Criminal Investigation 12th edition Swanson Test Bank

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Criminal Investigation, 12e **(Swanson)**
Chapter 2 Legal Aspects of Investigation

1) Which of the following statements is true about substantive criminal law?
A) It deals with those elements that describe and define a crime.
B) It involves understanding how things need to be done with the people involved in an investigation, be it a victim, a witness, an informant, or a suspect.
C) It defines what can and cannot be done with, or to, people.
D) It changes much more rapidly than procedural criminal law.

Answer: A
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2) Procedural law deals with all of the following except _____.
A) process of arrest
B) admissibility of evidence
C) search and seizure
D) elements of a crime

Answer: D
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3) In the context of the Bill of Rights, which of the following statements is true about Amendment X?
A) It recognizes that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.
B) It recognizes that the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.
C) It recognizes that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
D) It recognizes that no soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Answer: A
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4) Identify a true statement about the landmark 1963 case of *Brady* v. *Maryland*.
A) The Court held that if there was sufficient probable cause to get a warrant, but, because the vehicle was moveable, it might be gone if time were taken to get a warrant, a warrantless search was justified.
B) The defendant urged the Supreme Court to declare that the due process clause of the Fourteenth Amendment incorporated all the guarantees of the first eight amendments to the Bill of Rights.
C) The U.S. Supreme Court ruled that the suppression of any evidence by the prosecution favorable to the accused violates the premise of fundamental fairness through the due process clauses of the Fourth and Fourteenth Amendments of the Constitution.
D) The U.S. Supreme Court held that the state court judges were free to determine the reasonableness of searches but that in making those determinations they would now be guided by the same standards as had been followed in the federal courts.

Answer: C
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5) In which Amendment of the Bill of Rights is the due process clause found?
A) The First Amendment
B) The Fourth Amendment
C) The Fifth Amendment
D) The Tenth Amendment

Answer: C
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6) Which of the following protects citizens from unreasonable searches and seizures?
A) The First Amendment
B) The Fifth Amendment
C) The Eighth Amendment
D) The Fourth Amendment

Answer: D
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7) Identify the 1884 case where the defendant urged the Supreme Court to declare that the due process clause of the Fourteenth Amendment incorporated all the guarantees of the first eight amendments to the Bill of Rights.
A) *Sibron* v. *New York*
B) *Hudson* v. *Michigan*
C) *Chimel* v. *California*
D) *Hurtado* v. *California*

Answer: D
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8) The ingredients of an arrest include all of the following except _____.
A) force
B) intention
C) authority
D) custody

Answer: A
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9) _____ is a temporary and limited interference with the freedom of a person for investigative purposes.
A) An arrest
B) A detention
C) An affidavit
D) Charging

Answer: B
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10) The "stop-question-and-frisk" program was built around the landmark 1968 court cases of _____, in which the Supreme Court granted approval to frisks conducted by officers lacking probable cause for an arrest to search for weapons.
A) *Wolf* v. *Colorado, Mapp* v. *Ohio, and Hudson* v. *Michigan*
B) *Terry* v. *Ohio, Sibron* v. *New York, and Peters* v. *New York*
C) *Herring* v. *United States, Weeks* v. *United States, and Ker* v. *California*
D) *Chimel* v. *California, Maryland* v. *Buie, and Muehler* v. *Mena*

Answer: B
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11) A judicial order commanding a person to whom it is issued or some other person to bring a person promptly before a court to answer a criminal charge is:
A) an arrest warrant.
B) an affidavit.
C) a court order.
D) All of the answers are correct.

Answer: A
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12) Which of the following is not usually required to be in the contents of a valid arrest warrant?
A) The authority under which the warrant is issued
B) The identity of the person to be arrested
C) The designation of the offense
D) The authority to search the person arrested

Answer: D
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13) A written statement of the information known to the officer that serves as the basis for the issuance of a warrant is:
A) an arrest warrant.
B) an affidavit.
C) a court order.
D) All of the answers are correct.

Answer: B
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14) A "John Doe" warrant is valid:
A) if a crime has been committed.
B) if there is a particular description of the perpetrator but the person's name is not known.
C) in all cases.
D) only at the federal level.

