

***Procedures in the Justice System, 12e (Roberson)***

**Chapter 2 Search and Seizure**

2.1 Multiple-Choice Questions

1) The Fourth Amendment provides the right of the people to be secure in their:

- A) persons.
- B) houses.
- C) papers.
- D) All of the above are correct.
- E) Only B and C are correct.

Answer: E

Page Ref: 38

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

2) The drafters of the Bill of Rights were influenced by:

- A) our English heritage.
- B) the misuse of the criminal justice system by the colonies.
- C) a belief in the limited role of government.
- D) All of the above are correct.

Answer: D

Page Ref: 39

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Intermediate

3) The Fourth Amendment deals with:

- A) searches.
- B) seizures.
- C) searches and seizures of persons.
- D) searches and seizures of property.
- E) All of the above are correct.

Answer: E

Page Ref: 39-40

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

4) The exclusionary rule was applied to the states by the case of:

- A) Wolf v. Colorado.
- B) Leon v. United States.
- C) Mapp v. Ohio.
- D) All of the above.

Answer: C

Page Ref: 57-58

Objective: Summarize the exclusionary rule and the issues associated with it.

Level: Intermediate

5) The major purpose of the exclusionary rule is:

- A) to protect the rights of defendants.
- B) to prevent the police from prosecuting defendants.

- C) the deterrence effect.
- D) None of the above are correct.

Answer: C

Page Ref: 58

Objective: Summarize the exclusionary rule and the issues associated with it.

Level: Basic

6) The "fruits of the poisonous tree" doctrine applies to:

- A) arrests.
- B) confessions.
- C) searches.
- D) All of the above.

Answer: D

Page Ref: 60

Objective: Summarize the Fruits of the Poisonous Tree Doctrine.

Level: Intermediate

7) In the case of *Wong Sun v. United States*, the Supreme Court held that:

- A) the exclusionary rule was not applicable when the government learns of the evidence from a source independent of any taint.
- B) not all evidence is automatically barred simply because it may have been gathered in violation of the Constitution.
- C) illegally obtained evidence may be admitted if it could have been obtained by means sufficiently distinguishable to be purged of the primary taint of illegality.
- D) All of the above statements are correct.

Answer: D

Page Ref: 60

Objective: Summarize the Fruits of the Poisonous Tree Doctrine.

Level: Difficult

8) In the case of *Katz v. United States*, the Supreme Court expanded the scope of the Fourth Amendment by:

- A) establishing an expectation of privacy zone.
- B) holding that the Fourth Amendment protects property interests.
- C) establishing a good faith rule.
- D) All of the above are correct.

Answer: A

Page Ref: 41

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Difficult

9) The test for any expectation of privacy is based upon the requirement that:

- A) a person exhibit an expectation of privacy.
- B) the expectation of privacy is one that society is prepared to accept.
- C) a person exhibit an actual, but not subjective, expectation of privacy.
- D) Both A and B

Answer: D

Page Ref: 41

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Intermediate

10) The below-named judicial officer may issue a valid search warrant:

- A) state attorney general.
- B) federal attorney general.
- C) a neutral and detached magistrate.
- D) a state senator.

Answer: C

Page Ref: 54

Objective: Describe how search warrants are executed.

Level: Basic

11) Abandonment, plain view, and open fields are:

- A) exceptions to the hearsay rule.
- B) exceptions to the Fourth Amendment.
- C) Supreme Court cases.
- D) not important to an understanding to the Fourth Amendment.

Answer: B

Page Ref: 44

Objective: Summarize the plain view and related doctrines.

Level: Basic

12) What area(s) may a spouse give consent to search without the other spouse being present?

- A) The family residence
- B) A child's room
- C) The garage
- D) All of the above

Answer: D

Page Ref: 43-44

Objective: Describe consent searches and the issues associated with them.

Level: Basic

13) Which of the following is NOT an exception to the 4th Amendment?

- A) Plain view
- B) Open fields
- C) Residential curtilage
- D) Incident to arrest

Answer: C

Page Ref: 44

Objective: Summarize the plain view and related doctrines.

Level: Intermediate

14) This concept holds that the seizure of illegal evidence which is visible to a police officer if the officer's access to the object has a Fourth Amendment justification is acceptable.

- A) Stop and frisk
- B) Independent source
- C) Exigent circumstances
- D) Plain view

Answer: D

Page Ref: 45

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

15) Which of the following is an exception to an individual's expectation of privacy in a fenced backyard?

- A) The open air above the yard visible to an airplane or helicopter
- B) The curtilage around the fence
- C) A building located inside the fenced backyard
- D) A back patio

Answer: A

Page Ref: 45

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

16) If a police officer enters a business during normal business hours and opens a door marked private and observes criminal activity, that activity falls under the \_\_\_\_\_ zone of privacy rule, and it would be deemed an illegal search.

