

**Date Revised:** 9/24/2019

**Course Goal:** To teach recruit officers the criminal justice system.

**Learning Objective:**

- Recognize constitutional protections guaranteed by the Fourth Amendment [\[16.1.A\]](#)
- Identify the concept of reasonable expectation of privacy [\[16.1.B\]](#)
- Recognize standing and how it applies to an expectation of privacy [\[16.1.C\]](#)
- Recognize probable cause to search and its link between Fourth Amendment protections and search and seizure law [\[16.1.D\]](#)
- Recognize how the exclusionary rule applies to a peace officer’s collection of evidence [\[16.1.E\]](#)

**Session Time: 2 Hours**

<p><b>Resources:</b></p> <ul style="list-style-type: none"> <li>• Classroom with tables</li> <li>• Overhead projector</li> <li>• Computer with multimedia software and Microsoft PowerPoint</li> <li>• Handout: SPICE / PePPER Chart</li> </ul>	
<p><b>Session Summary:</b> The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.</p>	
Outline	Instructor’s Notes
<p>I. Basic Principles of Search and Seizure Law <a href="#">[16.1.A]</a> [1]        A. Fourth Amendment Protections          1. Constitutional Protections            a. Privacy            b. Liberty            c. Possession of property          2. Fourth Amendment            a. Individuals do not have absolute right to privacy.            b. Limits government from unreasonable searches deemed by the courts.            c. Does not apply to private individuals. If private individual violates another’s privacy, can be</p>	<p><u>TTS 16.1.A</u></p> <p style="text-align: center;"><b>PowerPoint Slides # 2 – 3</b></p> <p><b>Ask:</b> In the early classes, we learned the origins of the law, what are they?  <b>Seeking:</b></p> <ul style="list-style-type: none"> <li>• Constitutional law</li> <li>• Statutory law</li> <li>• Case law</li> </ul> <p><b>Explain:</b> In this session we will learn about the basic fundamentals of search &amp; seizure which is based on the 4th Amendment of the Bill of Rights in the U.S. Constitution  <b>[1] Ask:</b> What are the basic points of the 4<sup>th</sup> Amendment?  <ul style="list-style-type: none"> <li>• Cover all points in 16.1.A.1</li> </ul></p>

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Session 02 - Principles of Search and Seizure  
LD16 - Search and Seizure

handled in civil court.

B. Reasonable Expectation of Privacy [\[16.1.B\]](#)

1. Expectation of privacy can exist as long as:

- a. Individuals have indicated that they personally (subjectively) expect privacy in the object or area
- b. Their expectation is one which society is prepared to recognize as legitimate

2. Related Terms

- a. Subjective expectation of privacy- person's state of mind demonstrated by affirmative action designed to protect their privacy (e.g., building a fence, closing window shades, locking a compartment, etc.).
- b. Objective reasonableness refers to whether society is prepared to recognize the individual's expectation as reasonable.
- c. Curtilage- the relatively small and usually well-defined area immediately around a residence to which the occupant has a reasonable expectation of privacy.

3. Expectation of privacy beyond a home or person

- a. Driveway
  - 1) Closed gate at entrance > occupants wish to block entrance to public > Higher Expectation
  - 2) Driveway only access to front door > assumed driveway is part of open access to front door > Lower Expectation
- b. Windows
  - 1) Shades or curtains drawn > occupants wish to block view >

TTS 16.1.B - 16.1.C (1 hour)

**Run** Learning Activity # 1 in conjunction with **PowerPoint Slides # 4 -23.**  
[LD 3 infused]

**Note:** See last page for learning activity # 1

EV05 - Property Crimes  
Session 02 - Principles of Search and Seizure  
LD16 - Search and Seizure

<p style="text-align: center;">Higher Expectation</p> <ul style="list-style-type: none"><li>2) Shades or curtains open or made with material easily seen through &gt; occupants don't care who sees in &gt; Lower Expectation</li><li>c. Walls<ul style="list-style-type: none"><li>1) High, solid wall general public can't see over &gt; Higher</li><li>2) Three foot wall &gt; Lower</li></ul></li><li>d. Fences<ul style="list-style-type: none"><li>1) Can't be seen through without getting close and peeking &gt; Higher</li><li>2) Wire fence easy to see through &gt; Lower</li></ul></li><li>e. Garbage<ul style="list-style-type: none"><li>1) Stored next to house &gt; Higher</li><li>2) Placed at curbside &gt; Lower</li></ul></li><li>4. Open Fields<ul style="list-style-type: none"><li>a. So open to public view that the owner or possessor is deemed to have implicitly invited the general public to view the area.</li><li>b. Open fields do not have to be either open or real fields to qualify.</li></ul></li><li>5. Overflights<ul style="list-style-type: none"><li>a. Flight of a plane or helicopter over an area.</li><li>b. Lower expectation of privacy as long as:<ul style="list-style-type: none"><li>1) At an altitude permitted by FAA regulations</li><li>2) Being operated in a "physically nonintrusive manner"</li></ul></li></ul></li><li>6. Standing <a href="#">[16.1.C]</a><ul style="list-style-type: none"><li>a. Exists only if person has reasonable expectation of privacy of area being searched.</li><li>b. Only the person with standing can challenge the search and seizure.</li></ul></li></ul>	
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EV05 - Property Crimes  
 Session 02 - Principles of Search and Seizure  
 LD16 - Search and Seizure

