

Criminal Procedure: Comprehensive Guide

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Note: This guide provides a systematic approach to evaluating key doctrines in Criminal Procedure, with a focus on Professor Sood's course. Each section includes detailed flowcharts with specific criteria for applying the constitutional standards along with key cases.

Fourth Amendment: Warrant Exceptions

- Exceptions Overview
- Consent Searches
- Automobile Exception
- Exigent Circumstances
- Plain View Doctrine
- Special Needs Searches

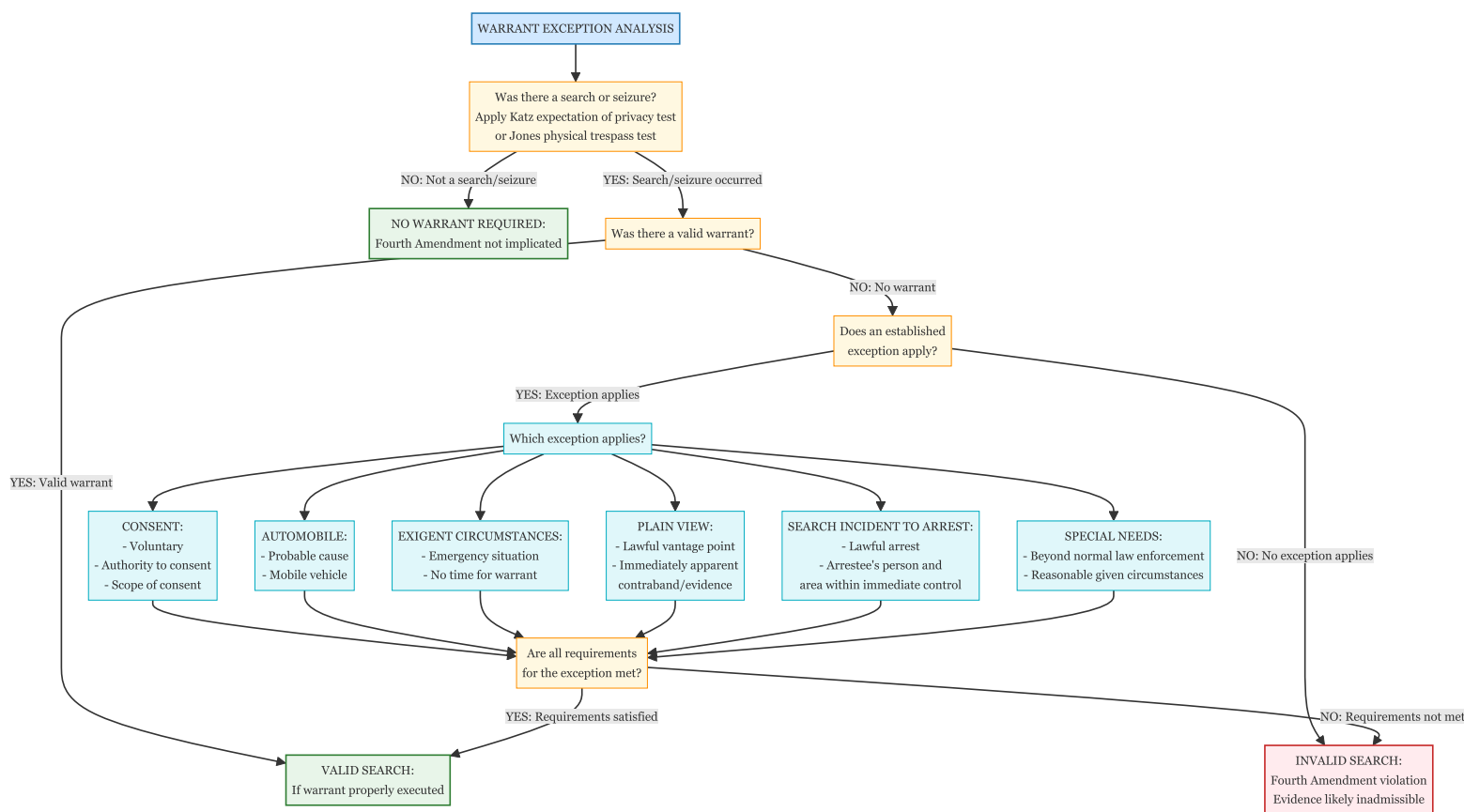
Overview of Warrant Exceptions

Although the Fourth Amendment generally requires a warrant for searches and seizures, the Supreme Court has recognized numerous exceptions to this requirement. These exceptions are based on situations where the Court has determined that the government's interests outweigh the individual's privacy interests, or where practical considerations make obtaining a warrant unreasonable.