- A) Katz
- B) Terry
- C) Mapp
- D) Johnson

Answer: A

Page Ref: 48

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

17) Federal rules do NOT recognize an expectation of privacy in these types of records.

- A) Business
- B) Financial
- C) Telephone
- D) All of the above

Answer: D

Page Ref: 48

Objective: Describe regulatory and administrative searches

Level: Intermediate

18) This U.S. Supreme Court held that police may use a drug-sniffing dog around the outside of a vehicle during a routine traffic stop even when police have no grounds to suspect illegal activity.

- A) Illinois v. Caballes
- B) Terry v. Ohio
- C) Arizona v. Gant
- D) United States v. Karo

Answer: A

Page Ref: 48

Objective: Describe searches within the context of the Fourth Amendment.

Level: Basic

19) In \_\_\_\_\_, the Supreme Court held that the use of a beeper attached to the suspect's car was not a search within the scope of the Fourth Amendment because it did not infringe on any privacy interest and conveyed no protected information.

- A) Illinois v. Caballes
- B) Terry v. Ohio
- C) Arizona v. Gant
- D) United States v. Karo

Answer: D

Page Ref: 50

Objective: Describe searches within the context of the Fourth Amendment.

Level: Basic

20) The inspections and regulator searches use a balancing test. Which of the following is NOT part of that test?

- A) Whether the practice has a long history of judicial and public acceptance
- B) Whether the practice is necessary to achieve acceptable results
- C) Whether the practice involves a relatively limited invasion of privacy
- D) Whether there is probable cause

Answer: D

Page Ref: 52

Objective: Describe regulatory and administrative searches

Level: Basic

21) From a criminal procedure perspective, the \_\_\_\_\_ and \_\_\_\_\_ Amendments contain the most important language in existence within the U.S. legal structure.

- A) Fourth & Fifth
- B) First & Fourth
- C) Fifth & Sixth
- D) First & Eighth

Answer: A

Page Ref: 39

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

## 2.2 True/False Questions

1) The Fourth Amendment does not protect a person's papers.

Answer: FALSE

Page Ref: 40

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

2) In 1914, the U.S. Supreme Court established the exclusionary rule for federal courts.

Answer: TRUE

Page Ref: 57

Objective: Summarize the exclusionary rule and the issues associated with it.

Level: Basic

3) The Fourth Amendment deals with seizures of property, but not persons.

Answer: FALSE

Page Ref: 39

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

4) Wolf v. Colorado applied the exclusionary rule to state civil proceedings.

Answer: FALSE

Page Ref: 58

Objective: Summarize the exclusionary rule and the issues associated with it.

Level: Intermediate

5) The "fruits of the poisonous tree" doctrine applies only to arrests and not searches.

Answer: FALSE

Page Ref: 59

Objective: Summarize the Fruits of the Poisonous Tree Doctrine.

Level: Basic

6) There are no exceptions to the Fourth Amendment requirements.

Answer: FALSE

Page Ref: 39-40

Objective: Define terms related to the Fourth Amendment.

Level: Basic

7) If a party consents to a search, he or she is not protected by the Fourth Amendment as to that search.

Answer: TRUE

Page Ref: 42

Objective: Describe consent searches and the issues associated with them.

Level: Basic

8) Chimel v. California discussed the permissible scope of a search incident to an arrest.

Answer: TRUE

Page Ref: 44

Objective: Summarize the plain view and related doctrines.

Level: Intermediate

9) The plain view doctrine is a judicially established exception to the Fourth Amendment.

Answer: TRUE

Page Ref: 43

Objective: Summarize the plain view and related doctrines.

Level: Basic

10) A person's garbage bags left on a public sidewalk may be searched without a warrant.

Answer: TRUE

Page Ref: 45

Objective: Describe searches within the context of the Fourth Amendment.

Level: Intermediate

11) The Supreme Court has upheld a school district's policy of requiring random drug testing as a condition for participating in interscholastic activities.

Answer: TRUE

Page Ref: 50

Objective: Describe searches within the context of the Fourth Amendment.

Level: Basic

12) Probable cause is a subjective test.

Answer: FALSE

Page Ref: 53-54

Objective: Explain the concept of probable cause and its implications.

Level: Intermediate

13) Some jurisdictions allow warrants to be executed only within a limited number of days after issuance.

Answer: TRUE

Page Ref: 56

Objective: Explain the requirements for obtaining a search warrant.

Level: Intermediate

14) In *Illinois v. Gates*, the Supreme Court later adopted a "totality of the circumstances" analysis that traditionally has been used in probable cause determinations.

Answer: TRUE

Page Ref: 53

Objective: Describe searches within the context of the Fourth Amendment.

Level: Intermediate

15) A magistrate cannot receive any funds for issuing a warrant.

Answer: TRUE

Page Ref: 55

Objective: Describe how search warrants are executed.

Level: Basic

16) When the U.S. Constitution was being drafted and considered by our forefathers, very little, if any, thought was given to including a declaration of rights for individual citizens.

