Recent Fourth Amendment Cases: Issues & Opportunities

Federal Criminal Practice Seminar, April 13, 2018
Framing Fourth Amendment Claims

- Retail vs. wholesale enforcement.
- Personal standing vs. regulatory conception of exclusion.
- Protecting privacy vs. deterring police misconduct.
- Excluding evidence vs. closing pathways to violence.
Utah v. Strieff: Some Recurring Themes

- “Good faith” and official misconduct.
- Escalating stops.
- Warrant saturation and predatory policing.
Fourth Amendment Places and Cases

- *Terry* patdowns.
- Traffic stops.
- Probable cause to arrest.
- The home.
  - At the threshold.
  - Third-party consent.
  - The adequacy of warrants.
- Digital privacy and big data.
“A particularized and objective basis”:

- *United States v. Foster*, 824 F.3d 84 (4th Cir. 2016).
Justifying and Prolonging Traffic Stops

- *United States v. Williams*, 808 F.3d 238 (4th Cir. 2015).
Probable Cause to Arrest

“A practical and nontechnical conception”:

Residential Encounters

At the threshold:

Third-party consent:

The adequacy of warrants:
Emerging Digital Privacy Doctrines


- The Fourth Amendment and big data policing.