

The University of Mississippi
School of Law
National Center for Justice and Rule of Law
APPELLATE JUDGE FOURTH AMENDMENT COURSE
draft 07.17.09

March 10-12, 2010

Day #1: March 10

The Structure of the Fourth Amendment

7:30-8:00 am **Registration**

8:00-8:30 **Welcome & Introduction**

Professor Thomas K. Clancy, Director, National Center for Justice and the Rule of Law
William Brunson, National Judicial College

8:30-9:15 **Interests Protected by the Fourth Amendment**

Professor Thomas K. Clancy, Director, National Center for Justice and the Rule of Law

9:30-10:20 **What is a Seizure?**

Honorable Joseph Grasso, Massachusetts Appellate Court

10:30-11:15 **What is a Search?**

Honorable Joseph Grasso, Massachusetts Appellate Court

11:15-12:00 **breakout groups: applicability of the Fourth Amendment**

12:00-1:00 lunch

1:00-1:50 **Reasonableness Models**

Professor Thomas K. Clancy, Director, National Center for Justice and the Rule of Law

2:00-2:50 **The Exclusionary Rule**

Professor Jack Nowlin
University of Mississippi School of Law

3:00-3:50 **breakout groups: Fourth Amendment satisfaction / remedies**

4:00-5:00 **Recent and Current Supreme Court Cases**

Professor Thomas K. Clancy, Director, National Center for Justice and the Rule of Law
Honorable Joseph Grasso, Massachusetts Appellate Court
Professor Jack Nowlin, University of Mississippi School of Law

Day #2: March 11, 2010

The Fourth Amendment Rights of Children and Juveniles 2010 Fourth Amendment Symposium

2010 is the 25th anniversary of *New Jersey v. T.L.O.*, 469 U.S. 325 (1985), which broadly set out the framework for evaluating searches of students by school authorities. In *Safford School District v. Redding* (*cert. granted* 01/16/09), the Court revisited that issue in the context of a strip search of a student by school authorities looking for nonprescription drugs. Beyond the school setting, there are many unique aspects of the application of the Fourth Amendment to juveniles and younger children. Expected speakers and topical areas include:

Introduction

Thomas K. Clancy
Research Professor, University of Mississippi School of Law
Director, National Center for Justice and the Rule of Law

Keynote Address

Samuel Davis
Dean, University of Mississippi School of Law

The Fourth Amendment Rights of Younger Children

Victor Streib
Professor, Ohio Northern University School of Law

T.L.O.'s Unanswered Questions

Barry C. Feld
Professor, University of Minnesota School of Law

The Reasonableness of Children's Expectations of Privacy in Today's {digital} World

Mary Graw Leary
Associate Professor, The Catholic University of America
Columbus School of Law

School Children and Parolees: Not So Special Any More

Edwin J. Butterfoss,
Professor, Hamline University School of Law

Strip Searching Students: The Supreme Court's Latest Failure to Articulate a Sufficiently Clear Statement of Fourth Amendment Law

Martin R. Gardner
Professor, University of Nebraska School of Law

Day #3: March 12

Digital Evidence Searches and Seizures

8:00-8:50 Introduction: Sources, Types, & Locations of Digital Evidence; What is Cyber Crime?

Don Mason, Associate Director, National Center for Justice and the Rule of Law

- * ways digital evidence used in crimes
- * digital evidence is everywhere
- * user created and computer created data
- * introduction to forensics
- * **Child Pornography Cases**

9:00-9:50 Fourth Amendment Applicability: Expectations of Privacy / Private Searches

Professor Thomas K. Clancy, Director, National Center for Justice and the Rule of Law

- * voluntary exposure doctrine
- * in & out of the box
- * non-private computers: common access
- * deleted files
- * private search doctrine and replication issues
- * repairmen, hackers

10:00-10:50 Breakout group: Elements of Warrant for digital evidence / Objects Police Want to Seize at Digital Evidence Crime Scene: Scope of *desired* seizure

11:00-12:00 Fourth Amendment Satisfaction: search warrants

Professor Thomas K. Clancy, Director, National Center for Justice and the Rule of Law

- * “special” limitations of some courts
 - including search strategies, limits such as file names, types, or dates
 - CCIPS manual and federal search strategies
- * particularity of description
 - including comparison of data vs. equipment searches
- * document searches

1:00-2:00 Consent Searches, Search Incident to Arrest, and other Common Scenarios

Priscilla Adams, Senior Counsel, National Center for Justice and the Rule of Law

2:15-3:15 Selected Issues Outside the Box: the Internet, Networks, and New Technologies

Don Mason, Associate Director, National Center for Justice and the Rule of Law

working with ISPs [statutory gap filer: SCA]: identifying the computer and the person at it
email (delivered vs. non-delivered)
chat rooms & P2P
connecting to local networks

3:30-4:30 Electronic Exchange of Documents: The Ethics of Metadata

Hans Sinha, Clinical Professor, University of Mississippi School of Law

4:30-4:45 **evaluations, wrap-up, and graduation**

