LINE POLICE OFFICER KNOWLEDGE OF SEARCH AND SEIZURE LAW: RESULTS OF AN EXPLORATORY MULTI-CITY TEST

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The judges, district attorneys, assistant district attorneys, police attorney, and training academy, technical college and university instructors and students who agreed to testing contributed much to the interpretation of the police officer scores.

Literally dozens of search and seizure law experts across the United States cooperated, without fees, with the senior author and thereby solved the problem of obtaining legally sufficient determinations whether states' search and seizure laws were more restrictive than relevant United States Supreme Court decisions.

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PREFACE

The research reported in this publication was conducted by the authors under contract with the National Association of State Directors of Law Enforcement Training, which received funding to conduct the research from the National Institute of Justice under grant number 85-IJ-CX-0071.

The junior author, Barbara Smith, Ph.D., participated in non-legal aspects of design and conduct of the research, carried out data analyses, and commented extensively on report drafts. The senior author, John Madison Memory, J.D., Ph.D., participated in all aspects of design and conduct of the research, carried out data analyses, and wrote the report.

While the National Institute of Justice and the project Advisory Board provided substantial assistance in the conduct of the research and production of the report, the opinions expressed in this report are solely those of the authors.

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EXECUTIVE SUMMARY*

Chief Justice Warren Burger, in his dissenting opinion in Bivens v. Six Unknown Named Agents (403 U.S. 388 (1971)), stated that police officers "do not have the time, inclination, or training to read and grasp the nuances of the appellate opinions that ultimately define the standards of conduct they are to follow." (p. 417) If police officers generally do not "read and grasp" decisions defining search and seizure law and do not gain knowledge of them by other means, there are certainly grave implications concerning protection of citizens' Fourth Amendment rights and ability of police to perform several other types of duty effectively. Also, inadequacy of police knowledge of search and seizure law might be seen as relevant to a number of major policy issues. No known national studies on officer knowledge of search and seizure law having been conducted, the National Institute of Justice funded the research reported here to produce general estimates of line uniformed police officer knowledge of law governing warrantless searches and seizures in the United States and to identify possible determinants of level of knowledge.

The Testing of Police Officers

Research design. A specially produced videotape depicting frequently encountered line duty situations of uniformed police officers concerning warrantless searches was used in testing of police officers and several comparison groups composed of judges, prosecutors, police trainees, and students. Fourteen questions are presented in the videotape. The videotape scripts and questions received favorable legal sufficiency review by a recognized national authority on search and seizure law. Two panels of experts on search and seizure law reviewed the videotaped test and, except for one panel opining that item four had two arguably correct answers, concluded that the test was legally valid. (Eighty-nine percent of the officers gave the intended "correct" answer on item four and 8.4% marked the other answer concluded to be arguably correct.) Results of statistical analyses of pretest responses and the sample officer responses were interpreted as indicating that the test, including item four, served as a reliable and valid means of measuring knowledge of search and seizure law.

In 52 randomly selected cities in states with search and seizure law determined to be no more restrictive than

* Underlined numbers indicate location of subject in report.

applicable United States Supreme Court decisions, four-hundred and seventy-eight (478) line uniformed police officers were selected by as random means as possible and tested. Numbers of officers to be tested in particular cities were based on numbers of police officers employed in cities of the particular sizes in regions of the United States (Federal Bureau of Investigation, 1985, p. 242). Testing occurred in all regions except for the Pacific region, which was excluded because search and seizure laws in California, Oregon, and Washington are, in some instances, more restrictive than United States Supreme Court decisions. No testing occurred in cities with populations smaller than 10,000 because of budget limitations.

Collection of information regarding officers and police departments. A research project staff member conducted testing in each city and had the officers complete a questionnaire including questions on demographics, training, and work experience. Also, department representatives completed questionnaires concerning department characteristics and search and seizure training and procedures.

Description of the police officer sample. Of the 478 officers tested, 10.7% were female and 15.3% were black. The mean age was 33.6 years and the mean number of years of experience in police work was 9.3. For the 428 officers reporting completion of a law enforcement officer basic training course, the mean number of months since completion of the course was 93.

Test scores of the sample police officers. The mean score of the 478 officers tested was 59.4% correct (8.3 correct answers out of 14 items). Seventy-five officers (15.5%) scored 43% (six correct answers) or less. Approximately 75% of the officers answered 7, 8, 9, or 10 items correctly.

The Testing of Comparison Groups

To have some basis for comparison and interpretation of the police officer test scores, arrangements were made to test a group of judges, a police attorney and an assistant police attorney, and several groups of prosecutors, police officer trainees, and college and university students. Because of small numbers of persons tested and non-random selection, the mean scores of these groups are taken as only suggestive and not as bases for generalization on search and seizure knowledge of the categories of persons, such as "elected district attorneys," nationally.

Trial criminal court judges. All of the 46 criminal trial court judges attending a one-week course for judges on

constitutional criminal procedure were tested, but only 36 completed a demographic and work-experience questionnaire and were from a state with search and seizure law no more restrictive than Unites States Supreme Court decisions. Among the 36 were judges from all of the F.B.I. regions (Federal Bureau of Investigation, 1985, p. 242) except the New England region and the Pacific region, which was excluded from the police officer testing.

The mean age of the 36 judges (48 years) and mean tenure as a judge (10 years) were similar to the mean age (52 years) and judicial tenure (10 years) of respondents to a 1979 national random-sample survey of state criminal trial-court judges (Memory, 1981). The judges reported spending a mean of 45% of their work time handling criminal cases and all reported ruling on Fourth Amendment evidence-suppression motions.

The mean score of the 36 judges was 8.25 correct answers (58.9%). Six judges (16.7%) had a score of 43% (six correct answers) or less. Though the differences were not statistically significant, the 28 judges with general jurisdiction court duties had a mean score of 8.46 correct and the eight without such duties had a mean of 7.5 correct.

The testing of other comparison groups. Fifteen elected district attorneys attending a state prosecutors' association meeting had a mean score of 61.4% (8.6) and six assistant district attorneys from a major city's district attorney's office had a mean score of 79.8% (11.2). The district attorney in another city and eleven of his assistant district attorneys had a mean score of 65.5% (9.2). The 35 attorneys tested had a mean score of 66.9% (9.4). A police attorney with expertise on search and seizure law answered 13 items correctly and his other answer (to item four) was viewed as arguably correct by the review panel.

Twenty-four police academy trainees with no previous police work experience, tested before search and seizure law training, had a mean score of 40.8% (5.7) and 17 police trainees, some with police work experience but no search and seizure law training, tested at another academy had a mean score of 47.5% (6.7). Fifty-five law enforcement officer trainees at a third academy, tested immediately after search and seizure law training, had a mean score of 76% (10.6).

Seven technical college students with no previous education or training on search and seizure law had a mean score of 43.9% (6.1) and 27 university criminal justice course students, also with no search and seizure law education or training, had a mean score of 49.5% (6.9).

Findings from Analyses of Responses to Individual Items

Figure 1 presents information regarding the items and police officer and judge responses to the items.

Figure 1

Principles Tested on, Applicable Cases, and Percentages of Police Officers (PO) and Judges (J) Answering Items Correctly

Item Number	Case Name and Year Announced	Subject of Item	Percentage Answering Correctly
1	Payton v. N.Y. (1980)	Arrest warrant sufficiency to enter residence of person to be arrested.	40.4%(PO) 72.2%(J)
2	Coolidge v. N.H. (1971)	Authority to seize items in "plain view."	83.3%(PO) 91.7%(J)
3	Steagald v. U.S. (1981)	Requirement of search warrant to enter residence to arrest person who does not reside there.	76.8%(PO) 44.4%(J)
4	Terry v. Ohio (1968)	Authority to detain for brief "on-the-street" questioning on reasonable suspicion of involvement in crime.	89.1%(PO) 61.1%(J)
5	Hayes v. Fla. (1985)	Lack of authority to require suspect to be taken to police HQ for fingerprinting on less than probable cause.	96.4%(PO) 100%(J)
6	Terry v. Ohio (1968)	Authority to conduct "pat-down" search for weapons on reasonable belief a person is armed and dangerous.	91.8%(PO) 83.3%(J)
7	Mich. v. Long (1983)	Authority to conduct search of passenger compartment of car on reasonable belief driver, who is outside car, is potentially dangerous.	54.4%(PO) 33.3%(J)
8	U.S. v. Robinson (1973)	Authority to conduct search incident to arrest of car driver arrested for traffic offense.	58.2%(PO) 36.1%(J)

9	N.Y. v. Belton (1981)	Authority to conduct search of passenger compartment of car upon arrest of driver.	46%(PO) 36.1%(J)
10	Chambers v. Maroney (1970)	Authority to conduct probable cause search of movable car without a warrant.	18.8%(PO) 27.8%(J)
11	U.S. v. Ross (1982)	Authority, with probable cause to believe seizable items are in trunk of a movable car, to search without a warrant containers in which the items might be concealed, which are found in the car trunk.	24.5%(PO) 30.6%(J)
12	Mich. v. Summers (1981)	Authority to detain occupant of residence during search of residence under search warrant.	68.2%(PO) 69.4%(J)
13	Ybarra v. Ill. (1979)	No implicit authority to search customers of commercial establishment or frisk them for weapons during search warrant-authorized search of the establishment for drugs.	36%(PO) 66.7%(J)
14	Mincey v. Arizona (1978)	No authority to search without search warrant residence in which homicide has occurred.	47.9%(PO) 72.2%(J)

Types of errors made by police officers. Of all the test answers, 21.1% reflected nonawareness of law enforcement power (failure to know or recognize that the officer would be authorized to carry out a search or seizure); 10.1% reflected incorrect perception of law enforcement power (belief that the officer would be authorized to search or seize when he would not be); 5.6% reflected nonawareness of officer protective power (failure to know or recognize that the officer would be authorized to carry out a stop or frisk); and 3.6% reflected incorrect perception of officer protective power (belief that he would be authorized to carry out a stop or frisk when he would not be).

Findings and Conclusions concerning Possible Influencers of Officer Knowledge

Because a wide variety of factors are known to influence police officer behavior (Cruse and Rubin, 1973), it was expected that a large number of variables would be shown

to have relatively weak but statistically significant relationships with test score. In general, this was the case. Below are findings and conclusions based on associations, most of which were very weak, indicated by the statistical analyses. Of course, these associations do not establish causes of high or low officer score.

