Simulated Exam #2
Case Law Questions
Answer Key

1. D – Virginia v. Moore, 553 U.S. 164 (2008)
2. C – State v. Basil, 202 N.J. 570 (2010)
   - Information imparted by a citizen directly to a police officer will receive greater weight than information received from an anonymous tipster.
   - An objectively reasonable police officer may assume that an ordinary citizen reporting a crime, which the citizen purports to have observed, is providing reliable information.
   - The Court reasoned that the young woman informant was "an identifiable citizen" who provided information from her personal knowledge regarding events that occurred minutes earlier.
   - That the young woman would later refuse to give any identifying data about herself out of an expressed fear for her safety does little to diminish the reliability of the information when it was given.
3. B – State v. Doss, Appellate Division (1992)
   - Once the totality of the circumstances observed by the police justifiably aroused an "articulable suspicion" which warranted their stopping and interrogating defendant, he was legally obligated to halt in response to their shouted orders to stop and, subject to his privilege against self-incrimination, he had a duty to answer their inquiries.
   - When defendant continued his flight from the pursuing police officers despite their shouted orders to halt, his refusal to obey their orders, together with all of the other circumstances of the case, gave the police reasonable cause to believe that he had committed or was then committing a criminal offense.
   - Defendant's arrest may also be upheld on a second, "alternative ground." Defendant's refusal to obey the officers' lawful order to halt was a criminal offense in itself. In this respect, N.J.S. 2C:29-1a.
4. D – State v. Dangerfield, 171 NJ 446 (2002)
   - There was no reasonable suspicion for defendant's stop and no probable cause for his arrest. Therefore, there was no justification for the ensuing search.
   - The facts known to the police simply did not support a well-grounded suspicion that defendant was 'not licensed or privileged to enter or remain at the Grant Court Complex, the critical elements of defiant trespass under N.J.S. 2C:18-3b, or otherwise was engaged in criminal activity.
5. C – State v. Egles, 308 N.J. (App. Div. 1998)
   - An illegal arrest taints only the evidence that is the product of the arrest; it does not necessarily taint the entire prosecution.

6. A – State v. Gibson, 218 N.J. 277 (2014)
   - There were insufficient facts to support the officer's conclusion that he had probable cause to arrest Gibson for defiant trespass. The evidence seized, therefore, must be suppressed.
   - A person commits the petty disorderly persons offense of defiant trespass, if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:
     1) Actual communication to the actor; or
     2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
     3) Fencing or other enclosure manifestly designed to exclude intruders.
   - This case deals only with the 'enters' portion of the statute, which has no temporal requirement for a completed trespass. Provided sufficient notice is given against trespass, even a brief willful entry onto another's property may constitute a violation of N.J.S. 2C:18-3(b). In contrast, under the 'remains' portion of the statute, a person who is privileged or licensed to enter onto property may be prosecuted for defiant trespass if he refuses to leave after he is told to do so.
7. C – State v. Sibilia, 202 N.J. 570 (2010)
   - The actual name of a citizen witness is not always a sine qua non to legitimate police action.
   - It is one thing for a person giving the information to be anonymous even to the police and quite another for him to be known to the police but merely unidentified.
   - Trustworthiness and reliability may be found where the information relied on has been supplied by an ordinary citizen witness who is not a traditional police informer and whose identity, though not furnished to the issuing judge is known to the police.
8. B – Florida v. J.L., 529 U.S. 266, 120 S. Ct. 1375 (2000)
   - To justify a stop based solely on an anonymous tip, police must take steps to establish the reliability of the tip. If the anonymous tip is found to be so lacking in reliability that the constitutional standard of a "reasonable articulable suspicion" of criminal activity has not been satisfied, the stop and frisk will not be justified, even if it alleges the illegal possession of a firearm.
9. A – State v. Moore, 181 N.J. 40 (2004)
   - Detective Abrams was an experienced narcotics officer.
   - He previously had made numerous drug arrests in the same neighborhood, which was known to the police for heavy drug trafficking.
   - Using binoculars, he observed three men move away from the group to the back of a vacant lot, and he saw defendant and his companion give money to the third person in exchange for small unknown objects.
   - Based on his experience and those factors, it was reasonable for Detective Abrams to conclude that the totality of the circumstances supported a well-grounded suspicion that he had witnessed a drug transaction.
   - Therefore, there was probable cause for Detective Abrams to arrest defendant.

- Accordingly, the observations by the officers in this case, "in the high- crime area, supported probable cause to arrest defendant, search him, and seize the suspected drugs incident to that arrest.

10. C – State v. Pagan, 378 N.J. 549 (App. Div. 2005)
    - Similar reasons the State v. Moore case
11. B – State v. Pineiro, 181 N.J. 13 (2004)
    - The circumstances here failed to establish probable cause to arrest or search defendant. Rather, the circumstances only established a reasonable suspicion to support an investigatory stop and investigation.
    - There was no observation of currency or anything else exchanged, rather, there was merely a transfer of a cigarette pack under circumstances that had both innocent and suspected criminal connotations.
12. D – District of Columbia v. Wesby, 583 U.S. ___, 138 S. Ct. 577 (2018)
    - The condition of the house and the conduct of the partygoers allowed the officers to make several common-sense conclusions about human behavior. Most homeowners do not live in near-barren houses. And most homeowners do not invite people over to use their living room as a strip club, to have sex in their bedroom, to smoke marijuana inside, and to leave their floors filthy. The officers could thus infer that the partygoers knew their party was not authorized.
13. B – Nieves v. Bartlett, 587 U.S. ___, 139 S. Ct. 1715 (2019)
    - The existence of probable cause to arrest Bartlett precluded his First Amendment retaliatory arrest claim as a matter of law.
    - The Court generally review officers' conduct under objective standards of reasonableness. Thus, when reviewing an arrest, we ask whether the circumstances, viewed objectively, justify the challenged action, and if so, conclude that action was reasonable whatever the subjective intent motivating the relevant officials. A particular officer's state of mind is simply irrelevant, and it provides no basis for invalidating an arrest.
14. C – State v. McQueen, 248 N.J. 26 (2021)
    - McQueen's custodial status in the stationhouse did not strip him of all constitutional protections. The police provided McQueen and Allen-Brewer with no notice that their conversation would be recorded or monitored.
    - Article I, Paragraph 7, which prohibits unreasonable searches and seizures, broadly protects the privacy of telephone conversations in many different settings.
    - McQueen and Allen-Brewer had a reasonable expectation of privacy in their conversation in the absence of fair notice that their conversation would be monitored or recorded.
    - The recorded stationhouse telephone conversation was not seized pursuant to a warrant or any justifiable exigency and therefore must be suppressed.