Established Warrant Exceptions

- Consent:** Voluntary permission from a person with authority
- Automobile Exception:** Based on mobility and reduced expectation of privacy
- Exigent Circumstances:** Emergency situations requiring immediate action
- Plain View:** Evidence in plain view from a lawful vantage point
- Search Incident to Arrest:** Searches of arrestee and area within immediate control
- Special Needs/Administrative Searches:** Non-law enforcement purposes
- Terry Stops:** Limited stops and frisks based on reasonable suspicion (covered in detail in the [Terry Stops section](#))
- Border Searches:** Searches at international borders or functional equivalents

- **Inventory Searches:** Administrative searches of lawfully impounded vehicles

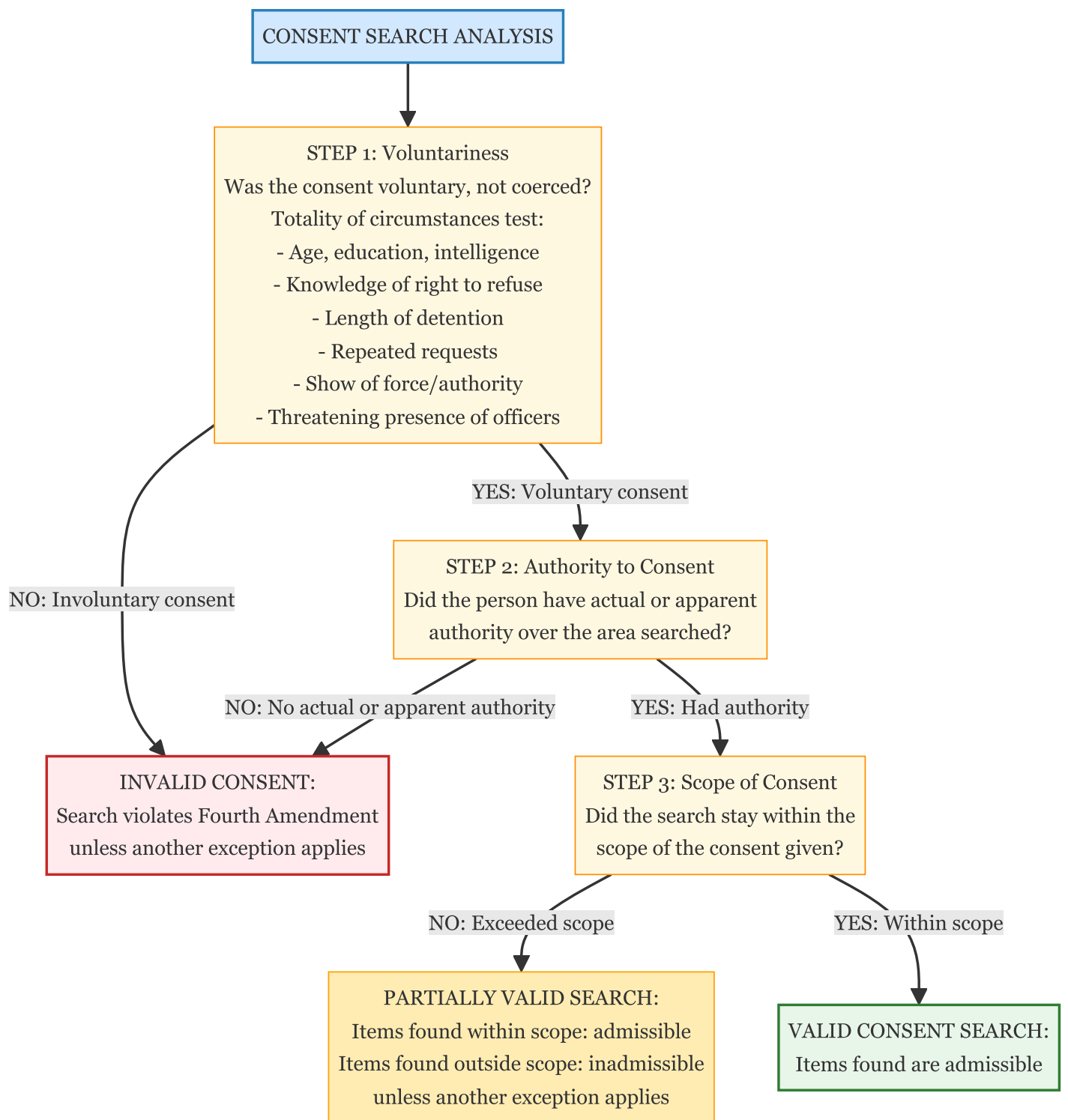


Consent Searches

Consent is perhaps the most common exception to the warrant requirement. A consent search is valid when a person voluntarily gives permission to law enforcement to conduct a search, eliminating the need for a warrant or probable cause.

