

State Constitutional Law

15 - 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?

Warrant Requirement

What constitutes a search?

State v. Earls (T-mobile GPS)

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

State v. Bryant (Helicopter over home)

950 A.2d 467 (Vt. 2008)

State v. Leonard (Motel registry)

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.

Double Jeopardy

People v. Aranda

437 P.3d 845 (Cal. 2019)

Important Precedent

Stone v. Superior Court (Cal. 1982)

Blueford v. Arkansas (2012)

Cruel and Unusual Punishment

Death Penalty

Washington v. Gregory

427 P.3d 621 (Wash. 2018)

State v. Santiago

122 A.3d 1 (Conn. 2015)

Washington v. Gregory

427 P.3d 621 (Wash. 2018)

“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

U.S. Const., Amend. VIII.

“Excessive bail shall not be required, excessive fines imposed, nor cruel punishment inflicted.” Washington Const., Art I. § 14.

State v. Santiago

122 A.3d 1 (Conn. 2015)

Connecticut framework for analysis

- 1) federal precedent
- 2) “historical insights into the intent of our constitutional forbears”
- 3) constitutional text
- 4) Connecticut precedents
- 5) precedents of other states
- 6) contemporary norms and public policy

**What constitutional provisions could prevent a state from executing someone?
From executing anyone?**