15. A – State v. Moore, 260 N.J. Super. 12 (App. Div. 1992)
    - Evidence seized as a result of such an unlawful arrest is not available to the State for defendant's prosecution even though the particular arresting officer acted in good faith and without culpability.
    - Tthe court recognized that some delay in updating information is inherent and must be allowed. Courts have not found police misconduct when the delay in updating records was just a few days; for example, a delay of four days has been upheld as reasonable.
16. A – State v. Macuk, 42 N.J. 334 (1964)
    - Unless otherwise specified by law, the general rule in New Jersey is that a valid arrest without a warrant requires the offense to be committed in the presence of the officer unless the offense is punishable by imprisonment for more than one year in state prison.
17. D – State v. Morse, 54 N.J. 32 (1969), Bauer v. Borough of Cliffside Park, 225 N.J. 38, 46 (App.Div. 1988), State v. Hurtado, 219 N.J. 12 (App. Div. 1987); State v. Vonderfecht, 284 N.J.Super. 555 (App.Div. 1995)
    - The word "presence" sums up the requirement that the officer knew of the event by the use of his senses.
    - When the officer, although not a witness to the offense, learns from the lips of the offender that he committed it. The officer then knows everything his senses could have gathered.
18. A – State v. Davila, 203 N.J. 97 (2010)
    - A protective sweep—in appropriate circumstances—is a necessary and important tool for law enforcement safety. Law enforcement officers may employ the technique of a protective sweep of a dwelling when the officers:
        1. are lawfully within private premises for a legitimate purpose, which may include consent to enter; and
        2. the officers on the scene have a reasonable articulable suspicion that the area to be swept harbors an individual posing a danger.
    - Where those substantive conditions are met, as a matter of procedure, the sweep will be upheld only if
        (1) it is conducted quickly; and
        (2) it is restricted to places or areas where the person posing a danger could hide.
    - the existence of the arrest warrant in Buie was not essential to the Supreme Court's rationale for approving the officers' use of a protective sweep in that matter. Nonetheless, a warrantless protective sweep of a home cannot be performed simply because officers are lawfully within a premises.
19. D – *Drunk driving*. See *N.J.S. 39:5-25,* authorizing a law enforcement officer to "arrest without a warrant any person who the officer has probable cause to believe has operated a motor vehicle in violation of R.S. 39:4-50 or [39:3-10.13], regardless of whether the suspected violation occurs in the officer's presence."

Shoplifting. See N.J.S. 2C:20-11e, authorizing a law enforcement officer to arrest without warrant "any person he [or she] has probable cause for believing has committed the offense of shoplifting."
Theft of Library Materials. See N.J.S. 2C:20-14b, which provides: "Any law enforcement officer who has probable cause for believing that a person has committed the offense of theft of library material may arrest the person without a warrant."

20. A – State v. Hurtado, 219 N.J. Super. 12 (App. Div.1987)
    - In pertinent part, N.J.S. 40A:14-152 provides:
        - The members and officers of a police department and force, within the territorial limits of the municipality, shall have all the powers of peace officers and upon view may apprehend and arrest any disorderly person or any person committing a breach of the peace.
        - There are two preconditions to exercise the power of arrest under this section:
            (1) the offense must have occurred 'upon view' of the officer, and
            (2) the offender must be either a 'disorderly person' or have committed a breach of the peace.
    - The Appellate Division found the warrantless arrest authorized by N.J.S. 40A:14-152 and R. 3:4-1(c), the New Jersey Supreme Court agreed with defendant and dissenting Judge Skillman, finding that neither of these provisions authorizes an arrest without a warrant for violation of a municipal ordinance prohibiting littering, even if the police are purportedly concerned that the violator will not respond to a summons.
21. C – Marion v. Borough of Manasquan, 231 N.J. Super. 320 (App. Div. 1989)
    - Finding the violation of an ordinance requiring the purchase of beach badges not to constitute a breach of the peace, the court held that the violation of Manasquan's ordinance in this case permitted [the violators' detention only to the extent necessary to obtain their identity for the issuance of a summons.
22. B – Maryland v. Buie, 494 U.S. 325, 110 S. Ct. 1093 (1990)
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        1. are lawfully within private premises for a legitimate purpose, which may include consent to enter; and
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    - Where those substantive conditions are met, as a matter of procedure, the sweep will be upheld only if
        (1) it is conducted quickly; and
        (2) it is restricted to places or areas where the person posing a danger could hide.
    - the existence of the arrest warrant in *Buie* was not essential to the Supreme Court's rationale for approving the officers' use of a protective sweep. Nonetheless, a

warrantless protective sweep of a home cannot be performed simply because officers are lawfully within a premises.

23. B – Maryland v. Buie, 494 U.S. 325, 110 S. Ct. 1093 (1990)
    - Words "probable cause" should be "reasonable articulable suspicion."
    - The police went into Buie's home to arrest him for the perpetration of a dangerous felony—armed robbery—which had been committed within the preceding 48 hours. The victim of the robbery had promptly identified the perpetrators, and warrants for Buie and Allen were obtained on the day of the offense. The police placed Buie's house under surveillance for two days, and it is a fair inference that they did not observe Buie or Allen during that time. In fact, the police learned Buie was at home only through a pretext telephone call placed just prior to their entry.
    - When Buie was ordered out of the basement, arrested, handcuffed and searched, no weapon was found.
    - Detective Frolich was present at the top of the stairs and observed the arrest of Buie. Frolich then descended the stairs, in case there was someone else in the basement. Detective Frolich was the original investigating officer in the armed robbery case. He reasonably believed that Buie and Allen had perpetrated the robbery. On the day of the offense, he had obtained warrants for the arrest of both of them. Consequently, i]t was entirely reasonable, at that point, for Frolich to suspect that Allen might well have come to Buie's house with him after the robbery, and might well be in the basement. Moreover, Frolich knew that Buie had used a gun in the robbery, and the gun had not been found when Buie was arrested.
    - Keeping in mind that the test is one of reasonable suspicion, and not of proof beyond a reasonable doubt or even of probable cause, and adopting a practical and non-technical approach, it seems clear that a prudent officer in Frolich's position could reasonably suspect that the basement harbored an individual who posed a danger to those on the arrest scene, and thus he was justified in conducting a cursory sweep of that area to neutralize the danger.
24. B – State v. Stupi, 231 N.J. Super. 284 (App. Div. 1989)
    - Although the court found that the officers were voluntarily admitted to the house when they knocked on the door, it also found that even if the officers were not permitted such entry, the exigent circumstances exception to the warrant requirement justified the police entry into the dwelling. A robbery had just been committed and a trail through the snow led directly to the house where defendants were residing. Prompt police action was required to apprehend the perpetrators and to prevent destruction of evidence of the crime. Accordingly, the warrantless, hot-pursuit entry here, to effect the arrest of two fleeing robbery suspects, was proper.

25. C – State v. Perry, 124 N.J. 128 (1991)
    - The officers' right to be in a position to have a plain view arose out of the purpose of their entrance into the house. "Legitimate precaution justifies routine police procedures not designed as pretexts to discover evidence." ∗ ∗ ∗ Here, the officers had no underlying design to find drugs linked to Perry or to make a drug arrest of Perry. Indeed, they hoped to deter Perry from taking drugs completely to protect the polygraph process from pollution. Moreover, they were involved in legitimate procedures to locate an important source of information.
    - Moreover, defendant cannot claim any disappointment of his expectation of privacy. Although we recognize that "the Fourth Amendment has drawn a firm line at the entrance to the house" preventing a warrantless entrance to search or arrest absent exigent circumstances, ∗ ∗ ∗ it has not erected a barrier to officers entering for other legitimate purposes. ∗ ∗ ∗
    - Other reasoning demonstrates that Perry's expectation of privacy was not impinged. He was in a house, not his own, that appeared vacant and whose front door was not only unlocked but open. The open door, uncertain ownership, and vacant nature of the edifice create a situation far from unambiguous and make it difficult to give its transient user a constitutionally-reasonable expectation of privacy.
26. B – State v. Radel, 249 N.J. 469 (2022)
    According to the Court, no crisis arose at the scene; the operation went according to plan. The police could have escorted Radel off the property, placed him in a patrol car, and transported him to headquarters; secured the perimeter of the property; and secured a search warrant. Instead, the officers conducted a protective sweep of the house, despite the absence of any discernible exigency. At the time, the police had no information that another person was either in the house or posed a danger. There was a second car in the driveway, but the police did not know who owned it or whether it was used by Radel, whether it belonged to his parents or a friend, or whether it was owned by some unknown person in the house. That second car, standing alone, did not give rise to a reasonable suspicion that another person was present in the house and dangerous, Consequently, the Court held that the police did not have reasonable and articulable suspicion to believe that the area to be swept harbored an individual posing a danger to those on the arrest scene.
27. A – State v. Cope, 224 N.J. 530 (2016)
    - A protective sweep incident to an in-home arrest is permissible under the following circumstances. First, the police may sweep the spaces immediately adjoining the place of arrest from which an attack might be launched even in the absence of probable cause or reasonable suspicion. Any wider sweep must be justified by specific facts that would cause a reasonable officer to believe there is an individual within the premises who poses a danger to the arresting officers. Second, the sweep must be narrowly confined to a cursory visual inspection of those places in which a person might be hiding. Although the sweep is not a search for weapons or contraband, such items may be seized if observed in plain view during the sweep.