- *** Officers were much less likely to know recently announced legal principles than older principles. (pp.44-45)

- *** The more direct exposure to court decisionmaking on the legality of search and seizures the officers had had, the higher they were likely to score. (p.60)

- *** Frequency and recency of in-service training on search and seizure law were both found to be positively associated with score. (p.53)

- *** A slight tendency was found for knowledge acquired during basic training to deteriorate during the first 12 months on the job. (No general relationship between score and number of months since basic training was found.) (pp.50-51)

- *** Officers with only a GED-level of education scored significantly lower than high school graduates with no credits toward a college or university degree. (p.40)

- *** For officers with a high school diploma and more, extent of higher education was only very weakly associated with higher scores. Officers with a four-year degree scored only approximately one-half of a correct answer higher than officers with a high school diploma and no higher education credits. (pp.40-41)

- *** For officers who had received college or university instruction on search and seizure law, a very weak positive association of amount of instruction and score was found, suggesting that this instruction produced a small amount of long-term learning. (p.41)

- *** A slight tendency for older officers to have lower scores was found, but it resulted nearly entirely from high scores of officers 25-29 years old and low scores of officers 40-44 years old. (pp.37-38)

- *** The officer-rated quality of instruction provided by police attorneys and non-lawyer academy instructors was positively associated with score, indicating that quality of such instructors makes a

significant difference, potentially positive or negative, in officers' knowledge. (pp.51-55)

*** The officer-rated quality of "question-and-answer" and lecture instruction were positively associated with score, indicating that quality of these types of instruction makes a significant difference. (pp.51-55)

Conclusions concerning Factors which Were Very Weakly Associated or Not Associated with Score

*** No statistically significant relationship between size of department and score was found, but less willingness of the smallest departments to participate in the study may have concealed an association. (p.43)

*** No association was found between score and awareness of departmental disciplinary actions regarding searches and seizures. (p.61)

*** Officers in departments with a search and seizure law updating procedure scored slightly higher than officers in other departments, but the difference was not statistically significant. (p.44)

*** Officers in departments with policies or procedures on search and seizure scored slightly higher than officers in other departments, but the difference was not statistically significant. (p.45)

*** Officers in departments with procedures for prosecutors to examine cases for legal sufficiency very soon after arrest scored slightly higher than officers in other departments, but the difference was not statistically significant. (p.47)

*** Officers who carry a search and seizure law guidebook generally report finding it helpful. Their scores are slightly higher, but not statistically significantly higher, than those of other officers. (p.46)

*** Officers in departments in which supervisors approve and disapprove of searches and seizures by line officers had no higher or lower scores than officers in other departments. (p.45)

*** Officers in departments with 24-hour a day availability of attorneys to advise on search and seizure law had no higher or lower scores than officers in

other departments. (p.47)

*** Officers in departments which issue a search and seizure guidebook had no higher or lower scores than officers in other departments. (p.46)

Other Notable Findings

*** 46.6% of officers reported not having been involved in or very familiar with a case in which a court had ruled on the legality of a search or seizure. (p.60)

*** 75.8% of officers reported never having had a case "dropped" by a prosecutor as a result of illegality of a search or seizure by the officer or a work partner. (p.60)

*** 87.2% of the officers reported knowing of no instance of departmental disciplinary action concerning a search or seizure by an officer. Knowledge of at least one such action was reported by at least one officer in 30 of the 52 departments. (p.61)

*** Approximately one out of 25 of the officers tested reported having been sued as a result of a research or seizure he or she conducted. (p.62)

*** Prosecutors received the highest ratings among various types of search and seizure law instructors. (p.51)

*** Officers gave question-and-answer instruction and instruction utilizing videotapes and films high effectiveness ratings. (pp.51-52)

*** Officers give low effectiveness ratings to officer recitation on cases and study of self-paced written instructional materials. (pp.51-52)

*** For cities with 12 or more officers tested, a strong and statistically significant negative association of mean officer score and reported burglary rate was found. (pp.67-68)

Conclusions and Implications

The test scores achieved by the various groups and background information regarding the police officers, their departments, and the judges provide illumination of a number of critical issues relating to search and seizure law.

Knowledge of search and seizure law. In interpreting the mean scores and distributions of scores, one should consider

the fact that police officers in many jurisdictions often encounter actual duty situations which are legally and factually more ambiguous than those depicted in the videotaped scenarios. Also, officers must on occasion make search or seizure decisions in highly stressful situations, which would be expected to adversely affect the quality of the decisions. Because of this, the fact that 15.5% of the officers tested had scores no higher than the mean scores of the uninstructed technical college students and academy trainees is taken as indicating that a significant percentage of line uniformed officers in states with search and seizure law no more restrictive than relevant United States Supreme Court decisions have no working knowledge of the law governing warrantless searches and seizures. The fact that an additional 75% of officers missed from four to seven items is interpreted as indicating that the great majority of these officers have significant gaps in their knowledge of law concerning warrantless searches and seizures. (p.33)

Even though the tested judges and elected district attorneys cannot be viewed as representative of judges and elected prosecutors in the United States, it is troubling for obvious reasons that their mean scores were virtually the same as the police officers'.

Lack of knowledge of more recently announced legal principles. Police officers were much more likely to "miss" items testing on more recently announced legal principles than items testing on older principles. This suggests that, in general in the United States, a less than adequate job of informing line uniformed police officers on changes in search and seizure law is being done. (Consistent with this, there was a relatively strong association of judge score and reported extent of independent updating on search and seizure law through reading of new decisions or summaries of new developments.)

"Knowability" of search and seizure law. While some deficiencies in knowledge of search and seizure law clearly result from failure of police officers and others to learn newly announced principles, there is strong suggestion in the findings that search and seizure law, old and new, is at present practically "unknowable" (LaFave, 1978; Sunderland, 1980), or at least unapplyable, by many line uniformed police officers. While this research does not indicate the reasons for this "unknowability" or unapplyability, it seems reasonable to suggest that it results from some combination of large number and complexity of principles.

Findings of this research which support the conclusion concerning "unknowability" include the following: (1) On several items, many officers badly misapplied the concept of

search and seizure law correctly. (0 means "not helpful at all" and 5 means "very helpful".)

( ) rating

20. Is there a set procedure in your department for line patrol officers to be informed about changes in search and seizure law?

( ) Yes ( ) No

21. Within the past year, did you attend any professional meetings, conferences, programs, or seminars, other than training reported earlier, concerned with search and seizure law.

( ) Yes ( ) No

22. If the answer to #21 was "yes," please briefly describe the program attended.

(_____)

23. In addition to the above, have you within the past year read any written materials (articles, books, cases, etc.) on search and seizure law?

( ) Yes ( ) No

24. How many departmental disciplinary actions are you aware of in your department or other departments for which you have worked, concerned with a search or seizure by an officer?

( )

25. Approximately how many cases, if any, have you been involved in or are personally very familiar with in which a court has decided on the validity of a search or seizure by you or another officer in your department?

( )

26. Approximately how many cases, if any, have prosecuting attorneys "dropped" because a search or seizure by you or a person working with you was "bad" (in violation of the law)?

( )

27. How many times, if any, have you been sued in state or federal court as a result of a search or seizure (not including arrests) you conducted or participated in?

( )

(Please turn in this questionnaire when you finish. The test

administrator will answer questions briefly when all of the officers have finished. Thank you again for participating.)

APPENDIX K

QUESTIONNAIRE COMPLETED BY POLICE DEPARTMENT REPRESENTATIVES

QUESTIONNAIRE REGARDING PARTICIPATING AGENCY

(You may wish to have the contact person or some other person complete as much of this as possible without assistance, after which you can go over it with the completer.)

1. Name and position of person completing questionnaire or providing information:

2. Name and location of department:

3. Number of sworn officers employed: (___)

4. Do shifts regularly rotate?

(___) Yes (___) No

5. If "yes," how often do they rotate? (_____)

6. Are new officers required to complete a training program

(___) Yes (___) No

7. If "yes," describe requirement:

8. Does department have an in-service training program that includes coverage of search and seizure law?

(___) Yes (___) No

9. If "yes," describe program:

10. Qualifications of person providing in-service training on search and seizure law:

11. Media used in in-service training on search and seizure law:

12. Approximate number of hours of in-service training on

search and seizure each officer should have received during last 12 months.

( ) hours

13. Are officers tested after in-service training on search and seizure law?

( ) Yes ( ) No

14. Does the department have any policies or procedures (procedure letters, bulletins) on search and seizure?

( ) Yes ( ) No

15. If "yes," if possible, please provide copies to tester.

16. Do police supervisors (shift captains, squad sergeants, etc.) have any special authority to approve or disapprove warrantless searches and seizures by line patrol officers.

( ) Yes ( ) No

17. If "yes," please briefly describe:

18. What is the position of your department's primary legal advisor regarding search and seizure law? (i.e., police attorney, city attorney, assistant district attorney):

19. Does your department have on-call 24 hours a day an attorney to answer questions on topics including search and seizure law?

( ) Yes ( ) No

20. Does the prosecuting attorney in your jurisdiction have an assistant prosecuting attorney go over line officers' cases very soon after arrests to insure legal sufficient?

( ) Yes ( ) No

21. Does your department have a set system for informing line officers regarding changes in search and seizure law?

( ) Yes ( ) No

22. If "yes," please describe:

23. If "yes," how quickly after an important decision is

"handed down" do you expect your line officers to be informed about it?

24. Are line patrol officers routinely provided any type of guidebook or written procedures concerning search and seizure law to carry on patrol?

( ) Yes ( ) No

25. If "yes," please give the name of any guidebook distributed on a statewide basis or commercially nationwide that has been well-received by officers:

APPENDIX L

INSTRUCTION SHEET GIVEN TO JUDGES TESTED

EXPLANATION OF RESEARCH AND INSTRUCTIONS

This testing is part of a research project funded by the National Institute of Justice and intended primarily to measure line police officer knowledge of search and seizure law. The researcher is under contract with the National Institute of Justice to complete the research and submit to the National Institute of Justice indicated research reports which will include implications of findings and recommendations. The final research report may be released and published by the National Institute of Justice. No determination has been made by the researcher regarding whether the location of judge testing will be reported in the research report.

All of the testing of individuals conducted in this research project is intended to be genuinely voluntary on the part of the persons tested and participation is anonymous. It is requested that participants complete the accompanying questionnaire to provide the researcher basis to suggest some limited interpretations of the pattern of scores. The participant number entered on the answer sheets and on the questionnaires is used to allow the researcher to link the test results with the participant's demographic information. Absolutely no attempt will be made to identify specific participants' test responses.

INSTRUCTIONS: This is a test of knowledge of United States Supreme Court decisions concerning searchs and seizures by line police officers. There are six separate scenarios or parts of the videotape you will view, each with different circumstances. You should assume that all actions taken by police officers and shown in the videotape are lawlful. During each scenario there will be one or more test items concerning what action officers could take lawfully. You will be shown and read a full version of each alternative answer and then shown and read short-form versions of the same answers. For each item, select and mark the answer you believe is the most accurate and correct under U.S. Supreme Court decisions. It is important that you select and mark your answer quickly on the provided answer sheet when the short-form answers are shown. Though you may not have time to consider them, you may take notes during the videotaped action and dialogue and consider them in selecting answers.

Thank you very much for your cooperation and participation.

APPENDIX M

QUESTIONNAIRE COMPLETED BY JUDGES TESTED

PARTICIPATING JUDGE QUESTIONNAIRE

INSTRUCTIONS: Please answer as many items as possible.