Answer: TRUE

Page Ref: 39

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

### 2.3 Fill in the Blank Questions

1) In 1914, the U.S. Supreme Court decided *Weeks v. United States* that established the \_\_\_\_\_ and its applicability to the federal government.

Answer: Exclusionary Rule

Page Ref: 57

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

2) The \_\_\_\_\_ Amendment deals with the seizures of both persons and property.

Answer: Fourth

Page Ref: 43

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic



3) Exceptions to the Fourth Amendment include consent, the Plain View Doctrine, and \_\_\_\_\_.

Answer: open fields

Page Ref: 43

Objective: Summarize the plain view and related doctrines.

Level: Basic

4) There is a lesser expectation of privacy when dealing with \_\_\_\_\_.

Answer: vehicles

Page Ref: 48

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

5) Constitutional protections are given for the right of the people to be secure in their persons, houses, papers and \_\_\_\_\_.

Answer: effects

Page Ref: 40

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

6) The Fourth Amendment deals with the \_\_\_\_\_ of both persons and property.

Answer: seizures

Page Ref: 39-40

Objective: Outline the history, purpose, and essential elements of the Fourth Amendment.

Level: Basic

7) In the leading case of \_\_\_\_\_, the Supreme Court expanded the scope of the Fourth Amendment by establishing an "expectation of privacy zone" that is protected by the Constitution.

Answer: Katz v. United States

Page Ref: 41

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Basic

8) If search is based on \_\_\_\_\_, the officers must search in accordance with the terms of the warrant.

Answer: warrant

Page Ref: 49

Objective: Describe how search warrants are executed.

Level: Basic

9) The courts have considered that a visit by \_\_\_\_\_ to a welfare recipient's home does not constitute a search within the meaning of the Fourth Amendment.

Answer: caseworkers

Page Ref: 52

Objective: Describe searches within the context of the Fourth Amendment.

Level: Basic

10) The Court held that searches at the \_\_\_\_\_ are per se reasonable because of the right of a sovereign nation to protect itself by stopping and searching persons and property entering

its soil.

Answer: border

Page Ref: 52

Objective: Describe searches within the context of the Fourth Amendment.

Level: Basic

#### 2.4 Matching Questions

Match each case listed in Column 1 to its description in Column 2.

- A) Purged taint or attenuation
- B) Consent
- C) Inevitable discovery
- D) Stop and Frisk
- E) Abandonment
- F) Search incident to arrest
- G) Plain view
- H) Open fields
- I) Good faith exception
- J) Independent source

1) Oliver v. U.S.

2) Arizona v. Hicks

3) California v. Greenwood

4) Schneckloth v. Bustamonte

5) Chimel v. California

6) U.S. v. Leon

7) Nix v. Williams

8) Wong Sun v. U.S.

9) Murray v. U.S

10) . Terry v. Ohio

Answers: 1) H 2) G 3) E 4) B 5) F 6) I 7) C 8) A 9) J 10) D

## 2.5 Essay Questions

1) What rights are protected by the Fourth Amendment to the U.S. Constitution?

Answer: The right to be secure in one's person, one's house, one's papers, and one's effects.

Search warrants must:

- Be based on probable cause.
- Be supported by oath or affirmation.
- Particularly describe the place to be searched and/or the things to be seized.

Page Ref: 39-40

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Intermediate

2) Explain an anticipatory warrant.

Answer: An anticipatory warrant is a warrant based upon an affidavit showing probable cause that at some future times (but not presently) certain evidence of crime will be located at a specified place. *United States v. Grubbs*.

Page Ref: 56

Objective: Describe how search warrants are executed.

Level: Intermediate

3) Explain the "fruits of the poisonous tree" doctrine.

Answer: This doctrine prohibits admission of illegally seized evidence. It applies to searches, arrests, confessions, and other evidence-gathering activities of law enforcement.

Page Ref: 60

Objective: Summarize the Fruits of the Poisonous Tree Doctrine.

Level: Intermediate

4) What is meant by the "expectation of privacy zone"?

Answer: This was established in *Katz v. U.S.* (1967), 389 U.S. 347. Persons must exhibit an actual or subjective expectation of privacy, and the expectation is one which society is prepared to recognize as reasonable.

Page Ref: 41

Objective: Summarize the Fourth Amendment's expectation of privacy.

Level: Difficult

## 2.6 Critical Thinking Questions

1) Explain the rationale behind the exclusionary rule.

Answer: Evidence seized without probable cause should be excluded from court. The rule, first announced in *Weeks v. U.S.* (1914), 232 U.S. 383, applied to limit actions of the federal government.

Page Ref: 57-59

Objective: Summarize the exclusionary rule and the issues associated with it.

Level: Difficult

2) Explain the concept of what constitutes a search.

Answer: A search is a governmental intrusion into an area where a person has a reasonable expectation of privacy.

Page Ref: 69

Objective: Describe searches within the context of the Fourth Amendment.

Level: Basic