Last, the sweep should last no longer than is necessary to dispel the reasonable suspicion of danger or to complete the arrest and depart the premises.

- The Court first concluded that the porch was in such close proximity to the place of arrest—indeed, immediately adjoining it—that a protective sweep of that area was permissible even without probable cause or reasonable suspicion. Even so, given all of the information available to Sergeant Brintzinghoffer, he would have been justified entering the porch based on the reasonable-and-articulable-suspicion standard. Under the circumstances, Sergeant Brintzinghoffer did not have to wager his safety and the lives of his fellow officers by erring on the side of excessive caution.
- Second, the sweep was limited to a brief visual inspection of an area from which a person might have emerged to surprise and threaten the officers. The officers on the perimeter detail did not have a complete view of the porch or the storage bin. The search was in direct proportion to the risk.
- Third, the sweep was swiftly conducted and did not exceed the time necessary to dispel the reasonable suspicion of danger.
- Last, the seizure of the rifle bag and its contents met the plain-view exception to the warrant requirement. Sergeant Brintzinghoffer was lawfully on the porch when he first saw the rifle bag; his discovery of the bag was inadvertent, that is, he did not know in advance that a rifle would be located on the porch; and it was immediately apparent to him that the bag and its contents were evidence of a crime.

28. B – State v. Henry, 133 N.J. 104 (1993)
    - The words "reasonable cause" should be "probable cause."
29. D – State v. Henry, 133 N.J. 104 (1993)
    - In State v. Henry, supra, the New Jersey Supreme Court recognized the viability of the "consent-once-removed" doctrine. This doctrine provides that consent to a police officer's initial entry into a private place may provide authorization for a subsequent entry if the separate entries can be viewed as components of a single, continuous and integrated police action. Key to the Court's holding is the short amount of time and continuity between the two entries.
    - The entry of the backup team followed relatively quickly (the time between the first entry and second was estimated at about fifteen to twenty minutes). Because the delay between the two entries was relatively brief and the occupants of the apartment had little opportunity to leave, it was not likely that the circumstances giving rise to probable cause to make an immediate arrest on entering the premises would have dissipated or changed materially. Thus, the probable cause developed from the buy still obtained at the time of the bust.
    - The Court also found that the delay in this case was justified. The purpose of the delay was to ensure the personal safety of Detective Boswell. He had seen five adults in the apartment. Three of those adults were involved in the drug sale. Further, as one of the detectives testified, weapons are usually found where illegal drugs are sold.
30. C – State v. Penalber, 386 N.J. Super. 1 (App.Div.2006)
    - The court concluded that the warrantless entry into the second floor apartment that led to defendant's arrest cannot be sustained under the consent-once-removed

doctrine. A significantly longer period of time elapsed in this case than in Henry between the undercover officer's entry into the apartment house to buy drugs and the backup officers' entry to arrest Lescano. Although in Henry it was only fifteen to twenty minutes between the undercover officer's initial entry and the backup officers' return to make the arrest and only five minutes between the undercover officer's call to the backup team and the arrest, thirty to forty-five minutes elapsed [here between the undercover buy and the detective's] return to the apartment house with other officers to arrest the sellers. Furthermore, during that intervening period, [the detective] and the other officers returned to the police station to discuss what course of action to take. Consequently, [the] initial entry into the apartment to buy drugs and the second entry to arrest Lescano cannot be viewed, as in Henry, as 'components of a single, continuous, and integrated police action.

31. D – State In Interest of J.A., 233 N.J. 432 (2018)
    - The New Jersey Supreme Court preliminarily held that the officers' warrantless entry into defendant's house was not justified by exigent circumstances. Said the Court: Initially, we need not consider whether the officer's pursuit of defendant, facilitated by his use of the Find My iPhone application, falls within the purview of the hot pursuit doctrine because the doctrine does not apply for other reasons. Our analysis of the circumstances surrounding this pursuit informs our conclusion that it cannot constitute an exigency sufficient to justify the suspension of the warrant requirement. Although the crime committed was arguably a violent one, the State has failed to prove that the police had any basis to believe that defendant would injure anyone inside the house or the officers themselves, so that waiting to obtain a warrant would have been unreasonable.
    - Likewise, the State has not shown that the officers had any reason to believe that defendant would (or could effectively) destroy the phone. There is no evidence supporting that defendant knew that he was being followed and would thus have had an impetus to dispose of the phone. And even if he did, unlike controlled substances or narcotics, a phone cannot be easily flushed down a drain or destroyed by burning.
    - In the absence of any danger that defendant would commit violent acts or that he would destroy the desired evidence, we find that the officers' pursuit of defendant was not an exigency overriding the warrant requirement.
    - Accordingly, the Court held that "neither exigency nor the hot pursuit doctrine justified the officers' warrantless entry here.
32. B – State In Interest of J.A., 233 N.J. 432 (2018)
    - Where a "private person" takes possession of property "from the premises of the owner and turns it over to the government, which did not participate in the taking, it may be used as incriminating evidence against the owner in a subsequent criminal prosecution." On the other hand, when a private person acts "as an arm of the police," the private person's seizure of property constitutes state action. In this regard, "when a private citizen acts 'in concert' with police officers, the private citizen's actions are treated as state action for purposes of the Fourth Amendment."

- In this case, the Court agreed that "defendant's brother's search for the missing phone was independent non-state action free from constitutional restrictions and sufficiently attenuated from the police's illegal entry to be permissible." Said the Court: Defendant's brother was clearly not acting as an agent of the State when he searched the house for the phone. is] actions were completely independent of the officer's investigation. Frustrated with yet another incident of defendant's misconduct, defendant's brother decided to search the house without solicitation or even encouragement from the officers present. And when the brother successfully recovered the victim's phone, he offered it to the police without request. The mere presence of an officer during the brother's self-imposed investigation does not by itself indicate police coercion or influence.
- Moreover, defendant's brother's actions were voluntary and sufficiently attenuated from the officers' unlawful entry. He chose to undertake his search on his own, motivated by his displeasure with defendant's actions—not by any encouragement, request, or intimidation by the police. Therefore, his actions constituted "means sufficiently distinguishable to be purged of the primary taint" of the police misconduct. Consequently, we hold that the phone is immune from the reach of the exclusionary rule.