1. Participant number:_____ (Number on test answer sheet)
2. Age:_____
3. Did you complete law school? ( ) Yes ( ) No
4. If you completed law school, how many years and months ago did you do so?_____
5. Number of years and months as a judge, regardless of extent of criminal court duties._____
6. Number of years experience as a prosecuting or defense attorney. _____
7. Approximate percentage of work time during last five years as a judge handling criminal cases. _____%
8. Have you received an LLM with emphasis in constitutional criminal procedure? ( ) Yes ( ) No
9. Approximate number of hours of continuing judicial education in last five years relating to search and seizure law. _____
10. Approximate number of continuing legal education in last five years relating to search and seizure law. _____
11. Number of articles on search and seizure law you have authored, including law review, bar journal, police magazine, and similar publication articles._____
12. Level of court assigned to (Mark both if both apply.)
( )Court of limited jurisdiction (misdemeanor)
( )Court of general jurisdiction (felony)
13. Number of credit hours of courses on search and seizure law you have taught, including courses in law schools, colleges and universities, and training academies. _____ credit hours
(For example, a 3-hour course taught 5 time would equal 15 credit hours.)
14. Approximately how many motions to suppress evidence because of alleged violation of Fourth Amendment rights have you ruled on? _____
15. Extent to which you have attempted during the last five years to update your knowledge independently concerning search and seizure law (for example, by reading cases or law review or bar publication yearly summaries of U.S. Supreme Court decisions). (Circle a number.)

1 2 3 4 5 6 7 8 9
None Some Regularly

16. Please rate your present comparative competence to apply search and seizure law in evidence-suppression hearings. (Please be as objective as possible.) Circle a number.

1 2 3 4 5 6 7 8 9
Equal to least qualified trial-court judges — Equal to moderately well qualified — Equal to best qualified

For the purpose of answering the following two questions, "stress" can include feeling "under pressure," worry, anxiety, anger, aggravation, irritation, frustration, or similar emotions.

17. Rate the frequency with which you experience performing judicial duties in the disposition of criminal cases as stressful.

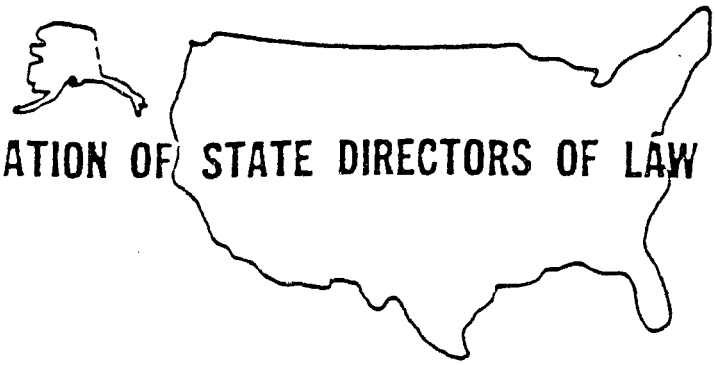
Never 1 2 3 4 5 6 7 8 9 Frequently

18. Rate the extent to which you experience (or would expect to experience) performance of judicial duties in evidence-suppression hearings applying the Fourth Amendment as stressful.

1	2	3	4	5	6	7	8	9
Not stressful at all							Extremely stressful	

19. Region of the United States from which you come.
( ) New England (Conn., Me., Mass., N.H., R.I., Vt.)
( ) Middle Atlantic (N.J., N.Y., Pa.)
( ) East North Central (Ill., Ind., Mich., Ohio, Wisc.)
( ) West North Central (Iowa, Kan., Minn., Mo., Neb., N.D., S.D.)
( ) South Atlantic (Del., Fla., Ga., Md., N.C., S.C., Va., W.Va.)
( ) East South Central (Ala., Ky., Miss., Tenn.)
( ) West South Central (Ark., La., Okla., Texas)
( ) Mountain (Ariz., Colo., Idaho, Mont., Nev., N.M., Utah)
( ) Pacific (Cal., Or., Wash., Alaska, Hawaii)

20. Are you from one of the following states or some other state you have definite reason to believe has search and seizure law relating to warrantless searches and seizures by police officers which is more restrictive than United States Supreme Court decisions? (Identified states with more restrictive search and seizure law on warrantless searches and seizures are New York, Massachusetts, Louisiana, Washington, Oregon, and New Hampshire. States determined to have no more restrictive search and seizure law on warrantless searches and seizures were Alabama, Arizona, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Maine, Michigan, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, and Virginia.)
( ) Identified as more restrictive
( ) Identified as no more restrictive
( ) Believed to be more restrictive
( ) Believed to be no more restrictive



NATIONAL ASSOCIATION OF STATE DIRECTORS OF LAW ENFORCEMENT TRAINING

Executive Office
5C TREMONT STREET
SUITE 107
MELROSE MA 02176
(617) 662 2422

April 25, 1986

Chief Walter Simpson
Little Rock Police Department
700 West Markham
Little Rock, AR 72203

Dear Chief Simpson:

We are writing to encourage your participation in a National Institute of Justice research project conducted by The National Association of State Directors of Law Enforcement Training. The research involves testing of line police officers' knowledge in a key area for law enforcement. For research purposes, the precise nature of the test must be kept confidential until testing occurs. If you are willing to consider participating, we will present you with further details. At this point, we stress that the research can result in improvements in line police officers' training, and more effective law enforcement, across the country.

Your participation would involve a NASDLET project staff member visiting your department for one to two days during May. At your department's convenience, we will arrange to randomly select a group of officers (number to be determined according to department size and needs) who would be shown a videotape and would be asked to respond to a list of 15-20 questions. The entire procedure should take only 45-60 minutes and every effort would be made to reduce any inconvenience to your department. We would be happy to provide you with further details, if you are interested in participating.

We plan to select 15-20 departments for inclusion in the research. Responses of individual officers would be anonymous. At the conclusion of the study, participating departments will receive a copy of the report, with some additional information specifically prepared for your use comparing your officers' responses to those of other officers across the United States. In addition, training materials may be made available as a result of the research for use in your department.

NASDLET

Mr. John Memory, Project Director or Ms. Barbara Smith, Assistant Project Director, will contact you by telephone in a few days to discuss details with you and address any questions and concerns.

As Advisory Board members, we urge your participation and fully endorse the importance of this project for law enforcement.

Sincerely,

Allen H. Andrews
Chief Allen H. Andrews, Jr.

Newman A. Flanagan
The Honorable Newman A. Flanagan

Richard D. Hoffman
The Honorable Richard Hoffman

R. G. Kerlikowske
Lieutenant R. Gil Kerlikowske

John J. Meenan
The Honorable John J. Meenan

John A. O'Leary
Mr. John A. O'Leary, Esq.

APPENDIX G

ON-SITE PROCEDURES AND CHECKLIST FORM TO BE COMPLETED BY STAFF MEMBER AT EACH SITE

ON-SITE PROCEDURES AND CHECKLIST

(Use one of these as a checklist and means of recording information at each site.)

Tester:

Site (name of department and state):

Date of testing:

Contact person at site (including position):

Address and phone number of contact person:

Number of testees at site:

Random sampling procedures used: (Note: Testing randomly selected attendees of departmental in-service training is OK. Selecting on-duty officers to be "pulled off the street" from an alphabetical roster of all officers in department on duty or alphabetical rosters of separate precincts or teams is OK. Do all you can to avoid squad, precinct, or team leaders or sergeants simply selecting an officer or two to be tested. Discuss approach to selection by phone before going on-site.) (Record actual procedure used here.)

( )Work with department to maximum extent in reducing inconvenience to department. Testing officers of the street in two equal-sized groups "back-to-back" will probably be reduce inconvenience for some departments.

( )Make sure all testees are uniformed "line patrol officers."

( )Make yourself available for "courtesy call" with chief. Note here whether you met with chief and any comments:

( )Show questionnaire to the contact person and, if he wishes, the chief and make sure they agree to officers answering all questions. If necessary, have officers not answer certain questions. Note here any problems regarding questionnaire and action you took.

( )Reassure chief and contact person that findings will not be reported by department. (Their department's officers average scores and background information will not be reported separately, except in the report we will send to the chief.)

( )Tell contact person and chief that our report should be mailed during the summer.

( )Show testee instruction sheet to chief and contact person.

( )Try to administer test as soon as possible after arrival at department, to reduce testee knowledge of test.

(If tape breaks, John O'Leary, director of South Carolina Criminal Justice Academy (803, 758-6168) can obtain replacement from my wife and Federal Express it.)

( )Have a knowledgeable person in the department regarding search and seizure law view the videotape during a testing session and note any situations in which departmental procedures might control an answer. Note here whether such a person viewed the tape and, if so, the name and position of the person, whether any problems were noted, and, if so, how they are recorded.

( )If the department wants to test 10 or more officers in addition to randomly selected testees, test them during an ordinary testing session using opscan grading sheets, without indication of name. We will include their scores information in our report. Note here whether additional officers were tested and, if so, how many.

( )Testees should be told they can have pencil and paper for

note taking.

( )As soon as testees are well seated and ready for testing, distribute the "EXPLANATION OF STUDY AND INSTRUCTIONS" sheet and read a copy to testees. Then ask if they have any questions and answer any you can.

( )During the testing, try to avoid officer "cheating" by obviously being alert.

( )Stop the videotape only during collection of index cards, which should be collected by the quickest available means.

( )Regarding giving the answers to questions after testing, it may be best that you learn the correct answers but that you give them only if you really think doing so is best in the circumstances.

( )Make sure any second shift of testees don't talk to first shift before testing of second shift.

Ordinarily, it will probably be better to collect departmental information after testing.

APPENDIX H

MEANS OF SELECTION OF OFFICERS TO BE TESTED

Department: City	Number of Officers Tested	Means of Selection
Ames	4	Selected by chief.
Boulder	6	Randomly selected (every fourth officer on rosters of two shifts).
Carrollton	6	Randomly selected by deputy chief.
Carson City	5	Five of six on-duty officers were tested.
Clarksville	2	Available officers.
Dearborne	13	Randomly selected from patrol and special surveillance patrol.
Denver	23	Twelve were selected by district commanders and 11 officers were all members of a district flex shift.
DesMoines	4	Researcher selected every fourth officer from roster of on-duty officers.
Detroit	24	Each district selected one officer and remainder came from special units.
Frankfort	4	Available on-duty officers.
Hopewell	5	Available on-duty officers.
Kansas City	12	Randomly selected from various zones.
Landsdowne	3	No record of means.
Lawrence	3	Selected by chief.
Lebanon	2	Available on-duty officers.
Lenexa	7	Available on-duty officers.
Lexington	8	Selected by bureau chief.

Lincoln	5	All officers on two shifts were tested.
Linden	4	Available officers.
Little Rock	5	Three volunteers and two randomly selected.
Marple	2	Two of three on-duty officers were tested.
Muskogee	5	Available on-duty officers.
Nashville	9	Four precincts selected two officers each and one selected one.
North Arlington	4	Available officers.
North Little Rock	6	Selected by patrol supervisor from on-duty officers.
Patterson	7	Randomly selected from patrol.
Petersburg	11	Selected to achieve variety regarding age, race, sex, and years on force.
Reno	7	Randomly selected from six districts and line officers on desk.
Richmond	26	All officers coming on duty at 8:00 p.m. and 9:00 p.m.
Sandusky	6	Volunteers.
Sapulpa	7	Available officers on two shifts.
Springfield (IL)	8	Staff randomly selected (every third officer on two shifts).
Springfield (OH)	3	Available officers.
Springfield (PA)	4	Available officers.
Tiffin	7	Five available on-duty officers and two off-duty officers.
Toledo	24	Officers who could be spared by their units were called in from around the city.

