justice Powell explained that the "very heart" of the Amendment's mandate is "that where practical, a governmental search and seizure should represent both the efforts of the officer to gather evidence of wrongful acts and the judgment of the magistrate that the collected evidence is sufficient to justify invasion of a citizen's private premises or conversation." Thus, what is "reasonable" in terms of a search and seizure derives content and meaning through reference to the warrant clause. Coolidge v. New Hampshire, 403 U.S. 443, 473–84 (1971). *See also* Davis v. Mississippi, 394 U.S. 721, 728 (1969); Katz v. United States, 389 U.S. 347, 356–58 (1967); Warden v. Hayden, 387 U.S. 294, 299 (1967).

[19] Chimel v. California, 395 U.S. 752, 762–64 (1969) (limiting scope of search incident to arrest). *See also* United States v. United States District Court, 407 U.S. 297 (1972) (rejecting argument that it was "reasonable" to allow President through Attorney General to authorize warrantless electronic surveillance of persons thought to be endangering the national security); Katz v. United States, 389 U.S. 347 (1967) (although officers acted with great self-restraint and reasonably in engaging in electronic seizures of conversations from a telephone booth, a magistrate's antecedent judgment was required); Preston v. United States, 376 U.S. 364 (1964) (warrantless search of seized automobile not justified because not within rationale of exceptions to warrant clause). There were exceptions, *e.g.*, Cooper v. California, 386 U.S. 58 (1967) (warrantless search of impounded car was reasonable); United States v. Harris, 390 U.S. 234 (1968) (warrantless inventory search of automobile).

[20] *See*, *e.g.*, Almighty-Sanchez v. United States, 413 U.S. 266 (1973), Justices Stewart, Douglas, Brennan, and Marshall adhered to the warrant-based rule, while Justices White, Blackmun, and Rehnquist, and Chief Justice Burger placed greater emphasis upon the question of reasonableness without necessary regard to the warrant requirement. Id. at 285. Justice Powell generally agreed with the former group of Justices, id. at 275 (concurring).

[21] *E.g.*, G.M. Leasing Corp. v. United States, 429 U.S. 338, 352–53 (1977) (unanimous); Marshall v. Barrow's, Inc., 436 U.S. 307, 312 (1978); Michigan v. Tyler, 436 U.S. 499, 506 (1978); Mincey v. Arizona, 437 U.S. 385, 390 (1978) (unanimous); Arkansas v. Sanders, 442 U.S. 743 (1979) (1979); United States v. Ross, 456 U.S. 798, 824–25 (1982).

[22] *E.g.*, Chambers v. Maroney, 399 U.S. 42 (1970) (warrantless search of automobile taken to police station); Texas v. White, 423 U.S. 67 (1975) (same); New York v. Belton, 453 U.S. 454 (1981) (search of vehicle incident to arrest); United States v. Ross, 456 U.S. 798 (1982) (automobile search at scene); Brigham City, Utah v. Stuart, 547 U.S. 398 (2006) (warrantless entry into a home when police have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury); Michigan v. Fisher, 558 U.S. ___, No. 09–91 (2009) (applying *Brigham City*). On the other hand, the warrant-based standard did preclude a number of warrantless searches. *E.g.*, Almighty-Sanchez v. United States,