

arrested for a serious crime.<sup>26</sup> The majority insisted testing was conducted to ensure that suspects were properly identified and processed for detention. A skeptical dissent maintained that the testing was intended to further investigative, not administrative, ends. And, in the dissent's opinion, a general investigative purpose to possibly link a suspect to unrelated unsolved crimes was an illegitimate fishing expedition.<sup>27</sup>

There has been some other loosening of a warrant requirement in the law enforcement context, where search by warrant is still the general rule. For example, the scope of a valid search "incident to arrest," once limited to areas within the immediate reach of the arrested suspect, was expanded to a "protective sweep" of the entire home, if arresting officers have a "reasonable" belief that the home harbors an individual who may pose a danger.<sup>28</sup> In another case, the Court shifted focus from whether exigent circumstances<sup>29</sup> justified failure to obtain a warrant, to whether an officer had a "reasonable" belief that an exception to the warrant requirement applied.<sup>30</sup> The Court has also held that an exigent circumstances exception applied even where the exigency arose as a result of police conduct, so long as the police conduct was "reasonable" in that it neither threatened to nor violated the Fourth Amendment.<sup>31</sup>

Another matter of scope that the Court has addressed is the category of persons protected by the Fourth Amendment; *i.e.*, who constitutes "the people." This phrase, the Court determined, "refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with [the United States] to be considered part of that community."<sup>32</sup> The Fourth Amendment therefore does not apply to the search and seizure by United States agents of property that is owned by a nonresident alien and located in a foreign country. The community of protected people includes U.S. citizens who go abroad, and aliens who have voluntarily entered U.S. territory and developed substantial connections

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<sup>26</sup> 569 U.S. \_\_\_, No. 12–207, slip op. (2013).

<sup>27</sup> 569 U.S. \_\_\_, No. 12–207, slip op. (Scalia, J., dissenting).

<sup>28</sup> *Maryland v. Buie*, 494 U.S. 325 (1990).

<sup>29</sup> *See, e.g., Schmerber v. California*, 384 U.S. 757, 770 (1966) (allowing warrantless blood test of DWI suspect where the officer "might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened 'the destruction of evidence'"). *But see Missouri v. McNeely*, 569 U.S. \_\_\_, No. 11–1425, slip op (2013) (rejecting a *per se* exception for obtaining warrants in DWI cases, requiring that exigent circumstance be evaluated under a "totality of the circumstances" test).

<sup>30</sup> *Illinois v. Rodriguez*, 497 U.S. 177 (1990).

<sup>31</sup> *Kentucky v. King*, 563 U.S. \_\_\_, No. 09–1272, slip op. (2011) (police justified in entering apartment after smelling burning marijuana in a hallway, knocking on apartment door, and hearing noises consistent with evidence being destroyed).

<sup>32</sup> *United States v. Vertigo-Urquidez*, 494 U.S. 259, 265 (1990).