Tulsa	23	Nineteen in randomly selected in-service training schedule and four randomly selected from on-duty officers.
Wayne	3	Available on-duty officers.

(Note: The staff member who tested in the remainder of the departments, most of which are in the New England Region, failed to furnish completed forms indicating means of selection.)

APPENDIX I

INSTRUCTION SHEET GIVEN AND READ TO OFFICERS TESTED

EXPLANATION OF STUDY AND INSTRUCTIONS

This is a test of knowledge of U.S. Supreme Court decisions concerning searches and seizures by line police officers. Some of the police procedures shown in the videotaped action may differ from procedures you have been taught or are required to follow by departmental policies. Do not allow this to keep you from selecting the most accurate and correct answer under U.S. Supreme Court decisions. You should assume that all police officer actions shown in the videotape are lawful.

There are six separate scenarios or parts of the videotape, each with different circumstances. During each scenario you will be asked one or more questions concerning what action the officers could lawfully take. You will be shown and read a full version of each alternative answer and then shown and read short-form versions of the same answers. It is important that you seriously try to select the correct answer quickly when the short-form answers are shown. For each question, write on the appropriate index card your answer, an "A," "B," "C," or "D." You must turn in each marked index card before the tape continues. In the short-form answers, "OK" means "lawful under U.S. Supreme Court decisions."

You may take notes during the description of action and dialogue and consider them in selecting answers.

After the test, you will complete a background information questionnaire. However, your name will not be recorded and neither your department nor those conducting the research will have the means or opportunity to determine the name of officers achieving certain scores. However, you will receive an ID number slip that you should keep. The officer or officers in your department receiving the highest score on the test will receive a certificate from the President of the National Association of State Directors of Law Enforcement Training, which the winner or winners will be able to claim by producing an ID slip showing the number of the top scorer.

APPENDIX J

QUESTIONNAIRE COMPLETED BY OFFICERS TESTED

BACKGROUND INFORMATION QUESTIONNAIRE

Instructions: Please check the appropriate boxes and fill in the requested information. As stated earlier, your participation in this study is completely anonymous. Please do not write your name on the questionnaire. Thank you very much for your cooperation.

1. ID number (____) (Same as on ID number slip)

2. Your age (____)

3. Your sex (__) Male (__) Female

4. Race (__) White (__) Black (__) Native American

(__) Hispanic (__) Oriental (__) Other

5. Shift worked now (write in hours):_____.

6. Number of years in police work, including, for example, time in military police and time working for this department and other departments.

(____) years

7. Check the one item below which best describes your education.

(__) GED (High school equivalency certificate)

(__) Graduation from high school

(__) Credits toward a 2-year degree (Major:_____)

(__) Completion of 2-year degree (Major:_____)

(__) Credits toward 4-year degree (Major:_____)

(__) Completion of 4-year degree (Major:_____)

(__) Other (describe):_____)

8. Estimate the number of classroom hours, not credit hours, you have had in a university or college, including technical institutes, concerned with search and seizure law.

( ) classroom hours

9. If you have completed a basic police officer or law enforcement course in a police, law enforcement, or criminal justice academy, during what year and, if you remember, what month did you complete the course.

(19) year completed ( ) month completed

10. Name of academy attended and course taken. (You may list more than one.)

Academy	Course
1.	
2.	

11. Have you ever received in-service training (short-term training usually given at and by your employing department) on search and seizure law or procedures? (This should include reading of new department policies on search and seizure at roll call.)

( ) Yes ( ) No

12. If answer to # 11 was "yes," approximately how many times have you received such in-service training?

( )

13. If answer to # 11 was "yes," how many years and months ago did you receive the most recent such in-service training?

( ) years ( ) months

14. If you have received instruction on search and seizure law from more than one type of instructor, please rate how effective each type generally has been in helping you to learn search and seizure law so that you can apply it correctly, by writing in the space to the left of each type you have had a number from 0, meaning very poor through 5, meaning excellent. (Ratings can be any number from "0" through "5".)

( ) lawyer instructors at academy

( ) non-lawyer instructors at academy

( ) prosecutors (assistant DA's)

( ) police attorneys

( ) university or college instructors

( ) non-lawyer police trainers in department

15. If you have received more than one type of instruction on search and seizure law, please rate how effective each type of instruction you have had generally has been in helping you to learn search and seizure law so that you can apply it correctly, by writing in the space to the left of each type you have had a number from 0, meaning very poor through 5, meaning excellent.

( ) students reciting on cases

( ) instructor lecturing on law

( ) viewing tapes or films with simulated police action as illustration of law

( ) reading the most important cases before instruction

( ) instructor and students asking and answering questions back and forth about the law

( ) studying written self-paced, self-instruction materials without videotapes or films

( ) other: _____.

16. Do you carry on patrol any type of guidebook or written policies on search and seizure law and procedures?

( ) Yes ( ) No

17. If the answer to #16 was "yes," rate how helpful the guidebook is, from "0," meaning "not helpful at all," to "5," meaning "very helpful."

( ) rating

18. How easily can you obtain the advice of an attorney (police attorney, assistant district attorney, or other) when a search or seizure law question arises during your performance of duty? ("0" means "very difficult to obtain advice" and "5" means "very easy to obtain advice.")

( ) rating

19. If an attorney (police attorney, assistant district attorney, or other) is available to advise you when search or seizure law questions arise during your performance of duty, rate how much that advice has helped you to be able to apply

cautiously toward the house and are met at the open front door by sheriff's deputy O'Hanlon.

O'HANLON
(dejectedly)

Liverman just got shot trying to pick up a junky on mental papers. I've called EMS. I worked on Liverman some, but there's no use. I'm pretty sure he's dead. It looks like Liverman shot the junky, Farley, in the shoulder and leg. I've got him handcuffed in the living room and I've checked out the rest of the house. There isn't anybody else here. (Inserted here is following dialogue: "Since the city has jurisdiction here, I'd like to turn everything over to you. I'll help however you want me to. I'm sure that Farley has been busted for PCP and heroin before.")

Scene 3.

All three enter the house front door and see in the living room an obviously wounded man (Farley) who is handcuffed behind his back, lying face down on the carpet.

Suddenly, two paramedics walk in the front door and, without asking, walk over to a uniformed sheriff's deputy (Liverman) on the living room floor.

O'HANLON
(to the paramedics)

You guys (Actual dialogue: "paramedics" is substituted for "guys.") let us know if there's anything we can do. (Actual dialogue: The remainder, having already been delivered, is deleted.) (To Arthur and Gault) Since the city has jurisdiction here, I'd like to turn everything over to you. I'll help however you want me to. I'm sure that Farley has been busted for PCP and heroin before.

ARTHUR

Okay, we'll take over.

Scene 4.

Arthur and Gault are alone in the living room.

NARRATOR

The officers have checked the house again and determined that there is no one else in the house. Farley and Liverman have been taken to the hospital, where Liverman was pronounced dead on arrival. This is a small police department and the

only investigator is on vacation. The officers know that people who use PCP often commit violent acts.

Question 14.

Select the correct statement.

a. Because this is a homicide investigation, the officers are authorized to conduct a full search of the house for evidence relating to the homicide without a warrant.

b. In order to conduct a full search of the house for evidence relating to the homicide, the officers must obtain a search warrant.

c. Since Farley was arrested in the house, the officers can search the house as a search incident to his arrest.

Short-form answers.

a. Full search without warrant of house for homicide evidence is OK because case is homicide.

b. Search warrant needed for full search of house for homicide evidence.

c. Search of house incident to Farley arrest is OK.

The answer is b.

APPENDIX D

REPORT OF RESULTS OF INITIAL SITE SELECTION AND SITES AT WHICH TESTING OCCURRED, BY REGION AND CITY-SIZE GROUP

(Note: Following the group designation is an underlined number in parentheses which indicates the number of officers indicated in the original research design to be tested within cities in that city-size group in that region. After the name of each city in which testing did occur, in parentheses, is the number of officers actually tested in that city.)

NEW ENGLAND (Conn., Me., Mass., N.H., R.I., Vt.)

(Note: The process of confirming department participation in the New England and Middle Atlantic regions was complicated by change of staff responsibilities during site selection.)

Group I (Because Massachusetts did not qualify for inclusion in the study, there were no cities in Group I in the region.)

Group II (6)

Initial selection: Bridgeport *

Participated: New Haven (6)

* Agreed to participate but did not because of staff schedule difficulties.

Group III (10)

Initial selection: Danbury and Cranston, Conn.

Participated: Portland, Me. (9)

Group IV (9)

Initial selection: Groton, Conn. and Cranston, R.I.

Participated: Burlington, Vt. (5), Biddeford, Me. (6), and Saco, Me. (2)

Group V (10)

Initial selection: Ansonia, Conn. and Westerly, R.I.

Participated: Middlebury, Vt. (6), Rutland, Vt. (5)

Number sought according to sample design: 35

Number tested: 39

MIDDLE ATLANTIC (N.J., N.Y., Pa.)

Group I (66)

Initial selection: Newark and Jersey City, N.J.

Participated: Pittsburgh (37), Philadelphia (27)

Group II (7)

Initial selection: Allentown, Pa.

Participated: Paterson, N.J. (11)

Group III (10)

Initial selection: Vineland, N.J.

Participated: Vineland, N.J. (6)

Group IV (12)

Initial selection: New Castle, Pa. and Willingboro, N.J.

Participated: Linden, N.J. (4)

Group V (15)

Initial selection: Meadville and Washington, Pa. and Hammonton, N.J.

Participated: Springfield (4) and Landsdowne (3), Pa., Marple, Pa. (2)

Number sought according to sample design: 110

Number tested: 103

EAST NORTH CENTRAL (Ill., Ind., Mich., Ohio, Wisc.)

Group I (46)

Initial selection: Toledo, Detroit

Participated: Toledo (24), Detroit (24)

Group II (8)

Initial selection: Evansville, Ind.

Participated: Springfield, Ill. (8)

Group III (13)

Initial selection: Dearborn, Mich.

Participated: Dearborn, Mich. (13)

Group IV (13)

Initial selection: Findlay and Sandusky, Ohio, Southgate, Mich.

Participated: Sandusky, Ohio (8), Wyandotte, Mich. (5)

Group V (17)

Initial selection: Plymouth, Mich., Lincoln, Ill., Fremont, Ohio

Participated: Lincoln, Ill. (6), Springfield, Ohio (3), Tiffin, Ohio (7), Wayne, Mich. (3)

Number sought according to sample design: 97

Number tested: 100

WEST NORTH CENTRAL (Iowa, Kan., Minn., Mo., Neb., N.D., S.D.)

Group I (13)

Initial selection: Wichita

Participated: Kansas City, Mo. (12)

Group II (4)

Initial selection: Des Moines

Participated: Des Moines (4)

Group III (3)

Initial selection: Lawrence, Kan.