33. C – State v. Bruzzese, 94 N.J. 210 (1983)
    - In Washington v. Chrisman, 455 U.S. 1, 102 S.Ct. 812 (1982), the federal Supreme Court held that a police officer has the right to monitor the movements of an arrested person following the individual's arrest. Here, in Bruzzese, the Court adopted the principles set forth in Chrisman, holding that they "are equally applicable in New Jersey."
    - Accordingly, "once a defendant is placed under lawful arrest, the arresting officer has the right to remain at his side[, to remain literally at a defendant's elbow, and to follow him wherever he chooses to go. The officer need not articulate any special need for the accompaniment so long as the arrest is lawful. The accompaniment is purely a precautionary measure." "In adopting this rule," reasoned the Court, we balance, as we must in all search and seizure cases, the interests of public safety, in this instance the protection of police officers, against the intrusion upon the privacy of and inconvenience to an individual.
    - Every arrest, regardless of the nature of the offense, must be presumed to present a risk of danger to an officer. The proliferation of handguns poses a constant danger to law enforcement officers. That danger requires that each officer should have the right to monitor the movements of an arrestee to guard against the possibility that he could secure a hidden weapon.
    - There is also present the constant risk that the arrested defendant will seek to escape. We find it reasonable to permit the police to keep arrested persons in sight and within reach to prevent their escape.
    - The monitoring of arrestee movement must, however, "be conducted in an objectively reasonable fashion. For example, police cannot use this rule 'to lead the accused from place to place and attempt to use his presence in each location to justify

a search.' An officer cannot direct an arrested individual to go to another area without a legitimate reason grounded in the safety of the police or the public.

34. B – State v. Liberatore, 293 N.J. Super. 580 (Law Div.), aff'd o.b., 293 N.J. Super. 535 (App. Div. 1996)
    - In this case, Officer Krok's warrantless entry was not made for the purpose of performing a "widespread exploratory search." Rather, his purpose was only to regain custody of an arrestee by virtue of the lawful arrest previously made. Entering defendant's enclosed porch for this purpose, ruled the court, was, in fact, "a continuation of the overall arrest sequence," and, in law, "objectively reasonable under all the circumstances.

35. A – County of Los Angeles v. Mendez, 581 U.S. ____, 137 S. Ct. 1539 (2017)
    - In the courts below, it was determined that, under Graham v. Connor, 490 U.S. 386, 109 S.Ct. 1865 (1989), the deputies' use of force was reasonable given their belief that a man was holding a firearm rifle threatening their lives. But that did not end the lower courts' excessive force analysis. Instead, the courts turned to the Ninth Circuit's "provocation rule," which holds that an officer's otherwise reasonable (and lawful) defensive use of force is unreasonable as a matter of law, if (1) the officer intentionally or recklessly provoked a violent response, and (2) that provocation is an independent constitutional violation.
    - Here, the lower courts found that "the use of force by the deputies was reasonable under Graham. However, the Mendezes were still able to recover damages because the deputies committed a separate constitutional violation (the warrantless entry into the shack) that in some sense set the table for the use of force. That is wrong. The framework for analyzing excessive force claims is set out in Graham. If there is no excessive force claim under Graham, there is no excessive force claim at all.

36. D – State v. Nikola, 359 N.J. Super. 573 (App. Div. 2003)
    - According to the court, "Officer Hanrahan had probable cause to believe defendant had been driving while under the influence, [and since] he temporarily detained her before entering the garage, [] he did not have to obtain a warrant before following her into her garage to retrieve her driving credentials and then arresting her.
    - Officer Hanrahan had probable cause to believe defendant had been driving while under the influence of alcohol before entering her garage. Moreover, Hanrahan had already 'seized' defendant before following her into the garage when she went to retrieve her driving credentials. Therefore, Hanrahan was not required to obtain a warrant before completing his investigation and placing defendant under arrest.

37. D – Sause v. Bauer, 585 U.S. ___, 138 S.Ct. 2561 (2018)
    - There can be no doubt that the First Amendment protects the right to pray. Prayer unquestionably constitutes the 'exercise' of religion. At the same time, there are clearly circumstances in which a police officer may lawfully prevent a person from praying at a particular time and place. For example, if an officer places a suspect under arrest and orders the suspect to enter a police vehicle for transportation to jail, the suspect does not have a right to delay that trip by insisting on first engaging in

conduct that, at another time, would be protected by the First Amendment." However, "[w]hen an officer's order to stop praying is alleged to have occurred during the course of investigative conduct that implicates Fourth Amendment rights, the First and Fourth Amendment issues may be inextricable (impossible to disentangle or separate.)

38. D – State v. Jefferson, 413 N.J. Super. 344 (App. Div. 2010)
    - The citizen informant provided a reliable tip, and that the tip established a reasonable basis for the police to investigate the vehicle identified and defendant, who fit the description provided and, minutes later, was at the address where the police found the vehicle.
    - The tip and the corroborating evidence were not, however, "sufficient to establish probable cause to arrest defendant for any offense." Therefore, the court determined that the constitution was violated when the sergeant "wedged herself in the front doorway to prevent defendant from closing it."
    - Despite the initial unlawful entry, the court determined that "defendant did not have a right to resist the police physically, even if they were violating his constitutional rights." The facts suggest that "the police had probable cause to arrest and charge defendant with assaulting [the sergeant] when he slammed the door on her. Upon arresting defendant, the police had a right to search his person without a warrant as incident to his arrest. Therefore, the two bags of cocaine found on his person were admissible as the product of a warrantless search incident to arrest.
39. B – State v. Legette, 227 N.J. 460 (2017)
    - Warrantless entries into the home require probable cause, and because investigatory stops require the lower standard of reasonable suspicion the court held that, when conducting an investigatory stop, it is not permissible for an officer to follow suspects into their homes.
40. C – Washington v. Chrisman, 455 U.S. 1 (1982)
    - The United States Supreme Court held that once an officer has effected a valid arrest of an individual, it is within that officer's authority to maintain custody and control over the arrestee and monitor his movements. Therefore, if the arrestee requests to go to his home to retrieve an item, such as his or her identification, the officer has a right to remain literally at the arrestee's elbow, and seize any contraband discovered there in plain view.
41. A – State v. Jones, 143 N.J. 4 (1995)
    - In the appeal following the denial of his motions to suppress the physical evidence and oral statements obtained by the police, defendant argued that the search and seizure which led to his arrest violated the Constitution. The Appellate Division accepted defendant's arguments, but the New Jersey Supreme Court disagreed and reversed.
    - The Court explained that "warrants are issued pursuant to Rule 3:3-1. The issuance of a warrant does more than simply place a duty on the police to execute it; its issuance suggests that the sought-after suspect may be wanted for a grave offense or that the suspect has ignored less intrusive process.

- Moreover, courts have always emphasized the difference between warranted and warrantless entries to effect an arrest. “The police have the right to execute an arrest warrant on a defendant at his or her home, and they may enter the home to search for the defendant when there is probable cause to believe that he or she is there.
- Once a warrant is issued, it becomes an officer’s duty to arrest the suspect.’ ‘Officers have no discretion in making arrests where there is an outstanding warrant.’ In fact, had the officers failed to attempt to [execute] the warrant, they would have been derelict in their duties.
- Aware of the warrant for Collier’s arrest, the officers had both the right and the duty to follow him into the apartment.” Any requirement that the police know whether the warrant issued for a minor or serious offense would be “impractical” and “difficult to enforce.”