Requirements for Valid Consent

1. **Voluntariness:** The consent must be freely and voluntarily given, not coerced or the result of duress
2. **Authority:** The person giving consent must have actual or apparent authority over the area to be searched
3. **Scope:** The search must stay within the scope of the consent given



Schneckloth v. Bustamonte 412 U.S. 218 (1973)

The voluntariness of consent to search must be determined from the totality of the circumstances. The government need not prove that the consenting person knew of the right to refuse consent, though this is one factor in the analysis.

Police stopped a car with six men inside for having a broken headlight and license plate light. When the officers asked if they could search the car, one of the passengers, Bustamonte, replied, "Sure, go ahead." During the search, officers found stolen checks, which were used to convict Bustamonte. He later challenged the search, claiming his consent was not voluntary because he had not been informed of his right to refuse consent.

The Supreme Court rejected the argument that consent is involuntary unless the police specifically inform the subject of their right to refuse. The Court adopted a "totality of the circumstances" test for determining whether consent was voluntary. The Court identified several factors to consider, including the characteristics of the consenting individual (age, education, intelligence), whether they knew of their right to refuse (though this was not required), the length of detention, repeated questioning, physical punishment, and the presence of a threatening or coercive environment. The Court was concerned that requiring police to inform subjects of their right to refuse would be impractical and undermine the usefulness of consent searches. The majority explicitly distinguished this from the custodial interrogation context, where Miranda warnings are required.

Third-Party Consent and Authority

In many cases, consent is given by someone other than the target of the investigation. The Supreme Court has established principles governing when third parties can provide valid consent:

Types of Authority to Consent

- **Actual Authority:** Person has joint access or control for most purposes (*United States v. Matlock*)
- **Apparent Authority:** Police reasonably, though mistakenly, believe the person has authority (*Illinois v. Rodriguez*)
- **Common Authority:** Mutual use of property by persons with joint access or control

Disputed Consent Among Co-Occupants

Special rules apply when co-occupants disagree about consent:

- ***Georgia v. Randolph* (2006):** If physically present co-occupant objects to search, police cannot search based on other occupant's consent
- ***Fernandez v. California* (2014):** If objecting co-occupant is removed from premises for legitimate law enforcement purpose (e.g., lawful arrest), police may later obtain consent from remaining co-occupant

Scope of Consent

The scope of a consent search is determined by what a reasonable person would understand the consent to include (*Florida v. Jimeno*):

- Consent to search a car may include containers within the car that could hold the object of the search
- Consent may be limited explicitly (e.g., "You can look in the living room only")
- Consent may be withdrawn at any time, and officers must respect the withdrawal