Participated: Lawrence, Kan. (3)

Group IV (4)

Initial selection: Ames, Iowa

Participated: Ames, Iowa (4)

Group V (7)

Initial selection: Lenexa, Kan.

Participated: Lenexa, Kan. (7)

Number sought according to sample design: 31

Number tested: 30

SOUTH ATLANTIC (Del., Fla., Ga., Md., N.C., S.C., Va., W.Va.)

Group I (27)

Initial selection: Atlanta

Participated: Atlanta (27)

Group II (13)

Initial selection: Winston-Salem, N.C.

Participated: Richmond, Va. (26)

Group III (8)

(There was no qualified city within 50 miles of Atlanta or Richmond. Therefore, because of convenience and budget considerations, testing was conducted in Columbia, S.C., which is slightly over the group III size range with a 1980 population of 100,229. Number tested: 13)

Group IV (11)

Initial selection: Petersburg, Va.

Participated: Petersburg, Va. (12)

Group V (11)

Initial selection: Carrollton, Ga., Hopewell, Va.

Participated: Carrollton, Ga. (6), Hopewell, Va. (5)

(In addition, to compensate for failure to conduct testing

in a Group V city in the Mountain region, seven officers were tested in Orangeburg, S.C., which was randomly selected from qualified cities within 50 miles of Columbia, S.C.)

Number sought according to sample design: 70

Number tested: 96

EAST SOUTH CENTRAL (Alabama, Ky., Mississippi, Tenn.)

Group I (7)

Initial selection: Memphis

Participated: Nashville (9)

Group II (5)

Initial selection: Montgomery, Ala.

Participated: Lexington, Ky. (8)

(Nashville and Lexington, Ky., were random selection second choice cities. Testing was conducted in those cities rather than Memphis and Montgomery because of budget and travel time considerations.)

Group III (2)

Initial selection: Clarksville, Tenn.

Participated: Clarksville, Tenn. (2)

Group IV (4)

Initial selection: Frankfort, Ky.

Participated: Frankfort, Ky. (4)

Group V (5)

Initial selection: Gallatin, Tenn.

Participated: Lebanon, Tenn. (2)

Number sought according to sample design: 23

Number tested: 25

WEST SOUTH CENTRAL (Ark., La., Okla., Texas)

Group I (23)

Initial selection: Houston

Participated: Tulsa (22)

Group II (2)

Initial selection: Little Rock

Participated: Little Rock (5)

Group III (6)

Initial selection: North Little Rock, Ark.

Participated: North Little Rock, Ark. (5)

Group IV (5)

Initial selection: Muskogee, Okla.

Participated: Muskogee, Okla. (5)

Group V (7)

Initial selection: Conway, Ark., Okmulgee, Okla.

Participated: Sapulpa, Okla. (7)

Number sought according to sample design: 48

Number tested: 44

MOUNTAIN (Ariz., Colo., Idaho, Mont., Nev., N.M., Utah)

Group I (11)

Initial selection: Phoenix (Department agreed to participated but testing occurred in second-choice, Denver, because of budget considerations.)

Participated: Denver (23)

Group II (5)

Initial selection: Reno, Nev.

Participated: Reno, Nev. (7)

Group III (3)

Initial selection: Arvada, Colo.

Participated: Boulder, Colo. (6)

Group IV (4)

Initial selection: Carson City, Nev.

Participated: Carson City, Nev. (5)

Group V (3)

Initial selection: LaFayette, Colo.

Participated: None obtained

Number sought according to sample design: 26

Number tested: 41

APPENDIX E

EMPLOYING AGENCY OF ATTORNEY PROVIDING OPINION REGARDING CONSISTENCY OF STATE'S SEARCH AND SEIZURE LAW WITH UNITED STATES SUPREME COURT DECISIONS AND OPINION PROVIDED

(Note: The opinions provided were provided as individual legal opinions and not as official opinions of the employing agencies or institutions. "More restr." means "more restrictive than United States Supreme Court decisions.)

State	Opinion	Employing Agency
Alabama	No more restr.	Attorney General's Office
Arizona	No more restr.	Attorney General's Office Criminal Division
Arkansas	No more restr.	Attorney General's Office
Calif.	More restr.	Alameda County District Attorney' Office
Colorada	No more restr. (except for Belton)	Attorney General's Office Criminal Appellate Division
Conn.	No more restr.	State's Attorney's Office
Georgia	No more restr.	University of Georgia Law School
Illinois	No more restr.	Attorney General's Office
Iowa	No more restr.	Drake University Law School
Kansas	No more restr.	Attorney General's Office Criminal Division
Kentucky	No more restr.	Attorney General's Office
Louisiana	More restr.	Attorney General's Office Criminal Division
Maine	No more restr.	Attorney General's Office
Mass.	More restr.	Boston District Attorney's Office
Michigan	No more restr.	Attorney General's Office

Missouri	No more restr.	Attorney General's Office
Nevada	No more restr.	Attorney General's Office
N.H.	More restr.	Attorney General's Office
N.J.	No more restr.	Attorney General's Office Policy and Legislation Unit
New York	More restr.	Albany Law School
N.C.	No more restr.	Institute of Government
Ohio	No more restr.	Cuyahoga County (Cleveland) Prosecutor's Office
Oklahoma	No more restr. as applied to test scenarios	Attorney General's Office
Oregon	More restr.	Attorney General's Office
Penn.	No more restr.	Attorney General's Office
R.I.	No more restr.	Attorney General's Office Appellate Division
S.C.	No more restr.	Criminal Justice Academy
Tenn.	No more restr.	Attorney General's Office Criminal Division
Texas	No more restr.	State's Attorney's Office
Vermont	No more restr.	Attorney General's Office
Virginia	No more restr.	Attorney General's Office
Wash.	More restr.	Attorney General's Office

APPENDIX F

LETTER REQUESTING DEPARTMENT PARTICIPATION

arrest of the man and he would be fingerprinted during booking.

c. Officer Brown cannot lawfully arrest the man or, without his consent, take him to headquarters for fingerprinting.

Short-form answers.

a. Taking man without consent to HQ for fingerprinting is OK.

b. Officer has probable cause to arrest.

c. Neither arresting man nor taking him without consent to HQ for fingerprinting is OK.

The answer is c.

Scenario 3.

Scene 1.

Two uniformed officers are seen driving in a marked patrol car on a sparsely populated stretch of road. (Deviation: What appears to be an apartment complex is seen in the background.) Ahead of them is seen a pickup truck with the door open stopped on the shoulder of the road and a large, obviously angry, and aggressive-looking man kicking the rear bumper of the truck. The officers pull over. (Deviation: As he is kicking a rear tire, the man says, "Stupid car, ah, uh, oh, uh. God. I don't believe it. I don't...)

The officers both get out of their patrol car and are seen walking up to the truck and the man.

OFFICER 1

What's the problem, sir?

DRIVER
(hostilely and as though very slightly intoxicated)

Just get the hell out of here. I didn't do anything.

OFFICER 1

Just ("Hey" is inserted before "Just") cool down, buddy. I'd like to see ("Show me" is substituted for "I'd like to see.") your driver's license and vehicle registration.

DRIVER
(sarcastic and hostilely as he walks toward the truck cab)

Sure, I'll show you.

Officer 1 follows the driver toward the cab. Officer 2 has walked up to the passenger's side of the truck.

Scene 2.

The interior of the cab is shown from the passenger's side. There is a large knife (Deviation: A closed pocket knife is shown.) on the passenger side of the seat.

OFFICER 2

Stop him, Joe. ("Deb" is substituted for "Joe" because the officer on the driver's side of the vehicle and closest to the driver is a female officer who appears to be 5'6', 130 pounds.) There's a knife on the seat.

Officer 1 grabs the man by the right arm quickly and turns him toward the back of the truck.

OFFICER 1

OK, mister, step back here right now.

FREEZE IN ACTION.

NARRATOR

The knife is not a concealed weapon under the state's statute and the officers have not yet determined whether the man is intoxicated or has violated any other traffic law.

Question 6.

Select the correct statement.

a. The officers can lawfully conduct a full search of the man.

b. The officers can neither frisk for weapons nor conduct a full search of the man.

c. The officers can lawfully frisk the man for weapons.

Short-form answers.

a. Full search of man is OK.

b. Neither frisk nor full search of man is OK.

c. Frisk of man for weapons is OK.

The answer is c.

Scene 3.

The officers are shown frisking the man for weapons. No weapon is found.

OFFICER 1

I'll check out the truck.

Officer 1 walks back up to the driver's side and sees the knife on the seat. Officer 1 sees on the floorboard what appears to be a leather pouch which, from its size and shape, could possibly contain a knife or pistol. The pouch is partially covered by a baseball-type cap.

Question 7.

Select the correct statement.

a. The officer cannot lawfully lift the cap to determine whether the pouch contains a weapon.

b. The officer can lawfully lift the cap to determine whether the pouch contains a weapon.

c. The officer cannot at this time search the passenger compartment of the car for weapons without the consent of the driver.

Short-form answers.

a. Lifting cap to check for weapons is not OK.

b. Lifting cap to check for weapons is OK.

c. Search of passenger compartment for weapons without consent is not OK.

The answer is b.

Scenario 4.

Scene 1.

An officer is driving an unmarked patrol car down a town main street with light traffic and observes a car weaving while travelling toward him on the other side of the road.

The car passes and the officer turns to follow.

The officer places his red (or blue) light on his dashboard and turns it on. Within 100 yards, the other car pulls over.

Scene 2.

The officer gets out of his patrol car and walks to a position just to the rear of the driver's door.

Officer

May I see your driver's license, sir?

The driver is a small, middle-aged male. (Deviation: The driver is a very husky man who appears to be 6'1", 220 pounds. The officer is average in build and size.)

Driver
(in a slightly sarcastic but not hostile tone of voice)

Officer, I'm really sorry, but I left my license back at my apartment. (Actual dialogue: "Hey, I'm really sorry, officer, but I left my license back at my apartment.")

Officer

Well, I'm gonna have to ask you to step out and move to the rear of the car. (Actual dialogue: "Well, in that case, sir, I'll have to ask you to step out of the car, please.")

The driver gets out and walks to the rear of the car. The officer stands facing the driver between the squad car and the driver's car.

Officer

I'm placing you under arrest for failure to have a valid operator's license in your possession. (Actual dialogue: "Sir, I'm going to have to place you under arrest for failure to have your operator's license in your possession.")

FREEZE THE ACTION

NARRATOR
(voice over)

There are no police department policies requiring arrest of persons for failure to possess a driver's license or requiring full-scale search of arrested persons at the scene of an arrest. You can assume that the officer has the authority to arrest the driver and transport him "downtown" to either post bond or be placed in jail.

Question 8.

Select the correct statement.

a. The officer is authorized only to frisk the driver for weapons.

b. The officer is authorized to search the driver fully.

c. The officer has no authority to search or frisk the driver.

Short-form answers.

a. Only frisk for weapons is OK.

b. Full search is OK.

c. No authority to search or frisk.

