The Fourth Amendment declared as a restriction on the Federal Government that "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized." In 1949 this Court held that it was embodied in the concept of due process found in the 14th :Amendment "and as such enforceable against the States . . . ." Wolf v. Colorado, supra, at 27.[1] However, the Court decided "that in a prosecution in a State court for a State crime the Fourteenth Amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure." At p. 33. That ~~x~~ conclusion was reached on the setting then existing and elaborated in the opinion, i.e., thirty-one states then admitted unlawfully seized evidence while only seventeen excluded it, leading to the statement by the Court that it could "not brush aside the experiences of States

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[1]/.

which deem the incidence of such conduct by the police too slight to call for a deterrent remedy . . . by overriding the relevant r ules of evidence." At p. 31-32. The Court also felt that any abuses of the rule might be more effectively delt with by "the internal discipline of the police, under the eyes of an alert public opinion." At p. 31. Four years later we were urged to reconsider the doctrine of Wolf and to overrule it. Irvine v. California, 347 U.S. 128 (19). This the Court refused to do, stating:

> "Never until June 1949 did this Court hold the basic search and seizure prohibition in any way applicable to the states under the Fourteenth Amendment. At that time, as we pointed out, thirty-one states were not following the federal rule excluding illegally obtained evidence, while sixteen were in agreement with it. Now that the Wolf doctrine is known to them, state courts may wish further to reconsider their evidentiary rules. But to upset state convictions even before the states have had adequate opportunity to adopt or reject the rule would be an unwarranted use of federal power." At p. 134.

And now seven years after Irvine and a dozen after Wolf we are again urged to canvass the facts, historical and contemporary, which the Court concluded on balance required the imposition of the doctrine in 1949. In so doing we start, as we must, with the fact that this

Court has declared the Fourth Amendment "enforceable" against the states: At the time of Irvine the Court thought the states had not had "adequate opportunity" to consider the exclusionary doctrine and, therefore, awaited another appropriate case at a later date to consider the problem. We believe that in the light of the historical facts of the Amendment, the gloss placed upon it by this Court's decisions for the past 75 years and the events occurring since Wolf that we believe