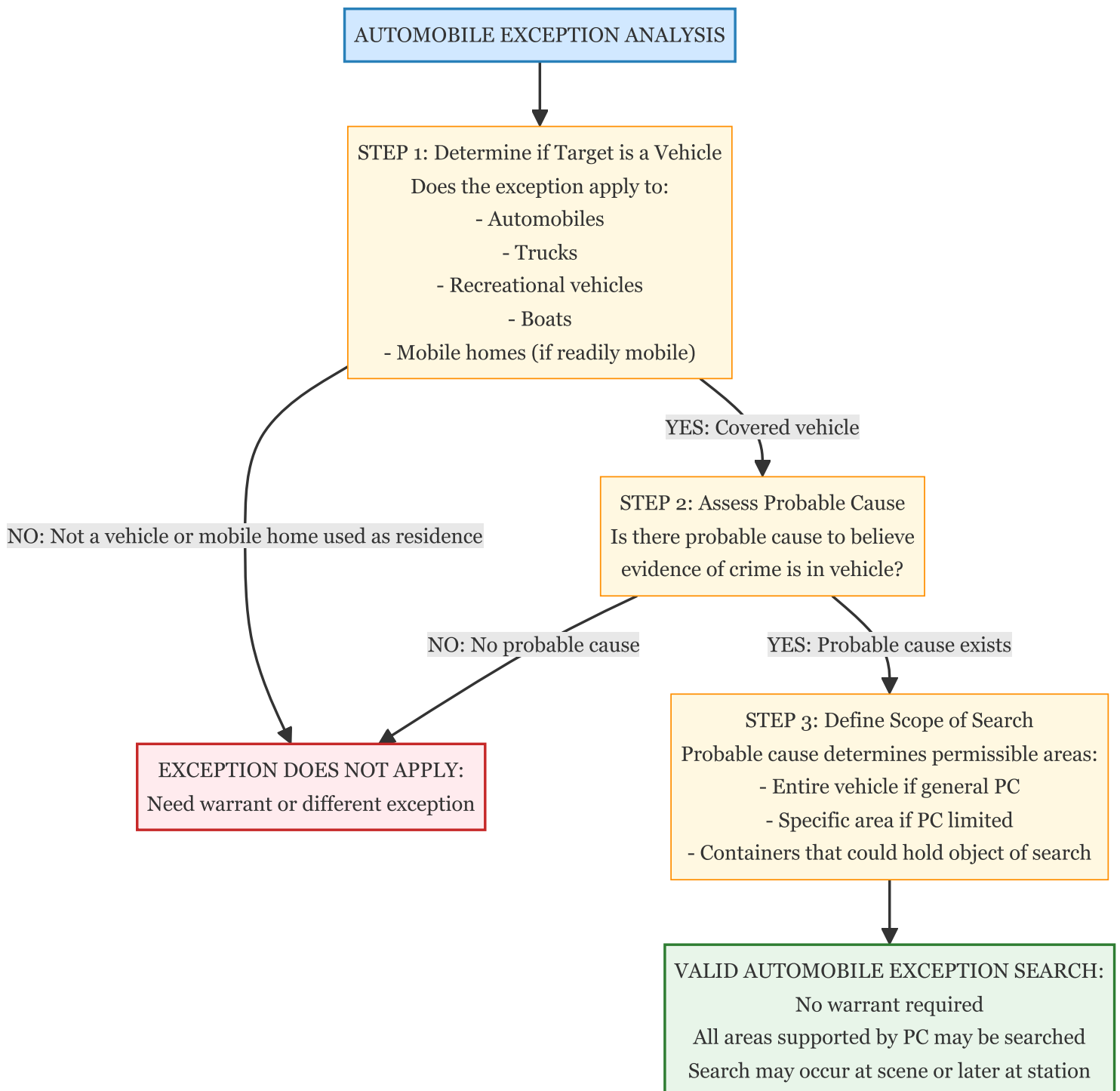
Automobile Exception

The automobile exception permits police to search a vehicle without a warrant if they have probable cause to believe it contains evidence of a crime. This exception was established in *Carroll v. United States* (1925) and is based on:

1. The inherent mobility of vehicles, which creates an exigency
2. The reduced expectation of privacy in automobiles

Key Principles of the Automobile Exception

- **Scope of Search:** Officers may search any part of the vehicle and containers within it where the object of the search might be found
- **No Exigency Required:** The mobility of the vehicle itself creates the exigency; no additional showing of exigent circumstances is necessary
- **Timing:** Search may occur immediately at the scene or later at the police station
- **Probable Cause Required:** Still requires probable cause to believe evidence of crime is in the vehicle
- **Applies to All Vehicles:** Cars, trucks, boats, motor homes, etc.



California v. Acevedo 500 U.S. 565 (1991)

Police may search a container within an automobile without a warrant if they have probable cause to believe the container holds evidence of a crime, even if they lack probable cause to search the entire vehicle.

Police observed Acevedo leave an apartment, carrying a paper bag that they believed contained marijuana. Acevedo placed the bag in the trunk of his car and began to drive away. Officers stopped Acevedo, opened the trunk, and searched the bag, finding marijuana. Prior to this case, the Court had drawn a distinction between searches of entire vehicles (allowed under the automobile exception) and searches of specific containers placed in vehicles (which required warrants).

The Supreme Court eliminated the distinction between searches of containers found within vehicles and searches of the vehicles themselves. The Court held that if police have probable cause to believe a container placed in a vehicle contains evidence of a crime, they may search the container without a warrant under the automobile exception. The Court emphasized the need for a clear rule and the historical recognition of the automobile exception. Justice Scalia, concurring, noted that the Fourth Amendment does not specifically protect containers, so the focus should be on whether the search of the car itself was reasonable. This ruling simplified the automobile exception by allowing police to search containers in vehicles based on probable cause regardless of whether the probable cause extends to the entire vehicle or just the container.

Exigent Circumstances

The exigent circumstances exception allows police to conduct a warrantless search when an emergency situation requires immediate action. This exception is based on the recognition that in some situations, the delay involved in obtaining a warrant would result in the destruction of evidence, escape of a suspect, or injury to officers or others.