The answer is b.

Scene 3.

The officer searches the driver and, during the search, he takes a crumpled business card out of a pocket of the coat worn by the man and examines the card.

NARRATOR

The officer has recognized the name on the business card and the man's face as those of a man pictured on an FBI wanted poster for a $1,000,000 (one million dollar) embezzlement that occurred six months ago.

OFFICER

You are now under arrest also for embezzlement.

FREEZE THE ACTION.

NARRATOR

The officer lawfully arrested the driver for failure to have a valid operator's license in his possession, searched him, examined and seized the business card, and informed him that he was under arrest also for embezzlement under an arrest warrant.

Question 9.

Select the correct statement.

a. The officer has probable cause to search the driver's car

for evidence relating to the embezzlement but must obtain a search warrant before conducting the search.

b. The officer has probable cause to search the driver's car for evidence relating to the embezzlement and can do so now without a warrant.

c. The officer can lawfully search the passenger compartment of the car incident to his arrest of the driver.

d. The officer has no authority to search the car at this time and does not have probable cause needed to obtain a search warrant.

Short-form answers.

a. Probable cause exists to get warrant to search car for embezzlement evidence.

b. Warrantless search now for embezzlement evidence is OK.

c. Search incident to arrest now of passenger compartment is OK.

d. No authority to search car now nor probable cause to get warrant.

The answer is c.

Scenario 5.

Scene 1.

The scene is the parking lot to the rear of a small police department. A plain-clothes officer is talking to four uniformed officers.

NARRATOR

(voice over as action continues)

The uniformed officers have been asked by the narcotics officers of this small department to assist in the search, under a valid search warrant, of the Silver Slipper Lounge and an apartment upstairs from the lounge. A reliable confidential informant provided probable cause to believe that Aurelio Hernandez, the bartender at the lounge, and his waitress girl friend, who live together in the apartment, sell cocaine from behind the bar to customers and have cocaine behind the bar and in the apartment.

A second plain-clothes officer is shown opening and walking

out of a rear entrance of the building.

CARVER

Okay, change one. I just got a call from our informant. He says he was just in the Silver Slipper and heard Hernandez tell his girlfriend that he was going to "run some coke" to Joe Franks at Darlene's Bar and Grill and that he saw the guy walk out the side door. He heard something, maybe a car trunk, being slammmed shut outside a minute later and then heard what he thinks was a car door being closed. Through the lounge front window he saw Hernandez driving off in a (insert car description). (Actual dialogue: "black Mercury Cougar.) Roberts, you know what Hernandez looks like. You and Johnson try to stop Hernandez on the way to Darlene's over on North Main. We'll go on to the Silver Slipper.

All of the officers are shown walking toward police vehicles.

Scene 2.

Roberts and Johnson are seen stopped at an intersection.

ROBERTS
(while pointing at a car driving through an intersection)

That's Hernandez!

The marked patrol car turns right, follows and pulls the car (a black Mercury Cougar) driven by Hernandez.

Scene 3.

The officers are seen getting out of their patrol car.

Roberts walks up to a position just to the rear of the driver's door and Johnson walks up on the passenger side of the car.

ROBERTS

OK, Hernandez, I want you to keep your hands where I can see them and get out of the car real slowly. (Actual dialogue: "OK, Hernandez, I want you to keep your hands where I can see them and come out of the car slowly.")

HERNANDEZ
(in a very non-threatening tone of voice)

Anything you say, man. I don't have anything to hide. (Actual dialogue: "Anything you say, man. I got nothing to hide.)

NARRATOR

(voice over action of search of Hernandez)

The officers search Hernandez and do not find any drugs. They do not arrest him.

Question 10.

Select the correct statement.

a. The officers have probable cause to search the car for cocaine and can do so now without a warrant.

b. The officers have probable cause to search the car for cocaine but must obtain a search warrant before doing so.

c. The officers have no authority to search the car without a warrant and lack probable cause to obtain a search warrant.

Short-form answers.

a. Search of car without warrant for cocaine is OK.

b. Officers can get warrant, which they need, to search car for cocaine.

c. No authority to search without warrant and no probable cause to obtain warrant.

The answer is a.

ROBERTS

Joe, why don't you watch him and I'll check out the car.

Roberts walks back up to the driver's door, opens it and is seen doing a quick check of the passenger compartment. He then takes the keys from the ignition and walks to the rear of the car. Using the keys, he opens the trunk.

The camera shot shows Roberts lifting a jacket and revealing, on the floor of the trunk, a small rumpled and slightly dirty white paper bag with the top folded shut and a fairly small leather pouch zipped closed. (Deviation: An article made of blue fabric, which appears to be a small backpack of the type that can be zipped closed, is lifted exposing a white paper bag of the indicated description. Beside the bag, but not clearly in view, is an item consistent in color and shape with a small zippered leather pouch. However, the item is not exposed enough to be clearly identified as such.)

FREEZE THE ACTION SHOWING THE BAG AND POUCH.

Question 11.

Select the correct statement.

a. Roberts can open the paper bag without a search warrant, but must obtain a search warrant to open the pouch.

b. Roberts can open the bag and the pouch without a search warrant.

c. Roberts must obtain a search warrant in order to search the bag or pouch.

d. The search warrant for the lounge and apartment gives Roberts the authority to open the bag and pouch.

Short-form answers.

a. Searching bag without search warrant is OK; search warrant necessary to open pouch.

b. Searching bag and pouch without search warrant is OK.

c. Search warrant necessary to search bag or pouch.

d. Lounge/apartment search warrant authorizes search of bag and pouch.

The answer is b.

Scene 4.

Carver and one uniformed officer are seen walking up to stairs at the rear of a building as a young woman dressed as a waitress and with a "home-made" tattoo of the word "LOVE" on her right forearm (done in removable ink) is walking hurriedly down the stairs. Carver meets the woman at the bottom of the stairs and, as she tries to brush past, steps in front of her.

CARVER
(showing his identification)

Ma'am, I'm Officer Carver with the city police department. We have a warrant to search the Silver Slipper and the apartment upstairs. Do you live in the apartment above the Silver Slipper Lounge?

WOMAN
(very nervously) (Deviation: Woman does not appear "very nervvous.")

No, I was looking for a different place and, uh, went up there by accident.

FREEZE THE ACTION.

NARRATOR

This woman fits the description, including the tattoo, of the waitress given by the informant. The officers do not have definite information regarding the name of the waitress.

Question 12.

Select the correct statement.

a. The officers can detain the woman while they search the apartment.

b. The officers are not authorized to detain the woman.

c. Before the officers can detain this woman, they must more clearly establish that she lives in the apartment and works in the lounge.

Short-form answers.

a. Detention of the woman during apartment search is OK.

b. No authority to detain during apartment search.

c. More evidence that woman lives in apartment and works in lounge is needed before detention is OK.

The answer is a.

Scene 5.

The other plain-clothes officer and uniformed officer are seen entering a small, fairly "seedy"-looking lounge. Four persons who appear to be customers are seated in the lounge, two at the bar and two at a table. (Deviation: Only two persons who appear to be customers, both of whom are seated at the bar, are seen.) A person who appears to be a bartender is standing behind the bar. Nothing about the appearance of the customers suggests danger to the officers or gives a definite indication of cocaine use. The plain-clothes officer, Detective Andrews, speaks.

ANDREWS
(to the customers in a very clear voice)

We are officers with the city police department and we have a warrant to search this establishment. ("your premises" is substituted for "this establishment.")

FREEZE THE ACTION.

Question 13.

Select the correct statement.

a. The officers have the authority under the search warrant to search each of the customers for cocaine.

b. The officers have the authority to frisk each of the customers for weapons.

c. The officers have no authority to search the customers for drugs or frisk them for weapons.

d. The officers have the authority under the search warrant to search each of the customers for cocaine and separate authority to frisk each of the customers for weapons.

Short-form answers.

a. Search of customers for cocaine is OK.

b. Frisk of customers for weapons is OK.

c. No authority to search for drugs or frisk for weapons.

d. Both search of customers for cocaine and frisk for weapons is OK.

The answer is c.

Scenario 6.

Scene 1.

A uniformed patrol officer (Gault) is seen paying for coffee at a convenience store. He hears a horn blow outside, looks to see his partner (Arthur) motioning for him to hurry back to the car. Arthur walks quickly to the car and gets in.

ARTHUR
(as he is driving off, excitedly)

We just got a call to go to 4218 Elmwood. (Actual dialogue: 4311 Nago Way) Somebody next door called in saying that she heard shots after seeing a county deputy walk up to the house and walk in.

Scene 2.

Arthur and Gault drive up to a house. There are two marked sheriff's patrol cars parked out front.

They get out of their car, draw their weapons, and walk

Implications regarding Proposed Modifications of the Exclusionary Rule

In United States v. Leon (104 S.Ct. 3405, 82 L.Ed.2d 677 (1984)), the United States Supreme Court modified the Mapp (Chapter 1, supra) exclusionary rule by creating a "good-faith" exception in cases involving conduct of searches under search warrants. Prior to the Leon decision, numerous modifications of the Mapp exclusionary rule were proposed (LaFave, 1978, pp. 30-39). Findings of this research seem to be particularly relevant to the discussion of two of these proposals as means of modification of the Mapp exclusionary rule as it applies to searches and seizures not under a search warrant.

ALI Model Code of Pre-Arraignment Procedure. The American Law Institute has proposed that the Exclusionary Rule be modified by legislative enactment of a Model Code of Pre-Arraignment Procedure (American Law Institute, 1975, articles 290 and 290.2(4)) which the Institute has developed. That Code would limit the Rule's application to "substantial" violations by law enforcement. One of the six factors which would be considered in determining whether a violation of the code was "substantial" would be "extent to which exclusion will tend to prevent violations" of the code (id). None of the other factors include reference to deterrence or educational considerations. It may be that the authors of this model code premised it on an assumption of strong law enforcement officer knowledge of and training regarding search and seizure law. This research has established that such an assumption, at least as to line uniformed officers generally in the United States, would not be valid. It appears likely that the implementation of this model code would have the effect of giving officers less incentive than they have now to know search and seizure law and police departments less incentive than they have now to train, guide, supervise, and discipline responsibly in this area.

Non-application upon establishment of responsible police department action relating to search and seizure. Kaplan (1974, p. 1027) has proposed modification of the Exclusionary Rule, as follows:

> [T]o hold the exclusionary rule inapplicable to cases where the police department in question has taken seriously its responsibility to adhere to the fourth amendment. Specifically, departmental compliance would require a set of published regulations giving guidance to police officers as to proper behavior in situations such as the one under litigation, a

> training program calculated to make violations of fourth amendment rights isolated occurrences, and perhaps most importantly, a history of taking disciplinary action where such violations are brought to its attention. (p. 1051)

The findings of this research are interpreted as indicating that there are, in general, substantial deficiencies in the knowledge of search and seizure law among police officers in the United States. An implication of this conclusion would seem to be that any modification of the Mapp exclusionary rule should have as a primary intended purpose the promotion of acquisition by police officers of an adequate level of knowledge and understanding of search and seizure law. This Kaplan proposal, which has received favorable comment by an authority of search and seizure law (LaFave, 1978, p. 39), has the promotion of knowledge by police officers as a primary purpose. It would provide police departments a new and presumably powerful incentive to guide, train, and discipline officers responsibly with regard to searches and seizures. It would be hoped that implementation would substantially increase the educational effect of the Exclusionary Rule found in this research.