42. D – State v. Green, 318 N.J. Super. 346 (1999)
    - To “uphold the validity of an arrest and incidental search based on an arrest warrant, the State is only required to show that the warrant was valid and” the police “reasonably believed the person arrested was the person sought.” The arrest of the person believed to be the one named in the warrant must be “a reasonable response to the situation” facing the officers at the time.
    - The court rejected defendant’s argument that the arrest was invalid because the officers failed to obtain a photograph of Lovett to reduce the risk of arresting the wrong person. The court said: “Although the better practice may be for law enforcement officers to obtain a photograph of the person named in an arrest warrant, the failure to take this step does not automatically require the suppression of evidence if the officers mistakenly identify the arrestee, especially in the absence of evidence that his photograph was readily available.
    - The arrest in this case was valid and the evidence seized was admissible notwithstanding the misidentification.
43. B – State v. Fisher, 180 N.J. 462 (2004)
    - In addressing defendant’s contention that an unsigned traffic ticket is invalid and ineffective, the Court explained: Our court rules are designed to ensure that traffic offenses are decided on the merits rather than dismissed on technicalities. To that end, Rule 7:2-4 provides that “no person appearing in response to a summons shall be discharged from custody or dismissed because of any technical insufficiency or irregularity in the summons, but the summons may be amended to remedy any such technical defect.” Similarly, Rule 7:14-2 permits amendments to “any process or pleading for any omission or defect therein or for any variance between the complaint and the evidence adduced at the trial.” The plain language of both rules suggests that the State should be permitted to amend the unsigned ticket, which functions as both the process and pleading.
    - The main issue in this case is, therefore, whether the omission of an officer’s signature on the ticket is a curable defect under Rules 7:2-4 and 7:14-2. Generally, the courts “have been reluctant to view errors in a traffic ticket, complaint, or summons as fatal to the prosecution when the alleged insufficiency did not prejudice the rights of

the defendant and did not detract from the intended purpose of the instrument, namely, to provide the defendant with "ample and fair notice of the nature of the charge against him."

- In order to properly accommodate the interests of defendants, the State, and the judicial system, the Court held that "an officer's failure to attest to probable cause by signing the Uniform Traffic Ticket proves fatal to the prosecution only when that omission defeats the purposes intended to be served by the ticket or when the error otherwise prejudices the defendant."
- Next, the Court addressed whether the prosecution was required to remedy the "defect" within thirty days of the date of the offense. Preliminarily, the Court emphasized that, as "a matter of public policy, rather than constitutional mandate, the obligation imposed by our court rules on law enforcement officers to sign traffic tickets is important. By signing the statement on the ticket that 'THERE ARE JUST AND REASONABLE GROUNDS TO BELIEVE THAT YOU COMMITTED THE ABOVE OFFENSE,' the officer verifies that there is probable cause to support prosecution of the defendant for the named offense. In so doing, the officer assures both the defendant and the court that the defendant's 'interests in liberty and freedom from unreasonable prosecution' have been protected." Thus, "the officer's signature provides the only concrete evidence that the quasi-criminal proceeding has been instituted in good faith and by a person authorized to do so."
- Although the officer's signature "plays a valuable role in protecting citizens' rights," the Court rejected defendant's contention that "the absence of the signature on the ticket at the time of its issuance renders the ticket invalid." Said the Court: Ordinarily, the omission of the signature will not impair the ticket from serving its primary function of safeguarding the defendant's right to procedural due process. Moreover, in most cases, any danger of unfounded prosecution posed by an unsigned ticket can be eliminated by an amendment under Rule 7:2-4 or 7:14-2. We, therefore, find no principled reason for adopting a per se rule that an unsigned traffic ticket is null and void. To conclude otherwise would undermine the policy expressed in our court rules of resolving traffic matters on the merits rather than on technicalities.

44. C – State v. Miller, 342 N.J. Super. 474 (App. Div. 2001)
    - The court held that the standard for entering a home to execute an arrest warrant requires the police to have "an objectively reasonable basis both for believing the residence was the home of the person named in the arrest warrant and that he was present in the home at the time the warrant was executed."
    - In this case, the only information the officers had was "the snippet of opinion" offered by Champion's mother that defendant and Champion were living together at 263 Spring Street. "That statement was unsupported by observation, investigation or other inquiry. Consequently, as a basis for the officers' action," the court held that "it did not meet the 'objectively reasonable belief' standard in respect of either prong of the pertinent test."
45. D – I. United States v. Bervaldi, 226 F.3d 1256, 1259, 1263 (11th Cir. 2000)
    II. Valdez v. McPheters, 172 F.3d 1220, 1227-28 (10th Cir. 1999)

III. United States v. Route, 104 F.3d 59, 62, 63 (5th Cir. 1997)
IV. United States v. Risse, 83 F.3d 212, 216-17 (8th Cir. 1996)
V. Anderson v. United States, 107 F.Supp.2d 191, 196 (E.D.N.Y. 2000)

46. C – State v. Craft, 425 N.J .Super. 546 (App. Div. 2012)
    - Preliminarily, the court noted that "the police did not need an arrest warrant or a search warrant to approach Ms. Craft's apartment building and knock on the door to her apartment." In addition, the court determined that the officers' entry was lawful based on Ms. Craft's consent. Thus, "the primary issue on appeal is whether the police violated defendant's constitutional rights when they entered the bedroom in his mother's apartment without a search warrant.
    - The arrest warrant provided probable cause for defendant's arrest; the officers entered the apartment with Ms. Craft's consent; and Detective Daniels had reason to believe defendant was present in an adjoining room when a cell phone began ringing after Ms. Craft called her son. In addition, the officers knew the arrest warrant was for 'a shooting' and, therefore, defendant was potentially dangerous. Under these circumstances, there was a compelling need for immediate action to apprehend defendant, and it was impracticable for the officers to obtain a search warrant. Thus, their entry into the bedroom was objectively reasonable, and the items seized were in plain view.
47. B – Minnesota v. Carter, 525 U.S. 83, 119 S.Ct. 469 (1998)
    - The Court ruled that while "an overnight guest in a home may claim the protection of the Fourth Amendment," a person "who is merely present with the consent of the householder may not."
    - "Whereas it is plausible to regard a person's overnight lodging as at least his 'temporary' residence, it is entirely impossible to give that characterization to an apartment that he uses to package cocaine" These defendants "have established nothing more than a fleeting and insubstantial connection with Thompson's home. They used Thompson's house simply as a convenient processing station, their purpose involving nothing more than the mechanical act of chopping and packing a substance for distribution."
    - The defendants in this case "were obviously not overnight guests, but were essentially present for a business transaction and were only in the home a matter of hours. There is no suggestion that they had a previous relationship with Thompson, or that there was any other purpose to their visit. While the apartment was a dwelling place for Thompson, it was for these [defendants] simply a place to do business.
    - Consequently, the Court held that "any search which may have occurred did not violate their Fourth Amendment rights." Because the Court concluded that the defendants "had no legitimate expectation of privacy in the apartment," it did not decide whether Officer Thielen's observation constituted a "search.
48. B – State v. Cleveland, 371 N.J. Super. 286 (App. Div. 2004)
    - Finding the entry of the motel room lawful, the court preliminarily determined that defendant was not a "resident" of room 304, but simply a "visitor in Brown's room." The court explained: When the officers went to room 304, they were confronted with

an open door. While the occupant of a motel room enjoys "a constitutionally protected expectation of privacy," when the occupant leaves the interior of the room visible to any of the other guests and visitors who might pass through an adjacent hallway, it is fair to conclude that the expectation of privacy has been abandoned. The hallway adjacent to Brown's room was a public area that could be used by any occupant or visitor.