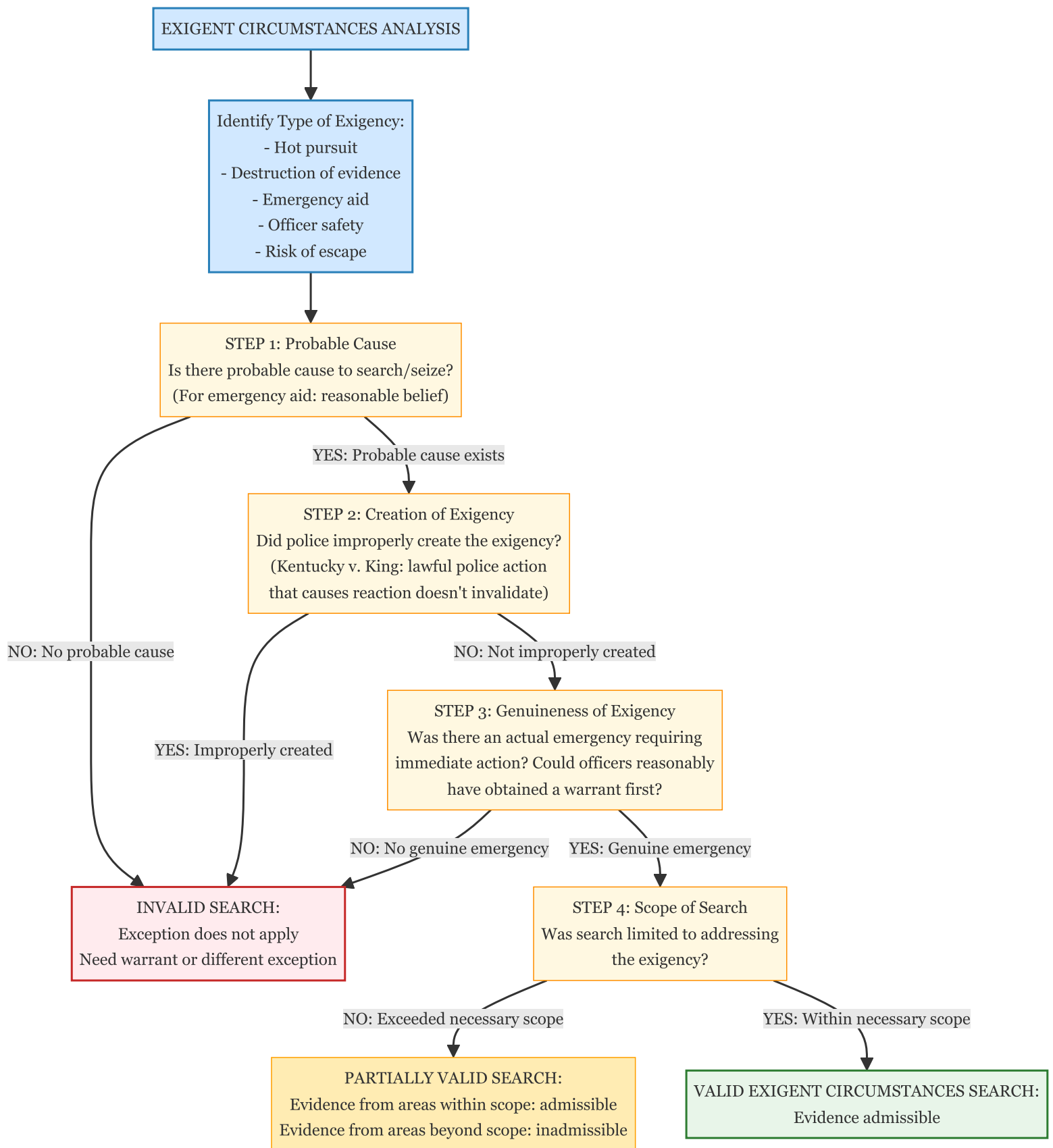
Categories of Exigent Circumstances

- **Hot Pursuit:** Police are in hot pursuit of a fleeing suspect
- **Destruction of Evidence:** Evidence will likely be destroyed or removed before a warrant can be obtained
- **Emergency Aid:** Immediate action is needed to protect someone from harm
- **Officer Safety:** Immediate search is necessary to protect officers or others from harm
- **Risk of Escape:** Suspect may escape while warrant is being obtained

Limitations on Exigent Circumstances

Key limitations on this exception include:

- Police cannot create the exigency through their own improper conduct (*Kentucky v. King*)
- The scope of the search must be limited to addressing the exigency
- Probable cause is still required (except for emergency aid, which requires reasonable belief)
- Once the exigency ends, so does the authority to search without a warrant



Kentucky v. King 563 U.S. 452 (2011)

The exigent circumstances exception applies even when police actions created the exigency, as long as the police did not engage in or threaten to engage in conduct that violates the Fourth Amendment.