While going beyond the findings of this research, it is submitted that the Kaplan proposal might be improved by restricting its application to "serious" cases, by inclusion of an officer "good-faith" requirement similar to the requirements in United States v. Leon (supra), and by the requirement that departments also establish that they have insured that officers are informed regarding prosecutor declinations or dismissal and judicial dismissals and acquittals resulting from search or seizure illegality.

Going again beyond the scope of the findings of this research, it is predicted that, were this Kaplan proposal implemented, officials in some jurisdictions would attempt to utilize it as a mechanism to effectively eliminate the Mapp exclusionary rule without substantive police department improvements. It is believed that strenuous measures would have be taken to avoid success of such efforts. Also, the history of attempts to control police behavior (Memory, 1980) suggests that, if the proposal were implemented in a meaningful way, some clear response on the part of officers and others who identify themselves as allies of the police could be expected. It would be hoped that any response would not subvert positive consequences of a newly formulated rule.

CHAPTER 13

RECOMMENDATIONS REGARDING ADDITIONAL RESEARCH

In addition to the legal principle-prioritization research recommended for use in the development of improved training curricula (Chapter 11, supra), a variety of other research efforts are suggested by this research.

Comparison of Methods of Instruction on Search and Seizure Law

The findings reported in the present research could provide valuable information needed to develop various types of research comparing the effectiveness of means of provision of basic and in-service training on search and seizure law. This research should probe the effectiveness of instructional methods in achieving knowledge which will persist with the passage of months and years, while also identifying the most effective means of training on newly announced principles.

It is assumed by the authors that police officers in the United States often encounter actual duty situations which are legally more ambiguous than those presented in the test scenarios or which are stressful for some other reason. Given these assumptions and the importance of training officers to deal with the most difficult types of situations they are likely to encounter, it is recommended that research regarding the effectiveness of the "role-play" type of instruction involving legally ambiguous and stressful circumstances be conducted.

Determination of Desirable and Generally Feasible Scheduling of In-Service Training on Search and Seizure Law

This research produced the anomalous finding of a negative association of mean officer score and reported number of hours of in-service training "on search and seizure" the officer should have received in the past year. A positive association of frequency of in-service training and score was found. Research to suggest optimum lengths of training sessions and frequencies of such training is needed.

Testing of Officials Other than Line Uniformed Officers

Methodology similar to that utilized in this research could be employed in the study of knowledge of search and seizure law of police investigators and the supervisors of uniformed line officers. Such research could be valuable in

evaluating the feasibility of giving line uniformed officer supervisors additional authority to approve or disapprove searches and seizures by line uniformed officers.

It would contribute to evaluation of the "knowability" of search and seizure law for judge and defense attorney groups to undertake studies of their memberships' knowledge of search and seizure law.

Study of the Cognitive Challenge of Search and Seizure Law Application

The methods of cognitive psychology could be applied to the study of the degree of difficulty of the cognitive task of applying search and seizure law, for example, in the making of search and seizure decisions. Such research should be conducted in settings as similar as possible to law enforcement duty situations. Its findings would bear on the issue of whether it is reasonable to expect police officers to apply search and seizure law, as it is presently configured, with an acceptable degree of consistency and accuracy.

Focused Study of the Consequences for Law Enforcement of Lack of Knowledge of Search and Seizure Law

No known research has attempted to determine whether there is a relationship between knowledge of search and seizure law, or other types of law, and law enforcement "productivity," which might be indicated by officers' records in "making cases" which result in convictions. If, in fact, more productive officers were shown to be more knowledgeable, departments would presumably have greater incentive to have meaningful and effective in-service training on the subject.

Research on this subject could also involve evaluation of new search and seizure law curricula with emphasis on changes in officer "productivity."

Study of the Consequences of Increase of Supervisor Authority to Approve Line Officer Warrantless Searches and Seizures

Given the complexity of police administration, the police subculture, and police work, the senior author would be reluctant to predict the consequences of increase, by implementation of policies and procedures, of supervisor authority to approve warrantless searches and seizures by line, uniformed officers. Since such supervision might serve as a means to improve the quality and consistency of officer actions relating to search and seizure, serious research comparing various methods of implementing such supervision is called for.

Research to Detect Quantitative or Qualitative Cognitive Overload among Police Officers

If police officers are generally subject to quantitative or qualitative cognitive overload (if they are already required to know too many things or to have command of information that is too complex), then efforts to increase significantly officer knowledge of search and seizure law would be expected not to be very successful. The results of research on this subject could be used to develop optimally effective approaches to improving officer knowledge of search and seizure law. The findings would also be relevant to the debate regarding whether search and seizure law is too complex.

Research to Detect whether Lack of Knowledge of Search and Seizure Law Facilitates Police Officers' Rationalization and "Neutralization" relating to the Conduct of Illegal Searches and Seizures

Rubenstein (1973) has argued that police officers often conduct illegal searches and seizures because of departmental pressures to make arrests when additional arrests cannot be made without resorting to illegal searches and frisks. According to Klockars (1980), police officers frequently are placed in the dilemma of feeling morally bound to take action as a police officer, such as a search or seizure, that is illegal. Sykes and Matza (1957) have theorized that fundamentally moral persons rationalize regarding their own commission of crime and, thereby, protect their self-esteem from adverse consequences of crime committing. If Rubenstein and Klockars correctly describe the causation of some illegal searches and seizures by police officers, then lack of knowledge that the search or seizure in question was unlawful would be psychologically functional for the officers in some situations. There could, then, be operating for some officers a type of resistance to knowledge of search and seizure law.

Research on this subject might contribute significantly to the psychology and sociology of police and to development of methods to instruct and control the behavior of officers.

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LIST OF APPENDICES

APPENDIX A

PROJECT ADVISORY BOARD

The Honorable Richard Huffman
Superior Court Judge
San Diego, California

The Honorable Newman A. Flanagan
District Attorney, Suffolk County
Boston, Massachusetts

The Honorable John J. Meehan
District Attorney, Alameda County
Oakland, California

Chief Allen H. Andrews, Jr.
Superintendent of Police
Peoria, Illinois

Mr. John A. O'Leary
*Executive Director, South Carolina Criminal Justice Academy
*President, National Association of State Directors of Law Enforcement Training
**Attorney and Consultant
Columbia, South Carolina

R. Gil Kerlikowske
*Commander, Criminal Investigation Division
St. Petersburg Police Department
St. Petersburg, Florida
**Chief of Police
Port St. Lucie, Florida

* Positions at formation of Project Advisory Board and through one year project grant period.

** Positions at completion of report.

APPENDIX B

INFORMATION REGARDING UNITED STATES SUPREME COURT CASES UPON WHICH TEST ITEMS WERE BASED

Item #	Case Name	Case Cite	Decision Date
1	Payton v. New York	445 U.S. 574, 100 S.Ct. 1371, 63 L.Ed. 2d 639	April 1980
2	Coolidge V. New Hampshire	403 U.S. 443, 91 S.Ct. 2022, 29 L.Ed.2d 564	June 1971
3	Steagald v. United States	451 U.S. 204, 101 S.Ct. 1642, 68 L.Ed.2d 38	April 1981
4	Terry v. Ohio	392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889	June 1968
5	Hayes v. Florida	105 S.Ct. 1643, 84 L.Ed.2d 705	March 1985
6	Terry v. Ohio	(See #4 above)	
7	Michigan v. Long	463 U.S. 1032, 104 S.Ct. 3469, 77 L.Ed.2d 1201	July 1983
8	United States v. Robinson	414 U.S. 218, 94 S.Ct. 467, 38 L.Ed.2d 427	Dec. 1973
9	New York v. Belton	453 U.S. 454, 101 S.Ct. 2860, 69 L.Ed.2d 768	July 1981
10	Chambers v. Maroney	399 U.S. 42, 90 S.Ct. 1975, 26 L.Ed.2d 419	June 1970
11	United States v. Ross	456 U.S. 798, 102 S.Ct. 2157, 72 L.Ed.2d 572	June 1982
12	Michigan v. Summers	452 U.S. 692,	June 1981

		101 S.Ct. 2587, 69 L.Ed.2d 340	
13	Ybarra v. Illinois	444 U.S. 85, 100 S.Ct. 338, 62 L.Ed.2d 238	Nov. 1979
14	Mincey v. Arizona	437 U.S. 385, 98 S.Ct. 2408 57 L.Ed.2d 290	June 1978

Item #	Case Name	Case Principle Tested on
1	Payton	Absent exigent circumstances, an arrest warrant is required to enter a residence to arrest a person known to reside there.
2	Coolidge	When a law enforcement officer is lawfully in a position from which he inadvertently observes in plain view an item he has lawful basis to seize, he is authorized to seize it.
3	Steagald	Absent exigent circumstances, a search warrant is required to enter a residence to arrest a person who is not known to reside in the residence.
4	Terry	A law enforcement officer can lawfully stop a person for brief "on-the-street" questioning when the officer would be able to articulate specific facts and inferences which lead to a reasonable suspicion that the person is involved in criminal activity.
5	Hayes	An officer is not authorized on less than probable cause and without judicial authorization to require a person to accompany the officer to police headquarters to be fingerprinted.
6	Terry	If, after identifying himself to a person suspected of involvement in criminal activity, an officer reasonably believes, based on the circumstances and responses of the person to questions, that the person is armed and dangerous, the officer is authorized to conduct a carefully limited protective search of the suspect's outer clothing for weapons.

7	Long	When a law enforcement officer has an articulable and objectively reasonable belief that an automobile driver is potentially dangerous, before allowing the individual to enter the individual's automobile to obtain vehicle registration papers, the officer is authorized to conduct a search of the passenger compartment of the vehicle for weapons.
8	Robinson	A law enforcement officer who subjects an individual to a custodial arrest is authorized at that time to carry out a search of that person.
9	Belton	Law enforcement officers are authorized to search an automobile passenger compartment incident to the lawful arrest of the automobile driver.
10	Chambers	When law enforcement officers have probable cause sufficient to support issuance of a warrant to search an automobile for specific items, if the automobile is subject to being moved, the officers are authorized to stop the automobile and search it for the items without a warrant.
11	Ross	Officers conducting a lawful warrantless search of an automobile may, if there is probable cause to believe that the item or items searched for are in the car trunk, enter the trunk and search containers found there in which the item or items might be concealed.
12	Summers	Law enforcement officers carrying out the search of a residence under a search warrant have the implicit authority to detain any occupant of the premises during the conduct of the search.
13	Ybarra	Law enforcement officers carrying out the search of a commercial establishment under a search warrant have no implicit authority in every case to search or frisk for weapons customers found on the premises at the time of the search.
14	Mincey	Law enforcement officers carrying out

law enforcement duties relating to a homicide at a residence have no authority, absent exigent circumstances, to carry out without a warrant a full search of the residence for evidence relating to the homicide.