Answer: B
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15) _____ is defined as suspicion plus facts and circumstances that would lead a reasonable person exercising ordinary caution to believe that a crime has been, is being, or is about to be committed.
A) In-presence arrest
B) Probable cause
C) Investigative detention
D) The requirements of an arrest warrant

Answer: B
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16) Which of the following can be used to establish probable cause?
A) Personal knowledge of the investigator
B) Suspicion
C) Crime rates
D) Occupation of the suspect

Answer: A
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17) Until 1914, federal law enforcement officers conducting an illegal search that produced incriminating evidence were allowed to use that evidence in court. What happened that changed the use of illegal evidence by federal officers?
A) The president of the United States signed an order prohibiting its use.
B) J. Edgar Hoover, Director of the FBI, signed an executive order prohibiting the use of illegally obtained evidence.
C) *Mapp* v. *Ohio* forbids the use of illegally obtained evidence by federal officers.
D) *Weeks* v. *United States* forbids the use of illegally obtained evidence by federal officers.

Answer: D
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18) Circumventing the intent of *Weeks* v. *United States* whereby federal officers received illegally obtained evidence from state officers and used it in federal court was referred to as:
A) the "fruits of the poisonous tree" doctrine.
B) the "unreasonable search" doctrine.
C) the "Silver Platter" Doctrine.
D) None of the answers is correct.

Answer: C
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19) Which of the following cases established the rule that any evidence unreasonably searched and seized could no longer be admissible in any court?
A) *Weeks* v. *Ohio*
B) *Roe* v. *Wade*
C) *Mapp* v. *Ohio*
D) *Gideon* v. *Wainwright*

Answer: C
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20) Which of the following is not an exception to the legal requirement of having a warrant to conduct a search and seizure?
A) With consent
B) Incident to an unlawful arrest
C) When exigent circumstances exist
D) To conduct an inventory

Answer: B
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21) The _____ exception recognizes that a warrantless entry by law enforcement officials may be legal when there is a compelling need for official action and no time to get a warrant.
A) emerging situational need
B) emergency situational requirement
C) exigent circumstances
D) emergency exigent circumstances

Answer: C
Page Ref: 31
Accessibility: Keyboard Navigation

22) A warrant to search must be based upon _____.
A) reasonable suspicion
B) probable cause
C) preponderance of the evidence
D) proof beyond a reasonable doubt

Answer: B
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23) In 2005, in _____, the Supreme Court held that officers executing a search warrant of a house seeking weapons and evidence of gang membership in the wake of a drive-by shooting acted reasonably by detaining the occupants of the house in handcuffs during the search, especially since there were only two officers to watch over four people.
A) *Hudson* v. *Michigan*
B) *Mapp* v. *Ohio*
C) *Terry* v. *Ohio*
D) *Muehler* v. *Mena*

Answer: D
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24) In _____, the Court created the "moveable vehicle" rule.
A) *Carroll* v. *United States*
B) *Chambers* v. *Maroney*
C) *Maryland* v. *Dyson*
D) *Chimel* v. *California*

Answer: A
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25) Which of the following is not a requirement for a plain view search to be legal?
A) Officer is where he has a legal right to be.
B) Evidence is in plain view.
C) Evidence is inadvertently discovered.
D) Evidence is found after a limited search.

Answer: D
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26) The landmark Supreme Court ruling that allows stop and frisk procedures is _____.
A) *Miranda* v. *Arizona*
B) *Terry* v. *Ohio*
C) *Mapp* v. *Ohio*
D) *Escobedo* v. *Day*

Answer: B
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27) In *Minnesota* v. *Dickerson*, why was the defendant not convicted?
A) The officer felt a substance in the suspect's pocket, subsequently determined to be cocaine, during a pat down and manipulated it to determine what it was.
B) The defendant pled guilty before trial.
C) The judge declared a mistrial.
D) The charges were dropped by the prosecutor before trial.

Answer: A
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28) Evidence obtained from an unreasonable search and seizure cannot be used as the basis for learning about or collecting new admissible evidence not known about before is the _____.
A) "bad evidence" doctrine
B) "fruits of the poisonous tree" doctrine
C) "illegal seizure" doctrine
D) "unreasonable search" doctrine

Answer: B
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29) According to the courts, any new evidence seized resulting from unreasonably seized evidence is also tainted and is not admissible in court. This is based on the _____.
A) "bad evidence" doctrine
B) "fruits of the poisonous tree" doctrine
C) "illegal seizure" doctrine
D) "unreasonable search" doctrine

Answer: B
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30) Procedural law deals with processes of arrest, search and seizure, interrogations, confessions, admissibility of evidence, and testifying in court and therefore changes less frequently than does substantive law.