Police officers followed a suspected drug dealer to an apartment complex. After losing sight of him, they smelled marijuana coming from one of the apartments. They knocked on the door, announced their presence, and then heard movements inside that they believed indicated evidence was being destroyed. The officers forced entry without a warrant, finding King and marijuana. The suspect they had originally followed was in a different apartment.

The Supreme Court rejected the lower court's finding that the police had "created" the exigency by knocking and announcing their presence. The Court held that the exigent circumstances exception applies when police do not create the exigency through actual or threatened Fourth Amendment violations. The Court emphasized that occupants who choose to destroy evidence have only themselves to blame for the warrantless entry that follows. A legal "knock and talk" by police does not constitute coercive or threatening conduct that would invalidate the exigent circumstances exception. The Court noted that a contrary rule would unreasonably restrict legitimate law enforcement strategies and would be difficult to apply consistently. The test is an objective one: whether the police conduct was reasonable under the circumstances.

Plain View Doctrine

The plain view doctrine allows police to seize evidence without a warrant when they observe it from a lawful vantage point. This exception acknowledges that once police are legitimately in a position to observe an item, there is no additional privacy interest in preventing its seizure if it is obviously incriminating.

Requirements for Plain View Seizure

1. **Lawful Vantage Point:** Officers must be lawfully in the position from which they view the evidence
2. **Immediately Apparent:** The incriminating nature of the item must be immediately apparent (probable cause that it is evidence, contraband, or fruits of crime)
3. **Lawful Access:** Officers must have lawful physical access to the object

