

# **SEARCH AND SEIZURE**



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Dr. Woody is admitted to the Florida, Michigan, and Nebraska Bars. In his private practice, he conducts training for law enforcement, mental health, social service, and educational professionals. He provides legal counsel to mental health practitioners relevant to risk management, dealing with the legal system, litigious clients, and defense against ethical, regulatory (licensing), and legal complaints.

He is a Licensed Psychologist in Florida and Michigan. The American Board of Professional Psychology has named Dr. Woody a Diplomate in Clinical Psychology and a Diplomate in Forensic Psychology, and the American Board of Assessment Psychology has named him a Diplomate in Assessment Psychology.

He is a Fellow of the American Psychological Association (APA) and the American Association for Marriage and Family Therapy (AAMFT). Within the APA, he has served as a member of the Ethics Committee and the Board of Directors and Treasurer of the Division of Clinical Psychology. In the AAMFT, he has served as Chair of the Judicial Council, and on the Ethics Revision Task Force and the Finance Committee.

Prior to *Search and Seizure*, Dr. Woody has authored thirty-three books, and approximately two hundred articles for professional journals.

In addition to his work as a professor, psychologist, and attorney, Dr. Woody is a professional musician.

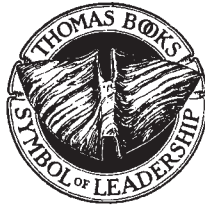
# SEARCH AND SEIZURE

The Fourth Amendment for  
Law Enforcement Officers

*By*

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*This book is dedicated to my fellow recruits in Basic Recruit Class #281 and my mentors (especially Coordinator E. E. Eunice) at the Pat Thomas Law Enforcement Center in Tallahassee, and to all law enforcement personnel who put their lives on the line to make our society a better place.*

## PREFACE

**D**uring my legal studies at the Creighton University School of Law, I realized how society is dependent on and shaped by the U. S. Constitution and the interpretations of it that the U. S. Supreme Court makes. Being also a professor of psychology, I was intrigued by how human behavior, which operates by legally-based rights and duties, is determined by constitutional law far more than psychology has acknowledged. That is, society and its individuals impose strong reinforcement on every person to adopt and maintain personal conduct that is deemed to be legal. Rewards and punishments accompany this powerful societal press, as evidenced by the criminal justice system.

After more than two decades of practicing law and teaching law-related courses at the University of Nebraska at Omaha, I became increasingly aware of the importance of law enforcement. As I began to study criminal justice in general and law enforcement in particular, it was obvious that law enforcement officers (LEOs) are the frontline of defense against harm to the public; and daily, each LEO must make autonomous judgments that can turn out to be effective or ineffective, and can make or break the LEO's career. Every aspect of the LEO's decision making is subject to close scrutiny by the chain of command within the employing law enforcement agency and the public at large (as well as the news media!). Often, unpredictable and extrinsic factors such as from political sources, will influence law enforcement operations with effects from policy to an LEO's decision making.

From my analysis of law enforcement, I recognized that search and seizure, as set forth in the Fourth Amendment, is one of the most problematic sectors of the LEO's daily routine. For example, when stopping a vehicle for, say, a traffic violation, the LEO, beyond issuing a citation, must immediately decide whether it is appropriate to detain or arrest the driver, and/or search for and seize possible evidence of

crime. A myriad of ill-defined factors can potentially influence the decision and determine the propriety of the LEO's actions.

After the 9-11 terrorist attacks, my commitment to law enforcement increased substantially, and in 2004, I completed a full-time Basic Police Academy at the Pat Thomas Law Enforcement Center in Tallahassee. Listening to the instructors and talking to my fellow recruits and many LEOs made it clear that, when on the job, LEOs typically have too little training for assuredly being effective in search and seizure. Likewise, many persons who work in the criminal justice system, such as corrections and probationary personnel, could benefit from advanced knowledge of search and seizure issues.

This book aims to provide critical information about the U. S. Constitution, with special emphasis on search and seizure. The method for learning capitalizes on review and analysis of relevant U. S. Supreme Court decisions. For each case considered, the specific meaning for law enforcement will be highlighted. Although it is not possible to establish a hard and fast formula for a LEO's decision making for all search and seizure situations, the U. S. Supreme Court cases provide legal reasoning, principles, and decisions that, taken as a whole, can constitute a useful mindset. The final chapter sets forth practical guidance for the LEO, with the goal of promoting effective decision making pertaining to search and seizure.

The substance of this book is essential for law enforcement and criminal justice training programs. Also, the book provides attorneys, forensic specialists, and law enforcement personnel already in the field with valuable information for professional development.

Appreciation is due to my spouse, Professor Jane DiVita Woody for her editing of the manuscript, and to the University of Nebraska at Omaha for providing the electronic database needed to research the U. S. Supreme Court Cases.

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