Answer: FALSE
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31) Final ratification of the Constitution of the United States was delayed because some states wanted guarantees that individual liberties would be safeguarded from potential oppression by the newly formed government. These guarantees came in the form of the first ten amendments to the Constitution known as the Bill of Rights.

Answer: TRUE
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32) The Thirteenth, Fourteenth, and Fifteenth Amendments were all designed to guarantee the freedoms and equal protection of the laws for all citizens, especially the former slaves.

Answer: TRUE
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33) The liberties protected by the specific clauses of the Bill of Rights are exhaustive.

Answer: FALSE
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34) The *Hurtado* v. *California* case attempted the process of the "shorthand doctrine," but instead ratified the "fruits of the poisonous tree" doctrine.

Answer: FALSE
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35) Formally charging a suspect with a crime does not automatically flow from an arrest.

Answer: TRUE
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36) The preferred method of effecting an arrest is under the authority of a warrant.

Answer: TRUE
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37) The two major benefits derived from securing prior judicial approval for arrests are that the approval relieves the law enforcement officer of the burden of proving the legality of the arrest and it provides for automatic approval of evidence to be used during the trial for the crime the person was arrested for.

Answer: FALSE
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38) Blank warrants are constitutionally valid.

Answer: FALSE
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39) An offense committed in the presence of an officer can be the basis of an arrest without a warrant. "In the presence of" includes the use of any or all of the five senses—sight, hearing, taste, touch, or smell.

Answer: TRUE
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40) The law allows an officer to make warrantless arrests in felony cases provided reasonable grounds or probable cause exists to make the arrest.

Answer: TRUE
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41) Probable cause is a difficult term to define because in no two instances are circumstances identical.

Answer: TRUE
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42) A search warrant is a written order, in the name of the judge, signed by a district attorney, exercising proper authority, and directing a law enforcement officer to search for specific property and bring it before the court.

Answer: FALSE
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43) A vehicle search is not reasonable if conducted pursuant to stopping a vehicle for a traffic violation and writing a citation.

Answer: TRUE
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44) Among the many unanswered questions created by the *Mapp* v. *Ohio* decision, the crucial question revolved around the definition of the word "_____."

Answer: unreasonable
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45) A(n) _____ is a written order, in the name of the state, signed by a judicial officer, exercising proper authority, and directing a law enforcement officer to search for certain specific property and bring it before the court.

Answer: search warrant
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46) A(n) _____ must particularly describe the place to be searched. Although the Constitution does not define "particularly," the description must be sufficient to distinguish the place from all others.

Answer: search warrant
Page Ref: 32
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47) If the affidavit and search warrant are for the search and seizure of _____, the search can be pretty extensive. It is permissible to search closets, under beds, in dresser drawers, in medicine cabinets, and in kitchen cupboards.

Answer: drugs
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48) In _____, the Supreme Court ruled that violation of the knock and announce requirement for the service of a search warrant will no longer result in the suppression of evidence found during the execution of the search warrant.

Answer: Hudson v. Michigan
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49) In 1969, the United States Supreme Court limited the scope of a search when it ruled in _____ that a warrantless search of the defendant's entire house, following his lawful arrest in the house on a burglary charge, was unreasonable.

Answer: Chimel v. California
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50) The Supreme Court ruled in the 1981 case of _____ that when a police officer makes a lawful custodial arrest of the occupant of an automobile, the officer may search the vehicle's passenger compartment as a contemporaneous incident of arrest. It does not include the trunk.

Answer: New York v. Belton
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51) In _____, the Supreme Court held that law enforcement officers may enter a home without a warrant when there is an objectively reasonable basis to believe that an occupant is seriously injured or imminently threatened with serious injury.

Answer: Brigham City v. Stuart
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52) A(n) _____ search is done for the purpose of protecting the property of the person arrested and documenting what was found with a receipt given to the person arrested. In this manner, law enforcement can prevent accusations of stealing an offender's money or property.