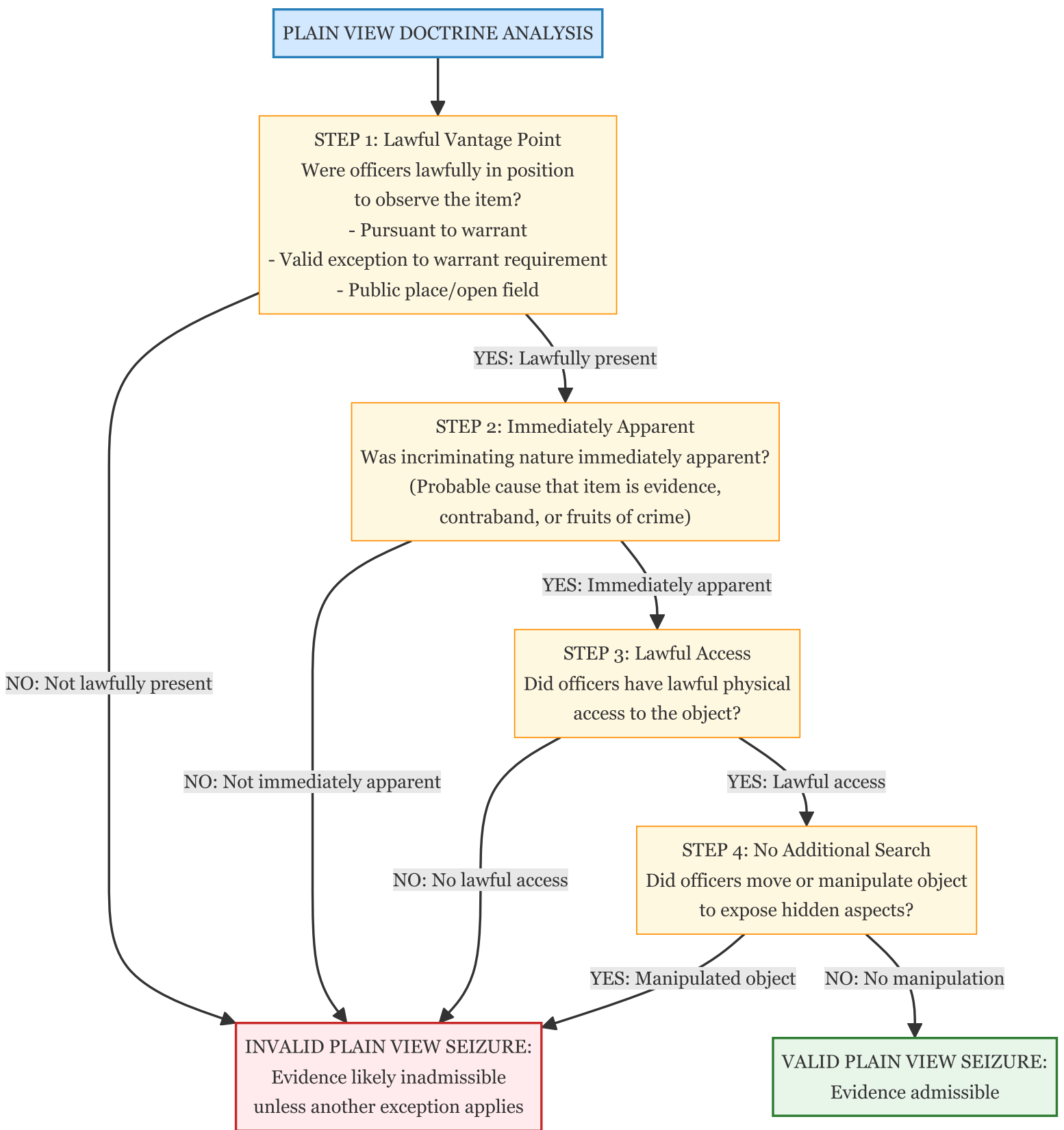
Related Doctrines

The plain view doctrine has been extended to other senses:

- **Plain Feel/Touch:** Items whose incriminating nature is immediately apparent through touch during a lawful pat-down (*Minnesota v. Dickerson*)
- **Plain Smell:** Detection of distinctive odors (like marijuana) from a lawful vantage point
- **Plain Hearing:** Incriminating statements or sounds heard from a lawful location

Important Limitations

- No additional search beyond what is already authorized is permitted
- Moving or manipulating an object to expose hidden aspects may constitute a search requiring a warrant
- The doctrine allows seizure of the item, but not further searches unless another exception applies



Horton v. California 496 U.S. 128 (1990)

For the plain view doctrine to apply, the discovery of the evidence need not be inadvertent; the other requirements of plain view (lawful position and immediately apparent incriminating nature) are sufficient.

A police officer investigating an armed robbery obtained a warrant to search Horton's home for the stolen property but not specifically for weapons used in the robbery. During the search, the officer found and seized weapons that matched the description of those used in

the robbery, though he did not find the stolen property. The officer admitted he was looking for the weapons, even though they were not listed in the warrant.

The Supreme Court eliminated the "inadvertent discovery" requirement that some courts had imposed as part of the plain view doctrine. The Court held that the Fourth Amendment does not prohibit the seizure of evidence in plain view even if the discovery was not inadvertent, as long as the officer was lawfully in the position to observe the evidence and its incriminating nature was immediately apparent. Justice Stevens, writing for the majority, reasoned that the seizure of an object in plain view does not involve an invasion of privacy beyond that already authorized by the officer's lawful presence, and that the object's incriminating character is immediately apparent. The Court emphasized that the Fourth Amendment's concern with "particularity" relates to the scope of the places to be searched, not the seizure of items not particularized in a warrant.