<p>c. Established by</p> <ul style="list-style-type: none"> <li>1) Ownership</li> <li>2) Lawful possession</li> <li>3) Authority</li> <li>4) Control of the area searched or the property seized</li> </ul> <p>C. Probable Cause to Search <a href="#">[16.1.D]</a></p> <ul style="list-style-type: none"> <li>1. Probable Cause to Search       <ul style="list-style-type: none"> <li>a. Having enough facts or information to provide a fair probability, or a substantial chance, that the item sought is located in the place to be searched.</li> <li>b. Peace officers must be able to articulate how and why they have a fair probability to believe:           <ul style="list-style-type: none"> <li>1) A crime has occurred or is about to occur</li> <li>2) Evidence pertaining to the crime exists</li> <li>3) The evidence is at the location they wish to search</li> </ul> </li> </ul> </li> <li>2. Training and experience will differ among officers and will affect how probable cause is established.</li> <li>3. The Exclusionary Rule <a href="#">[16.1.E]</a> <ul style="list-style-type: none"> <li>a. If a court finds a search or seizure unreasonable and Fourth Amendment rights were violated, all items seized during search will be excluded as evidence at trial.</li> <li>b. Referred to as the fruit of the poisonous tree</li> </ul> </li> </ul>	<p><u>TTS 16.1.D - 16.1.E</u></p> <ul style="list-style-type: none"> <li>• <b>Ask</b> any recruit What in their own words is probable cause?</li> <li>• <b>Conduct discussion</b> or guide answer to TTS 16.1.D</li> <li>• <b>Note:</b> TTS also covered in learning activity Search Warrant run at 16.2.A</li> </ul> <ul style="list-style-type: none"> <li>• <b>Ask</b> What do you think will happen if a search was conducted but 4<sup>th</sup> Amendment rights were violated?</li> <li>• <b>Note:</b> This TTS also covered in learning activity Search Warrant 16.2.A</li> </ul>
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EV05 - Property Crimes  
Session 02 - Principles of Search and Seizure  
LD16 - Search and Seizure  
**Learning Activity # 1 - Fourth Amendment Protections**

**Purpose:** To introduce the recruits to the basic principles of search and seizure.

**Description:**

1. **Divide** the class into learning teams of 6 - 8 recruits
2. **Pass out** the photographs depicting various homes and private property to each learning team
3. **Explain:** In this exercise, we will explore the concept of expectation of privacy
4. Utilizing CAPRA, discuss the expectation of privacy depicted in each photograph and its application to the 4th amendment [LD 3 infused]
  - a. Each photograph will show varying degrees of privacy, which will cover TTS' 16.1.B
  - b. Suggestions for CAPRA
    - 1) Clients: Neighbors / community
    - 2) Acquire / Analyze: Info gathered about location, what is being sought
    - 3) Partnerships: Informants, cooperative neighbors, parole / probation,
    - 4) Response: Enter location? Search warrant? Contain and wait for search warrant?
    - 5) Assessment: Was anything recovered? Arrests? Constitutional rights violated?
5. Conduct a facilitated discussion and ensure to cover the following:
  - a. Recognize constitutional protections guaranteed by the Fourth Amendment
  - b. Identify the concept of reasonable expectation of privacy; each photograph will have a different degree of reasonable expectation of privacy
  - c. Recognize standing and how it applies to an expectation of privacy [16.1.C]
    - 1) **Discuss** within various photos which locations provide better standing
  - d. Constitutional requirements and conducting police activity in an ethical and professional manner. [LD 1 infused]
    - 1) Officers must abide by the limitations of search and seizure and privacy
    - 2) LAPD core values

**Resources needed:**

- Classroom
- Projector
- PowerPoint Presentation

**Handouts:**

- Photographs depicting homes of varying degrees of privacy.

**Time required:** 1 Hour