

State Constitutional Law

14 - Criminal Procedure

Criminal Procedure Topics

- Search and seizure
 - Probable cause
 - Good faith exception
 - Warrant requirement
 - Automobile searches
- Double jeopardy
- Cruel and unusual punishment

Questions to guide us for search and seizure

What is the nature of a right “against unreasonable searches and seizures”? How should that right be protected?

If search warrants require probable cause, what is probable cause?

When is a warrantless search still reasonable?

How should stare decisis factor into constitutional interpretation, particularly when federal and state precedents are intertwined?

Probable Cause

People v. Griminger

524 N.E.2d 409 (N.Y. 1988)

State v. Tuttle

515 S.W.3d 282 (Tenn. 2017)

Aguilar / Spinelli Test

To establish probable cause, a search warrant affidavit must demonstrate:

1. the basis of the informant's knowledge, and
2. the credibility of the informant or the reliability of the information.

Gates Test

To determine whether an affidavit establishes probable cause, a magistrate should consider the totality of the circumstances.

Good Faith Exception

State v. Koivu

272 P.3d 483 (Idaho 2012)

Commonwealth v. Edmunds

586 A.2d 887 (Pa. 1991)

State v. Koivu

272 P.3d 483 (Idaho 2012)

History of federal exclusionary rule

Weeks v. United States (1914) — Federal exclusionary rule.

Wolf v. Colorado (1949) — Fourth Amendment applies to states, but remedy up to states to decide.

Mapp v. Ohio (1961) — Exclusionary rule applies to the states.

Stone v. Powell (1976) — Exclusionary rule not a constitutional right but designed to deter police misconduct.

United States v. Leon (1984) — Good faith exception

Idaho Precedents

State v. Arregui
(Idaho 1927)

State v. Rauch
(Idaho 1978)

Commonwealth v. Edmunds

586 A.2d 887 (Pa. 1991)

Pennsylvania's Analytic Framework

For state constitutional law issues, litigants should analyze:

1. Text of the state constitution
2. History of the constitutional provision, including case law
3. Related case law from other states
4. Policy considerations

Warrant Requirement

State v. Earls

70 A.3d 630 (N.J. 2013)

State v. Bryant

950 A.2d 467 (Vt. 2008)

State v. Leonard

943 N.W.2d 149 (Minn. 2020)

What constitutes a search?

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 persons or things to be seized.

Contrast

State v. Earls

70 A.3d 630 (N.J. 2013)

with

United States v. Jones (2012)

Police installation of a tracking device on defendant's car constitutes a trespass, therefore a search warrant was required.

Reasonable expectation of privacy

1. Defendant had an expectation of privacy
2. This expectation of privacy is one that society finds reasonable

Contrast

State v. Bryant

950 A.2d 467 (Vt. 2008)

with

Florida v. Riley (1989)

A defendant has no reasonable expectation of privacy from a police helicopter flying above their home, therefore no search warrant is required.

State v. Leonard

943 N.W.2d 149 (Minn. 2020)

Reasonable expectation of privacy

1. Defendant had an expectation of privacy
2. This expectation of privacy is one that society finds reasonable

Automobile Searches

State v. Cora

167 A.3d 633 (N.H. 2017)

State v. Villela

450 P.3d 170 (Wash. 2019)

State v. Arreola-Botello

451 P.3d 939 (Or. 2019)

State v. Cora

167 A.3d 633 (N.H. 2017)

“Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions...”

New Hampshire Const., Part I, Art. 19

Federal automobile exception

If police have probable cause to search a lawfully stopped vehicle, the police can search every part of the vehicle without a warrant.

New Hampshire's limited automobile exception

If police have lawfully stopped a vehicle

AND have probable cause to believe a plainly visible item is contraband,

then the police can enter the vehicle to seize the contraband

State v. Villela

450 P.3d 170 (Wash. 2019)

State statute RCW 46.55.360

Police must impound a vehicle any time they arrest its driver for driving under the influence.

Art. 1 §7 Analysis

1. Did police action constitute a disturbance of one's private affairs?
2. Did authority of law justify the intrusion?

State v. Arreola-Botello

451 P.3d 939 (Or. 2019)

“No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.” Oregon Const. Art 1, §9.