Answer: inventory
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53) *Terry* v. *Ohio* allows for the _____ of the outer clothing of a suspect for a weapon if the officer is concerned about his own safety.

Answer: pat down
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54) The Supreme Court in 2004 upheld a conviction under a Nevada statute that requires a person to identify himself when so requested during a(n) _____ stop. Twenty states have this identification requirement.

Answer: Terry
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55) The _____ doctrine provides that evidence obtained from an unreasonable search and seizure cannot be used as the basis for learning about or collecting new admissible evidence not known about before.

Answer: "fruits of the poisonous tree"
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56) Explain how the laws of arrest and search and seizure flow from the Bill of Rights.

Answer: An examination of constitutional history reveals that the powers yielded by the states were specifically granted for the purpose of establishing a national government. However, final ratification of the new constitution was delayed because some states wanted guarantees that individual liberties would be safeguarded from potential oppression by the newly formed government. This desire was based on the experiences of the colonists who supported the Declaration of Independence and fought the Revolutionary War that won independence and created the United States of America, all of which occurred because the King of England was oppressing the colonies. The guarantees came in the form of the first ten amendments to the Constitution known as the Bill of Rights.
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57) Distinguish between the impacts of the Fifth and Fourteenth Amendments on defendants in criminal cases.

Answer: The liberties protected by the specific clauses of the Bill of Rights are not exhaustive. One clause of the Fifth Amendment has been interpreted to leave the door open for additional protections. The due process clause provides, "… nor [shall any person] be deprived of life, liberty or property without due process of law." Due process is one of those concepts that has long been the subject of judicial controversy and has no universally accepted definition. The American concept of "fairness" is probably the closest one could get to an acceptable definition, in layman terms, without burdening the effort with reams of judicial history and philosophy. Thus, the Supreme Court has its latitude to interpret the Constitution in any manner it deems to be fair and just under the American judicial system.
The Civil War was over. Slavery had been abolished. The Thirteenth, Fourteenth, and Fifteenth Amendments were all designed to guarantee the freedoms and equal protection of the laws for all citizens, especially the former slaves.
Interpretations of portions of the Fourteenth Amendment provide the foundation for much of modern criminal procedure in the United States today.
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58) What are the benefits to a police officer and the case if an arrest is made under the authority of a warrant?

Answer: There are two major benefits derived from securing judicial approval for arrest through the process of obtaining a warrant. First, it relieves the police officer of the burden of proving the legality of the arrest so that the officer need not fear charges of false arrest, malicious prosecution, or other civil suits. Second, it provides for an independent evaluation of the evidence.
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59) List the requirements of a valid arrest warrant.

Answer: The investigator is not relieved of all responsibility for the legality of the arrest simply because a warrant was obtained. The investigator must be aware of what constitutes a valid warrant to ensure that the one he or she possesses permits a legal arrest.

1. An arrest warrant is a judicial order commanding the person to whom it is issued or some other person to arrest a particular individual and to bring that person promptly before a court to answer a criminal charge. The arrest warrant generally must be written. By legislation, some jurisdictions allow for verbal authorization supported by written authorization in warrant form that is issued later.
In most cases, particularly major felonies, the warrant must be issued by a judge who personally reviews the facts to determine the existence of reasonable grounds as required by the Constitution.
2. The warrant must be supported by an affidavit—a written statement of the information known to the officer that serves as the basis for the issuance of the warrant. In major cases, the requirements vary on whether the warrant must be issued in the county in which the offense occurred, but once issued, major case warrants can be served anywhere in the state.
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60) Is a "John Doe" arrest warrant valid under any circumstances? Explain.

Answer: "John Doe" warrants may be valid under certain circumstances provided the warrant is issued for a person who can be described as required by the Constitution. "John Doe" is used if a name, alias, or nickname is unknown. However, the other type of "John Doe" warrant, which is merely issued for any person who might have committed an offense without satisfying the particular description requirement of the Constitution, is totally invalid.
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61) Define and describe "probable cause."

Answer: Probable cause is a difficult term to define because in no two instances will it ever look the same. However, one acceptable definition of probable cause is that it is more than suspicion but less than actual knowledge. It is suspicion plus facts and circumstances that would lead a reasonable person, exercising ordinary caution, under the same circumstances, to believe that a crime has been, is being, or is about to be committed. Probable cause may be based on a number of sources of information, not all of which, or any of which, need be the kind of evidence that will be admissible at trial.
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62) What is the Exclusionary Rule, and how did it evolve?