- When Montgomery looked through the open door leading to Brown's motel room, he was able, readily, to identify one of the occupants as defendant, the subject of the arrest warrant. Defendant was only about six feet away from the door at the time. Montgomery's observation of defendant did not constitute an unlawful intrusion.
- Acting upon his observations, Montgomery and his colleagues entered the room to take defendant into custody pursuant to the lawfully issued arrest warrant. They did not enter Brown's room for the purpose of searching it.
- Montgomery and the other officers were not engaged in a house-to-house search for defendant; nor were they using the arrest warrant as a pretext to search Brown's motel room. Additionally, unlike the law enforcement officials in Miller and Steagald, the police here did not use the threat of force or coercive tactics to gain entry into Brown's motel room.
- Nor was the intrusion on Brown's privacy particularly significant. The door to the motel room had been left open, allowing anyone who walked through the Inn's hallways to see inside. The police merely had to step through the open door to arrest defendant, who they saw sleeping only about six feet away. They announced their presence as they entered.
- Montgomery's observations gave him far more than probable cause to believe defendant was in room 304; he had direct and actual knowledge of defendant's presence through personal observation. With such knowledge, in the circumstances presented, it was not necessary for Montgomery and the other officers to obtain a search warrant before entering Brown's room to arrest defendant.
- Once in the room, the police observed evidence of drug use in plain view, and discovered heroin and cocaine after Brown, with adequately administered cautions, had consented to allow the police to search the room.

49. D – Kisela v. Hughes, 584 U.S. ___, 138 S. Ct. 1148 (2018)
    - Said the Court: "Even assuming a Fourth Amendment violation occurred—a proposition that is not at all evident—on these facts Kisela was at least entitled to qualified immunity." " 'Qualified immunity attaches when an official's conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'
    - According to Officer Kisela, he shot Hughes because, "he believed she was a threat to Chadwick. Kisela had mere seconds to assess the potential danger to Chadwick. He was confronted with a woman who had just been seen hacking a tree with a large kitchen knife and whose behavior was erratic enough to cause a concerned bystander to call 911 and then flag down Kisela and Garcia. Kisela was separated from Hughes and Chadwick by a chain-link fence; Hughes had moved to

within a few feet of Chadwick; and she failed to acknowledge at least two commands to drop the knife. Those commands were loud enough that Chadwick, who was standing next to Hughes, heard them." In short, "Hughes was armed with a large knife; was within striking distance of Chadwick; ignored the officers' orders to drop the weapon; and the situation unfolded in less than a minute." Consequently, it does not appear that Officer Kisela violated "clearly established" law, and he is entitled to qualified immunity.

50. A – Plumhoff v. Rickard, 572 U.S. 765, 134 S. Ct. 2012 (2014)
    - According to the Court, it was "beyond dispute that Rickard's flight posed a grave public safety risk, and the police acted reasonably in using deadly force to end that risk."
    - The Court also rejected the contention that, "even if the use of deadly force was permissible, [the officers] acted unreasonably in firing a total of 15 shots." Said the Court: "It stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended." Id. As noted in the court below, "if lethal force is justified, officers are taught to keep shooting until the threat is over.
    - Here, during the 10-second span when all the shots were fired, Rickard never abandoned his attempt to flee. Indeed, even after all the shots had been fired, he managed to drive away and to continue driving until he crashed. This would be a different case if the officers had initiated a second round of shots after an initial round had clearly incapacitated Rickard and had ended any threat of continued flight, or if Rickard had clearly given himself up. But that is not what happened."
    - In arguing that too many shots were fired, the plaintiffs relied in part on the presence of Kelly Allen in the front seat of the car. This did not change the Court's analysis. "Fourth Amendment rights are personal rights which may not be vicariously asserted. Thus, the question before [the Court was] whether [the officers] violated Rickard's Fourth Amendment rights, not Allen's. Allen's presence in the car cannot enhance Rickard's Fourth Amendment rights. After all, it was Rickard who put Allen in danger by fleeing and refusing to end the chase, and it would be perverse if his disregard for Allen's safety worked to his benefit."
    - Accordingly, the Court held that "the Fourth Amendment did not prohibit the officers from using the deadly force that they employed to terminate the dangerous car chase that Rickard precipitated.
51. C – City and County of San Francisco v. Sheehan, 575 U.S. 600, 135 S. Ct. 1765 (2015)
    - In this case, there was "no doubt that the officers did not violate any federal right when they opened Sheehan's door the first time. Reynolds and Holder knocked on the door, announced that they were police officers, and informed Sheehan that they wanted to help her. When Sheehan did not come to the door, they entered her room. This was not unconstitutional. '[L]aw enforcement officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury.

- Nor is there any doubt that had Sheehan not been disabled, the officers could have opened her door the second time without violating any constitutional rights. For one thing, 'because the two entries were part of a single, continuous search or seizure, the officers [were] not required to justify the continuing emergency with respect to the second entry.' In addition, Reynolds and Holder knew that Sheehan had a weapon and had threatened to use it to kill three people. They also knew that delay could make the situation more dangerous. The Fourth Amendment standard is reasonableness, and it is reasonable for police to move quickly if delay 'would gravely endanger their lives or the lives of others.' "
- The Court also agreed that "after the officers opened Sheehan's door the second time, their use of force was reasonable. Reynolds tried to subdue Sheehan with pepper spray, but Sheehan kept coming at the officers until she was 'only a few feet from a cornered Officer Holder.' At this point, the use of potentially deadly force was justified." "Nothing in the Fourth Amendment barred Reynolds and Holder from protecting themselves, even though it meant firing multiple rounds."
- The obvious question was "whether, despite these dangerous circumstances, the officers violated the Fourth Amendment when they decided to reopen Sheehan's door rather than attempting to accommodate her disability." Although this question was not properly addressed in the courts below, the Supreme Court simply determined that the officers' failure to accommodate Sheehan's illness did not violate clearly established law.
- In this Circuit, "an entry that otherwise complies with the Fourth Amendment is not rendered unreasonable because it provokes a violent reaction. Under this rule, qualified immunity necessarily applies here because, as explained above, competent officers could have believed that the second entry was justified under both continuous search and exigent circumstance rationales. Indeed, even if Reynolds and Holder misjudged the situation, Sheehan cannot 'establish a Fourth Amendment violation based merely on bad tactics that result in a deadly confrontation that could have been avoided.' Courts must not judge officers with 'the 20/20 vision of hindsight.' "
- Accordingly, these officers were "entitled to qualified immunity because they did not violate any clearly established Fourth Amendment rights.

