

Similar principles govern detention of luggage at airports in order to detect the presence of drugs; *Terry* “limitations applicable to investigative detentions of the person should define the permissible scope of an investigative detention of the person’s luggage on less than probable cause.”<sup>230</sup> The general rule is that “when an officer’s observations lead him reasonably to believe that a traveler is carrying luggage that contains narcotics, the principles of *Terry* . . . would permit the officer to detain the luggage briefly to investigate the circumstances that aroused his suspicion, provided that the investigative detention is properly limited in scope.”<sup>231</sup> Seizure of luggage for an expeditious “canine sniff” by a dog trained to detect narcotics can satisfy this test even though seizure of luggage is in effect detention of the traveler, since the procedure results in “limited disclosure,” impinging only slightly on a traveler’s privacy interest in the contents of personal luggage, and does not constitute a search within the meaning of the Fourth Amendment.<sup>232</sup> By contrast, taking a suspect to an interrogation room on grounds short of probable cause, retaining his air ticket, and retrieving his luggage without his permission taints consent given under such circumstances to open the luggage, since by then the detention had exceeded the bounds of a permissible *Terry* investigative stop and amounted to an invalid arrest.<sup>233</sup> But the same requirements for brevity of detention and limited scope of investigation are apparently inapplicable to border searches of international travelers, the Court having approved a 24-hour detention of a traveler suspected of smuggling drugs in her alimentary canal.<sup>234</sup>

***Search Incident to Arrest.***— The ability of the police to search persons who have been arrested existed at common-law, and the Supreme Court has had little occasion to question this basic author-

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<sup>230</sup> *United States v. Place*, 462 U.S. 696, 709 (1983).

<sup>231</sup> 462 U.S. at 706.

<sup>232</sup> 462 U.S. at 707. However, the search in *Place* was not expeditious, and hence exceeded Fourth Amendment bounds, when agents took 90 minutes to transport luggage to another airport for administration of the canine sniff. *Cf. Illinois v. Caballes*, 543 U.S. 405 (2005) (a canine sniff around the perimeter of a car following a routine traffic stop does not offend the Fourth Amendment if the duration of the stop is justified by the traffic offense).

<sup>233</sup> *Florida v. Royer*, 460 U.S. 491 (1983). On this much the plurality opinion of Justice White (*id.* at 503), joined by three other Justices, and the concurring opinion of Justice Brennan (*id.* at 509) were in agreement.

<sup>234</sup> *United States v. Montoya de Hernandez*, 473 U.S. 531 (1985).