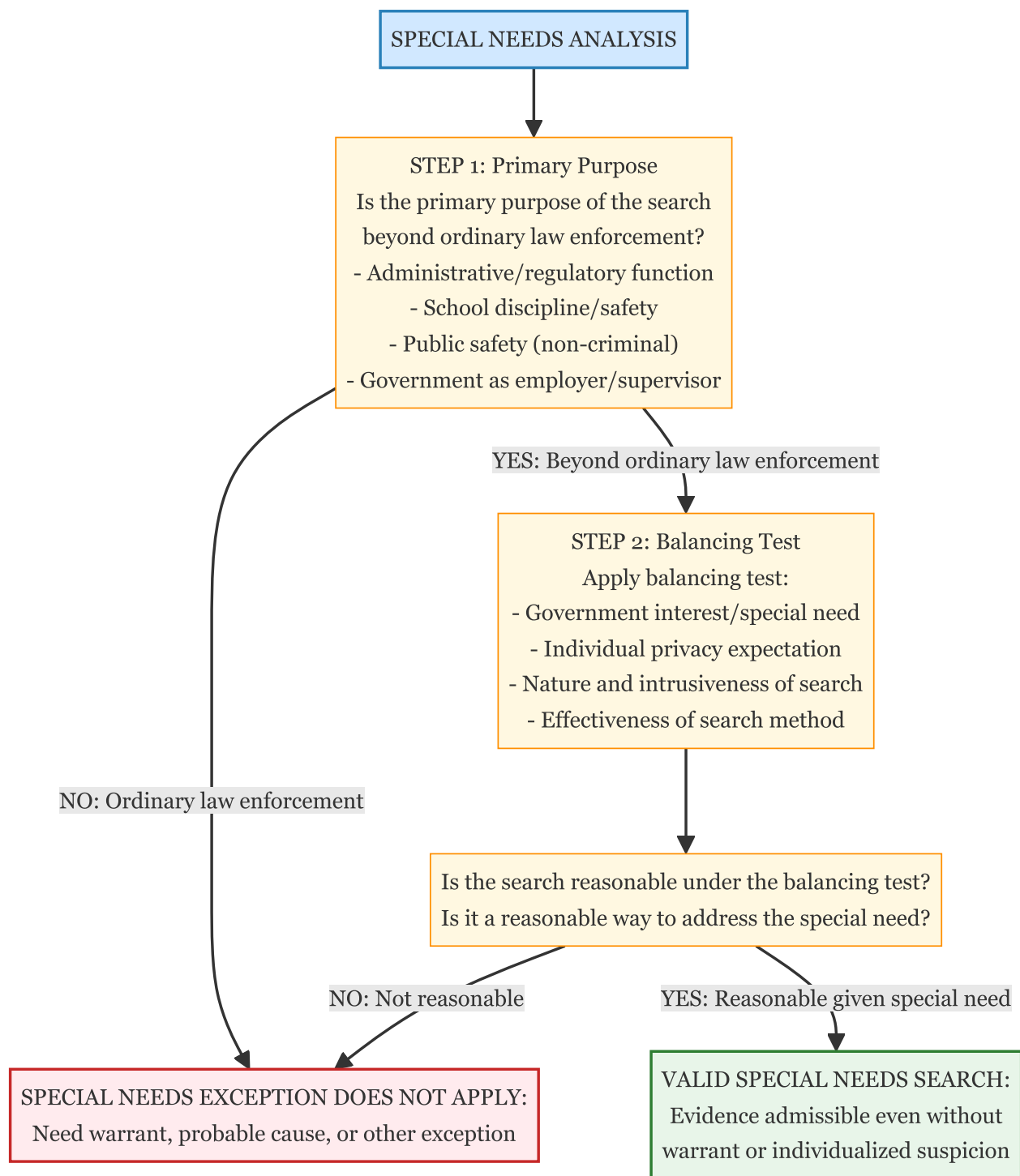
Special Needs Searches

Note: Special Needs searches are covered in depth in the [dedicated Special Needs & Administrative Searches section](#), which provides comprehensive coverage of administrative inspections, checkpoints, drug testing, and school searches.

The "special needs" doctrine permits certain warrantless searches when they serve needs beyond ordinary law enforcement purposes. These searches often involve administrative, regulatory, or other non-criminal investigative functions where the warrant and probable cause requirements would be impracticable.

Categories of Special Needs Searches

- **Administrative Inspections:** Regulatory inspections of businesses in highly regulated industries
- **Suspicionless Drug Testing:** Drug testing in certain contexts (e.g., railway employees, student athletes)
- **Border Searches:** Searches at international borders or functional equivalents
- **Inventory Searches:** Administrative cataloging of property in police custody
- **School Searches:** Searches in educational settings based on reasonable suspicion
- **Probation/Parole Searches:** Searches of probationers or parolees with reduced privacy expectations
- **Checkpoint Searches:** Brief stops at checkpoints for specific purposes (e.g., sobriety, border security)



The special needs analysis typically involves a two-step inquiry:

1. Determine if the primary purpose is distinct from ordinary criminal law enforcement
2. Balance the government's interest against the individual's privacy expectation and the intrusiveness of the search

Key factors in the balancing test include:

- The importance of the government interest or special need
- The individual's reasonable expectation of privacy in the context
- The degree of intrusion caused by the search or seizure
- The effectiveness of the search method in addressing the special need
- The availability of less intrusive alternatives

New Jersey v. T.L.O. 469 U.S. 325 (1985)

School officials may search students without a warrant or probable cause when the search is reasonable under all the circumstances. This reasonableness standard requires (1) that the search was justified at its inception and (2) that the scope was reasonably related to the circumstances that justified the search.

A high school teacher found two students smoking in a lavatory and took them to the principal's office. When T.L.O. denied smoking, the assistant vice principal searched her purse, finding cigarettes and rolling papers. This prompted a more thorough search, which revealed marijuana, a pipe, plastic bags, money, and notes suggesting drug dealing. T.L.O. moved to suppress this evidence in the subsequent juvenile proceedings.

The Supreme Court held that the Fourth Amendment applies to searches by school officials, but the standard is reasonableness, not probable cause. The Court recognized that schools have a substantial interest in maintaining discipline and providing a safe

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