52. C – Mullenix v. Luna, 577 U.S. ___, 136 S. Ct. 305 (2015)
    - Ruling in favor of the officer on the "qualified immunity question," the United States Supreme Court explained that the "doctrine of qualified immunity shields officials from civil liability so long as their conduct 'does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.' A clearly established right is one that is 'sufficiently clear that every reasonable official would have understood that what he is doing violates that right.' " Put simply, "qualified immunity protects 'all but the plainly incompetent or those who knowingly violate the law.'
    - In this case, Mullenix confronted a reportedly intoxicated fugitive, set on avoiding capture through high-speed vehicular flight, who twice during his flight had threatened to shoot police officers, and who was moments away from encountering an

officer at Cemetery Road. The relevant inquiry is whether existing precedent placed the conclusion that Mullenix acted unreasonably in these circumstances 'beyond debate.' "

- "Far from clarifying the issue, excessive force cases involving car chases reveal the hazy legal backdrop against which Mullenix acted.
- The threat Leija posed was at least as immediate as that presented by a suspect who had just begun to drive off and was headed only in the general direction of officers and bystanders. By the time Mullenix fired, Leija had led police on a 25-mile chase at extremely high speeds, was reportedly intoxicated, had twice threatened to shoot officers, and was racing towards an officer's location.
- The Court has "never found the use of deadly force in connection with a dangerous car chase to violate the Fourth Amendment, let alone to be a basis for denying qualified immunity."
- "Leija in his flight did not pass as many cars as the drivers in Scott or Plumhoff; traffic was light on I-27. At the same time, the fleeing fugitives in Scott and Plumhoff had not verbally threatened to kill any officers in their path, nor were they about to come upon such officers."
- Moreover, the availability of spike strips as an alternative means of terminating the chase does not change the outcome. "Spike strips [can] present dangers of their own, not only to drivers who encounter them at speeds between 85 and 110 miles per hour, but also to officers manning them. Nor are spike strips always successful in ending the chase."
- As Mullenix explained, "he feared Leija might attempt to shoot at or run over the officers manning the spike strips. Mullenix also feared that even if Leija hit the spike strips, he might still be able to continue driving in the direction of other officers. In fact, Mullenix hoped his actions would stop the car in a manner that avoided the risks to other officers and other drivers that relying on spike strips would entail."
- Reasonable officers could have concluded that Mullenix was justified "in perceiving grave danger and responding accordingly, given that Leija was speeding towards a confrontation with officers he had threatened to kill." at 311. Surely, "in these circumstances the police were justified in taking Leija at his word when he twice told the dispatcher he had a gun and was prepared to use it."
- "The fact is that when Mullenix fired, he reasonably understood Leija to be a fugitive fleeing arrest, at speeds over 100 miles per hour, who was armed and possibly intoxicated, who had threatened to kill any officer he saw if the police did not abandon their pursuit, and who was racing towards Officer Ducheneaux's position."

In light of these events, Mullenix was entitled to the protection of qualified immunity.

53. B – State v. Gadsden, 303 N.J. Super. 491 (1997)
54. C – State v. White, 305 N.J. Super. 322 (App. Div. 1997)
    - In this appeal, The Superior Court, Appellate Division, rejected White's argument that the City of Orange police officers did not have statutory authority to investigate and seize property outside their jurisdiction. The court thus rejected White's contention that N.J.S. 40A:14-152 should "be read to prohibit all police action outside

a municipality for which they have been appointed, other than those specified in other statutory exceptions." [Exceptions include the authority of full-time, permanently appointed officers to arrest for any crime committed in their presence within the State (40A:14-152.1); authority to assist in an emergency if requested by competent authority (40A:14-156); and authority to arrest for certain motor vehicle offenses committed in the officer's presence (39:5-25).

- The court said: Our reading of the relevant statutes satisfies us that the Legislature contemplated that police officers may at times be called upon to go beyond the boundaries of their municipality in the performance of their official duties. Indeed, [] 40A:14-152.1 and 40A:14-152.2 implicitly recognize this.
- Although a crime was not committed in the officer's presence, and hence the provisions of 40A:14-152.1 were not triggered, nothing in the cited statute either expressly precludes on the one hand or authorizes on the other hand a police officer from the jurisdiction in which a crime occurred from conducting an investigation outside the territorial boundary of the officer's express jurisdiction.
- After surveying several cases from other states, the court concluded that the City of Orange police officers "could investigate an offense committed in Orange by going to another municipality to question persons with relevant knowledge." The court elaborated: In this case, the Orange police officers did not go to White's residence to execute an arrest warrant or a search warrant, but only to investigate. Although police officers normally exercise their powers within the confines of the jurisdiction which employs them, investigation is not a power inhering just in the office of police officer and is not exclusive to police officers.
- Here, White's mother consented to the search and there was no contention that the consent was somehow involuntary or made without knowledge of the right to refuse. The officers "were merely investigating a crime." Moreover, even if the court considered the officers' actions here a procedural violation of the statute, it would not require exclusion of the evidence obtained pursuant to the investigation beyond the borders of the officers' jurisdiction or the consent search because it did not rise to the level of a constitutional violation. See State v. Gadsden.
- Under the circumstances, the Orange police officers could properly investigate in another municipality and obtain voluntary consent to search in connection therewith. The information given to White's mother that she had a right to refuse consent and the language of the consent form were adequate here to authorize the search.
- The court paused to note that it would be clearly an "advisable police procedure for investigating officers of another jurisdiction to be accompanied by a representative of the police department in the jurisdiction of the person sought to be investigated." The court recognized, however, that "time constraints and manpower considerations may not make this entirely feasible under all circumstances."

55. A – State v. Broom-Smith, 201 N.J. Super. 229 (2010) / *Rule 3:1-2 / Rule 3:5-1 / Rule 1:12-3(a)*

- The fact that the judge is busy with other matters or home for lunch should not automatically trigger cross-assignment. Rather, the officers should wait a reasonable period unless, for some reason, the matter is emergent and time is of the essence.
- The fact that a particular municipal court is not 'in session,' that is, holding court, does not necessarily mean that the judge is 'unable' to hear a warrant application. It may be that in furtherance of his private practice, the judge is far from his vicinage. In that case, he may, in fact, be 'unable' to hear the matter, especially if there are time constraints involved. But it does not follow that a judge who is sitting in his local law office is 'unable' to entertain a warrant application, especially since that is part and parcel of his judicial responsibilities.

56. C – State v. Oliver, 50 N.J. 39 (1967); Also see State v. Booker, 86 N.J. Super. 175 (App. Div. 1965) and State v. Sally, 264 N.J. Super. 91 (App. Div. 1993)
    - The Court held that such disclosure is not required where the informant "was no more than a witness to the criminal event.". In this case, "the informer played no part whatever in the criminal event. He did not bet, or induce defendant to accept a bet from anyone. Nor did the State attempt to get into the record of the trial anything the informer may have seen or said.
57. C – State v. Wright, 312 N.J. Super. 442 (App .Div. 1998); Also see State v. Cooper, 301 N.J. Super. 298 (App. Div. 1997)
58. D – State v. Garcia, 131 N.J. 67 (1993)
59. C – Illinois v. Gates, 462 U.S. 213, 103 S. Ct. 2317 (1983
    - Applying the "totality of the circumstances" analysis to the facts of this case, the Court concluded that the information set forth in the affidavit established probable cause for the warrant that issued. First, the Court noted that the facts obtained through the independent investigation of Detective Mader and the DEA at least suggested that the Gates were involved in drug trafficking; for example, the fact that Florida is a well-known source of narcotics and other illegal drugs, Lance Gates' flight to Palm Beach, his brief, overnight stay in a motel, and his immediate return north to Chicago in the family car conveniently waiting for him, "is as suggestive of a pre-arranged drug run, as it is of an ordinary vacation trip."
    - In addition, the anonymous letter "had been corroborated in major part" by Mader's efforts. "The corroboration of the letter's predictions that the Gates' car would be in Florida, that Lance Gates would fly to Florida in the next day or so, and that he would drive the car north toward Bloomingdale all indicated, albeit not with certainty, that the informant's other assertions also were true. 'Because an informant is right about some things, he is more probably right about other facts[.]'
    - "Finally, the anonymous letter contained a range of details relating not just to easily obtained facts and conditions existing at the time of the tip, but to future actions of third parties ordinarily not easily predicted. The letter writer's accurate information as to the travel plans of each of the Gates was of a character likely obtained only from the Gates themselves, or from someone familiar with their not entirely ordinary travel plans. If the informant had access to accurate information of this type, a magistrate

could properly conclude that it was not unlikely that he also had access to reliable information of the Gates' alleged illegal activities."