Answer: Under early English common law, an illegal search and seizure that produced incriminating evidence was allowed, and the evidence obtained was admissible in court. Surprisingly, federal law enforcement officers in the United States were permitted to follow the same rule until 1914.
In *Weeks* v. *United States*, the Court established what became known as the "Federal Exclusionary Rule." The Court ruled that any evidence unreasonably obtained by federal law enforcement officers could no longer be admissible in federal prosecutions.
After the *Weeks* decision, very few states adopted their own exclusionary rule applicable within their own states. Following Dolree Mapp's conviction and the denial of her appeals in the state courts, her case was appealed to the United States Supreme Court. *Mapp* v. *Ohio*, decided in 1961, established the rule that any evidence unreasonably searched and seized would no longer be admissible in any court—state or federal. The Exclusionary Rule was now applicable in all courts at all levels.
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63) Describe the "Silver Platter" Doctrine. Is it still followed? Why or why not?

Answer: The Federal Exclusionary Rule was established in 1914 in the case of *Weeks* v. *United States*. The Court made it quite clear that, because this was a federal case, the decision was applicable only to federal law enforcement officers and federal courts and was in no way applicable to the states. But this decision, as do many Supreme Court decisions, left a number of unanswered questions. Out of one question arose the "Silver Platter" Doctrine. The *Weeks* decision prohibited federal officers from illegally seizing evidence, but it did not prevent law enforcement officers to the states from illegally seizing the evidence and handing it over to federal agents on a "silver platter" for use in federal courts. This method of circumventing the Federal Exclusionary Rule remained in effect until 1960.
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64) What limitations have judicial cases placed on the search of a motor vehicle incident to a lawful arrest?

Answer: Keeping in mind the foundation principle of the *Chimel* case, that a search may be made of the area under the arrestee's immediate control, the Supreme Court ruled in the 1981 case of *New York* v. *Belton* that when a police officer makes a lawful custodial arrest of the occupant of an automobile, the officer may search the vehicle's passenger compartment as a contemporaneous incident of arrest. The right to search includes any open or closed containers found in the passenger compartment. It does not include the trunk.
In brief, the Court said that the right to search the passenger compartment of a car still exists even if the officer does not make contact until the person arrested has left the vehicle. The issue in this case asked the question on the reasonableness of the search whether the defendant was inside or outside the vehicle when first contacted and subsequently arrested. The opinion points out that the length of time the person had been out of the car and how far away from the vehicle the person was may all come into play in determining reasonableness of a search. Interestingly, in this case, the defendant had already been secured and was in the back seat of the patrol car when this search took place. This, of course, was pointed out by the dissenting Justices, who said there was no longer any chance to obtain a weapon or destroy evidence and the officer should have obtained a warrant before searching.
A vehicle search is not reasonable if conducted pursuant to stopping a vehicle for a traffic violation and writing a citation. A citation is not an arrest and no right to search arises.
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65) What is meant by a plain view seizure, and what are the requirements for conducting such a seizure by a law enforcement officer?

Answer: If an officer is lawfully in a place and sees contraband or evidence in plain view, the officer may seize the evidence and it will be admissible. Officers are not required to turn their backs on a crime being committed in their presence. It is critical that the officer has a lawful right to be where he/she can see the evidence in plain view. An investigator on the street outside a house, who looks in the window and sees contraband, can legally seize it, but if that same officer is standing on a box, peering inside a window overlooking the backyard, without justification, he/she cannot expect any subsequent seizure to be upheld.
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66) Explain the "fruits of the poisonous tree" doctrine.

Answer: The "fruits of the poisonous tree doctrine" provide that evidence obtained from an unreasonable search and seizure cannot be used as the basis for learning about or collecting new admissible evidence not known about before. Not only is the evidence obtained from the unreasonable search and seizure inadmissible, any evidence resulting from the unreasonably seized evidence is also tainted and is not admissible as fruits of the poisonous tree. This doctrine results from a 1963 decision of the high court in which a confession was obtained from the defendant after evidence was produced that had been obtained unreasonably.
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