

Criminal Procedure
From the Courtroom to the Street

Chapter Eight

Search and Seizure-Evidence

Categories of Items Subject to Search

- Contraband
- Instrumentalities of a Crime
- Fruits of a Crime
- Evidence

Contraband

An item that is illegal to possess.

Instrumentalities

Items used to commit a crime.

Fruits of a Crime

The benefit derived from the commission of a crime.

Evidence

An item or information that could be used to prove or support a fact.

Fourth Amendment Protection

The Fourth Amendment protects the area within our reasonable expectation of privacy from unlawful search and seizure.

Katz. v. United States, 389 U.S. 347 (1967)

Abandoned Property

If it is reasonable to believe that an individual has given up their possessory interest in property, the police may seize it without a search warrant.

Plain View Doctrine

A reasonable expectation of privacy does not exist when evidence or actions are exposed to the public. If a police officer is in a place where he or she has a legal right to be, the officer may employ their ordinary senses of smell, sight, touch and hearing to discover evidence.

Open Fields Doctrine

In some circumstances law enforcement may conduct warrantless searches in the open lands and fields that do not immediately surround a person's home.

Curtilage

Buildings in close proximity to a dwelling, which are continually used for carrying on domestic employment; or such place as is necessary and convenient to a dwelling, and is habitually used for family purposes.

Technology and Privacy

- Global Positioning Systems
- Biometrics
- Thermal Imaging
- Pen Registers
- Closed Circuit Video
- CLSI Cell Site Location Information
- Aeronautical Drones

Review Questions Part I

1. May the police use binoculars in order to bring targeted property within plain view? Why or why not?
2. Describe a situation in which plain smell could be used to establish probable cause to search?
3. Explain the distinction between open fields and curtilage?

Review Questions Part II

4. May the police use a thermal imaging device from a flying helicopter to determine if there are marijuana grow lights being used in a private home? Why or why not?
5. Does an individual have a reasonable expectation of privacy in a statement or photograph posted on a social media site such as Facebook or Instagram? Why or why not?

Review Questions Part III

6. What is protected from an unreasonable search by the government?
7. A conversation you have with another during lunch in a public restaurant may not be protected. Why?

Review Questions Part IV

8) The United States Supreme Court ruled that the evidence in Katz was inadmissible. What could the government have done differently in order to have legally listened to Katz' conversation?

Review Questions Part V

9. The TSA may search your bags before you board an airplane. The police may not board a bus and search your bags stowed in an overhead compartment without a warrant. Explain the difference?

10. Under what circumstances is property considered abandoned and thereby subject to a warrantless search or seizure?