- Consequently, there was "a fair probability that the writer of the anonymous letter had obtained his entire story either from the Gates or someone they trusted. And corroboration of major portions of the letter's predictions provide[d] just this probability." It is apparent, therefore, that the warrant authorizing the search of the Gates' home and car was supported by probable cause.

60. B – State v. Chippero, 201 N.J. 14 (2009)
    - The New Jersey Supreme Court determined that "evidence that is insufficient to justify the arrest of a person nonetheless may be sufficient to justify the search of a home in connection with the investigation of a crime."
    - Although the evidence that justifies both an arrest and the issuance of a search warrant must support a finding of probable cause, the two probable cause determinations are not identical. A finding of probable cause as to one does not mean that probable cause as to the other must follow, nor does the lack of one compel a finding of the lack of proof for the other. Thus, evidence that is insufficient to justify the arrest of a person nonetheless may be sufficient to justify the search of a home in connection with the investigation of a crime. Accordingly, nothing in our Chippero I holding should be perceived as having compelled the suppression of the evidence seized from defendant's home.
    - Probable cause for the issuance of a search warrant requires "a fair probability that contraband or evidence of a crime will be found in a particular place." For probable cause to arrest, there must be probable cause to believe that a crime has been committed and "that the person sought to be arrested committed the offense." [Thus, the] "fact that there are grounds amounting to probable cause to make an arrest does not mean that a search warrant could lawfully issue upon that same information. Nor can it be said that probable cause for a search warrant would necessarily justify an arrest. Each requires a showing of probabilities as to somewhat different facts and circumstances[.]In the case of arrest, the conclusion concerns the guilt of the arrestee, whereas in the case of search warrants, the conclusions go to the connection of the items sought with crime and to their present location."
    - Accordingly, the Court concluded that "probable cause to arrest and probable cause to search involve distinct and not necessarily identical inquiries. A finding of probable cause as to one does not mean that probable cause as to the other must follow, nor does the lack of one compel a finding that there is a lack of support for the other. Although a probable cause determination that an individual committed a crime may increase the likelihood that the individual's residence contains evidence of the crime, a court may find a lack of probable cause to arrest an individual and yet determine that probable cause exists to search the home where that individual resides. Simply put, a probable cause determination to search a home where the suspect lives may be valid irrespective of whether probable cause to arrest that particular individual has crystallized."

- In this case, even if the police did not have probable cause to arrest defendant, that does not mean that there was a lack of probable cause to search 49 Poe Road. Under the circumstances, the issuing judge could have found "a reasonable probability that evidence from the sexual assault and murder of Tocci might be found inside the neighboring mobile home at 49 Poe Road." That judge could have found "that a reasonable probability existed to show that the person McMenemy saw may have had a connection with the crime and may have had on him, or on his clothing, evidence connected to the sexual assault and murder. That showing provided a substantial basis for the probable-cause-to-search determination.

61. D – United States v. Ventresca, 380 U.S. 102, 108, 85 S.Ct. 741, 745 (1965); Jones v. United States, 362 U.S. 257, 272, 80 S.Ct. 725, 736 (1960); State v. Novembrino, 105 N.J. 95, 110, 120-21 (1987); State v. Ebron, 61 N.J. 207, 212 (1972); State v. DiRienzo, 53 N.J. 360, 385 (1969); State v. Kasabucki, 52 N.J. 110, 116-17 (1968); State v. Gathers, 234 N.J. 208, 221 (2018); State v. Hemenway, 239 N.J. 111, 137 (2019)
62. B – State v. Novembrino, 200 N.J. Super. 229, 232-33 (App. Div. 1985)
    - The first half of the statement in answer choice "D" is false and makes this choice incorrect.
    - The Courts concluded that the detective's affidavit did not establish probable cause, reasoning that it "simply revealed that a police informant concluded for unknown reasons that defendant was a drug dealer, that a person previously arrested for possession of cocaine was seen at defendant's gas station engaged in some unspecified activities which caused a detective, whose education, training, and experiences are unknown, to conclude that criminal activities were taking place at the gas station. The totality of the circumstances spelled out in the affidavit failed to contain a single objective fact tending to engender a 'well-grounded suspicion' [probable cause] that a crime was being committed.
    - The Court notes that "the substantive information obtained from the informant is meager indeed." In discussing the deficiencies of the affidavit, Justice Stein continued: One critical deficiency is that the affidavit furnishes no information whatsoever as to when the informant allegedly "witnessed" the drug sales. Consequently, the informant's allegations, standing alone, were inadequate to provide a neutral judicial officer with a reasonable basis for suspicion that a present search of Novembrino's premises would yield evidence of criminal activity. In addition, the unidentified informant's conclusory allegations that "Otto usually keeps the drugs in the gas station" and that he "witnessed Otto dealing drugs" are unsupported by any specific facts from which a neutral judge could independently derive a reasonable suspicion that a search would yield evidence of criminal activity. Here, the informant's tip is a bald conclusion, allegedly based on personal observation, but unsupported by any reference to dates, events, or circumstances.
    - Since the informant's allegations, by themselves, were insufficient to establish probable cause, the Court then examined the independent observations made by the officers to determine whether such independent investigation adequately

supplemented the information supplied by the informant. Holding that it did not, Justice Stein observed: the affidavit is silent with regard to the officer's experience in investigating and apprehending drug dealers. [N]othing in this affidavit suggests that any of the investigating officers had a particular familiarity with drug transactions. Additionally, the affidavit is utterly devoid of specific facts witnessed by the officers from which the judge could have independently concluded that their suspicions were reasonable. The affidavit does not state with particularity what the officers observed or why the officers believed that drugs were being sold. It does not inform the judge in what respect the transactions observed by the officers differed from routine service station transactions. The only specific allegation offered is that an identification check was made with respect to one vehicle that entered the service station that day—after its occupant completed "a transaction" with defendant—and the check revealed that the vehicle's owner had been arrested on charges related to drugs. That factual insertion is insufficient to overcome the deficiencies in detail and substance to which we have averted.

- As a result, the Court holds that the allegations of the informant read together with those of the officers "did not provide the issuing judge with sufficient facts on which to base an independent determination as to the existence of probable cause." This conclusion is based on the Court's "application, as a matter of state-constitutional law, of a totality-of-the-circumstances test."

63. A – State v. Arthur Jones, 179 N.J. 377 (2004)
64. C – Carpenter v. United States 585 U.S. ___, 138 S. Ct. 2206 (2018); State v. Earls, 214 N.J. 564 (2013)
    - An individual does have a constitutional right of privacy in his or her cell-phone location information, and, according to the Court, a Fourth Amendment search occurs when law enforcement officials access "historical cell phone records that provide a comprehensive chronicle of the user's past movements." In this case, when the Government accessed cell-site location information from the wireless carriers, "it invaded Carpenter's reasonable expectation of privacy in the whole of his physical movements.". In order to access such information, the Government must generally obtain a warrant supported by probable cause.
65. C – State v. Evers, 175 N.J. 355 (2003)
    - The Court held that "the subscriber information obtained by AOL was properly used by Nutley Detective Meehan in securing a warrant for the search of defendant's home."
    - Regarding the issue of probable cause to believe the sought-after evidence would be found at the place searched, the Court concluded that the AOL billing address for screen name "BTE324"—"a screen name that had e-mailed photographs of child pornography—was a logical place to search for evidence of the identity of the holder of the screen name and evidence of the crime." Thus, there was probable cause to support the issuance of the search warrant.