APPENDIX C

TEST SCENARIO SCRIPTS WITH TEST ITEMS

(Note: Deviations from the scenario scripts are indicated in parentheses.)

Scenario 1.

Scene 1.

Two uniformed patrol officers are seen getting out of their marked patrol car and walking toward an apartment building.

NARRATOR
(action continues)

Officers Noland and Guralski are going to the residence of Rocco Barone to arrest him under an arrest warrant they have in their possession for several offenses of receiving stolen property. They have no reason to believe that Barone will use force to resist arrest.

The officers walk up to an apartment door and knock.

A young woman (Lisa Barone) opens the door about four inches and speaks.

LISA BARONE
(aggravatedly)

What you want?

OFFICER NOLAND

Ma'am, we have a warrant for the arrest of Rocco Barone. Does he live here?

LISA BARONE
(as she tries to close the door)

He's not home.

FREEZE THE ACTION.

Question 1.

Select the correct statement.

a. The arrest warrant is all the officers need to enter the

apartment lawfully without consent to attempt to arrest Rocco Barone.

b. The officers need a search warrant in order to enter the Barone residence without consent to arrest Rocco Barone.

c. Since the officers have probable cause to arrest Rocco Barone, they could lawfully enter his residence in this situation without consent and without an arrest warrant.

Short-form answers.

a. Entry without consent under arrest warrant is OK.

b. Search warrant is necessary to enter without consent to arrest.

c. Entry without consent and without arrest warrant is OK.

The answer is a.

Scene 2.

The officers push the door open and enter.

During the search, Officer Guralski walks into the living room unnoticed by Lisa Barone and sees her trying to take off a large and very unusual ring.

FREEZE ACTION.

NARRATOR

Officer Guralski knows that the ring worn by Lisa Barone meets the description of a very unusual and expensive ring taken in the burglary of a residence across town the preceding week.

Question 2.

Select the correct statement.

a. Since the officers entered the apartment only to arrest Rocco Barone, seizure of the ring under the "plain-view" doctrine is not authorized.

b. To seize the ring, the officers would have to have a search warrant describing the ring as an item to be seized.

c. Since there is strong probable cause to believe the ring was stolen and it is in "plain view," the Officer can lawfully seize it.

Short-form answers.

a. "Plain-view" seizure of ring is not OK.

b. Search warrant describing ring is needed to seize it.

c. "Plain-view" seizure of ring is OK.

The answer is c.

Scene 3.

The officers are walking to the main apartment door when Noland notices a note tacked on a small bulletin board.

FREEZE ACTION ON THE BULLETIN BOARD.

NARRATOR

The officers have not found Rocco Barone in the apartment. The note on the bulletin board says: "I'm at Phil Dimitri's. I'll call after the Bears game is over to check about supper. Rocco." The officers determine by looking in a phone directory that Phil Dimitri's home is only three blocks away. A Bears game is being played and shown on television that afternoon and will be over in two and one-half hours. There will be a magistrate at the county jail four miles away in 30 minutes. The officers arrest Lisa Barone. Therefore, she will not have the opportunity to call and alert her husband.

Question 3.

Select the correct statement.

a. The arrest warrant is the only authority the officers need to enter the Dimitri residence without consent to arrest Barone.

b. The officers must obtain a warrant to search the Dimitri residence for Barone in order to enter the Dimitri residence without consent to search for Barone.

c. The officers cannot enter Dimitri's residence even with a search warrant to arrest a person who doesn't live there.

Short-form answers.

a. Entry without consent under arrest warrant is OK.

b. Search warrant is needed to enter without consent to arrest Barone.

c. No authority to enter without consent to arrest Barone even with search warrant.

The answer is b.

Scenario 2.

Scene 1.

A uniformed patrol officer is seen patrolling a working-class community, driving slowly.

NARRATOR
(as action continues)

Officer Brown has patrolled this primarily residential area for over two years and is familiar with the residents, most of whom work during the day. He is aware that there has recently been a rash of daytime burglaries in which easily sold items, such as expensive, fairly small appliances, have been stolen. No burglaries have been reported in the last week.

A young man is shown walking down a sidewalk with a TV recorder under his arm. As Officer Brown drives closer to the man, the man appears to become nervous. (Deviation: The man's "appearing to become nervous" is not clearly depicted.) He walks faster and turns right at the next street and walks down its sidewalk. (Deviation: The pedestrian, walking on a right sidewalk, comes to a T-intersection, turns right on the sidewalk, and walks down that sidewalk.)

NARRATOR

Officer Brown has never seen this man before.

Question 4.

Select the correct statement.

a. Officer Brown has the authority to detain this man briefly on the street to question him regarding the TV recorder and the possibility that he is involved in the rash of burglaries.

b. Officer Brown does not have enough information to justify detaining the man for questioning.

c. Officer Brown has the authority to stop this man and take him down to the police headquarters for questioning regarding possible involvement in the rash of burglaries.

Short-form answers.

a. Detention on street for brief questioning is OK.

b. Detention on street for brief questioning is not OK.

c. Stopping man and taking him downtown for questioning is OK.

The answer is a.

Officer Brown turns down the street the man is walking beside, drives up beside (Deviation: He drives up and pulls over behind the man.) the man, stops and gets out of his patrol car, and walks to a position in front of the man on the sidewalk.

OFFICER BROWN

Excuse me, sir. I'd like for you to stop so I can ask you a couple of questions.

MAN
(nervously)

Whatever you say.

OFFICER BROWN

First, I'd like to see some identification.

MAN

Man, I left it over at my apartment ("just" inserted after "apartment") up the street. I'm just taking this recorder in ("over" substituted for "in") to be fixed.

NARRATOR

Officer Brown knows that there is a large apartment complex about five blocks up the street the man was walking down and there is a TV recorder repair shop about four blocks away in the direction he is now walking. The officer also knows that fingerprints have been obtained from two of the homes broken into. He would like to check this man's fingerprints against those prints.

Question 5.

Select the correct statement.

a. Officer Brown has enough information to authorize taking the man, without his consent, to police headquarters to be fingerprinted.

b. Officer Brown has enough information to authorize the

knowledge of search and seizure law. It is assumed that procedures which are legally sound and current, covered in departmental training, understandable by officers, and given departmental emphasis, as through being made the basis of disciplinary action, could influence officer knowledge substantially. Since in this research there was only limited measurement of quality and no measurement of adherence to or administrator emphasis on procedures, the authors cannot suggest what the potential level of effectiveness of such procedures might be.

Delay in dissemination of new case law. The finding of a positive correlation of age of legal principle and percentage of officers answering the item correctly is seen as possibly the most significant finding of this research. It clearly indicates that there is substantial delay in the dissemination of principles announced in United States Supreme Court decisions. The clear implication of this findings is that departments and their legal advisors should generally give more emphasis to the prompt and effective dissemination of newly announced court decisions regarding search and seizure. While revision of any relevant departmental policies and procedures and guidebooks obviously must be part of any dissemination effort, the findings of this research are interpreted as indicating that merely taking those actions will generally not be sufficient to accomplish the informing of the heavy majority of officers.

Search and seizure guidebooks. The generally high helpfulness ratings given search and seizure guidebooks by officers who carry them and the comparatively high scores of officers rating them high on helpfulness suggest that there may be a place in an updating program for a search and seizure law guidebook.

Attorney assistance. The positive correlations of police attorney helpfulness and score and prosecutor helpfulness and score and the positive correlations of score and a questioning back and forth type of instruction suggest that having a well-informed attorney give updates on the law in person, followed by questions, should be effective to some degree in disseminating this information. Significantly, officers report findings this type of instruction helpful.

The high helpfulness ratings given prosecutors as instructors, together with the very low scores of some of the prosecuting attorneys tested in this study, seem to suggest that prosecutor's offices generally provide to instruct police officers on search and seizure law attorneys who are comparatively well informed on the subject. Relevant to prosecutor availability to police departments to advise and instruct regarding search and seizure law is Higgs v. District Court in and for Douglas County (713 P.2d 840

(Colo.1985)). In it, the Colorado Supreme Court held that prosecutor acts involving advice to police on search and seizure law which are "investigative" or "administrative" in nature are only qualifiedly immune in case of suit under 42 U.S.C.A. section 1983. It should be hoped that cases of this sort will not result in reduction of availability of prosecuting attorneys to instruct police on search and seizure law.

CHAPTER 11

SEARCH AND SEIZURE LAW TRAINING

LaFave (1978, p. 26) has noted that the Exclusionary Rule has prompted "stepped-up efforts to educate the police on the law of search and seizure where such training had been virtually nonexistent." A primary purpose of this research was to provide information regarding the general effectiveness of these training efforts.

Basic Police Officer Training

Of the 478 officers tested, 428 reported a time when the officer completed a basic police officer training course. There was indication that some of the remaining 50 officers had completed a basic officer training course. All of the participating agencies responding indicated that completion of a training program by new officers was required.

Time since basic training. The mean number of months since completion of basic training for the officers reporting such completion was 93 and the median number was 79.5. Figure 11-1 shows the mean test scores for officers who have been out of basic for indicated numbers of months.

Figure 11-1

Mean Test Scores by Number of Months Since Completion of Officer Basic Training

Months out of Basic	Number of Officers	Mean Test Score
0-6	29	62.3% (8.72)
7-12	13	58.2% (8.15)
13-24	40	58.9% (8.25)
25-36	27	57.4% (8.04)
37-48	36	59.5% (8.33)
49-60	30	62.7% (8.78)
61-72	22	62% (8.68)
73-108	77	59% (8.26)
109-120	20	58.9% (8.25)
121-180	82	61.6% (8.63)
181-490	52	57% (7.98)

Analysis of variance did not reveal significant differences among the groups or tendency for those out of basic training longer to do better or worse on the test. The Pearsons correlation coefficient ($r=-.07$, $p.=.087$) was not statistically significant.

To determine whether there was evidence of deterioration of basic training-acquired knowledge during the year after completion of that training, the correlation of score and number of months out of basic training for officers out for 12 months or fewer was calculated. The correlation coefficient obtained, r=+.20 (N=42), was stronger than many of the statistically significant correlations and other measures of association reported in this study, and it exactly met the .1 criterion for single statistical analyses with relatively small numbers of cases.

Types of instructor and instruction. The officers were asked to "rate how effective" several types of instructor and instruction "generally" had been in "helping...to learn search and seizure law so that [the officer] can apply it correctly." Figures 14-2 and 14-3 present descriptive findings and any statistically significant findings from correlation of the ratings and score regarding the ratings, respectively, of types of instructor and types of instruction.

Figure 11-2

Findings relating to Rated Helpfulness of Types of Instructor

Type of Instructor	Number Providing Rating	Mean Rating	Median Rating	Correlation Findings
Lawyers at Academy	304	3.3	3.5	
Nonlawyers at Academy	314	3.1	3.1	+.149, p.=.004
Prosecutors	297	3.5	3.7	+.132, p.=.01
Police Attorneys	207	3.1	3.4	+.211, p.=.001
Coll., Univ. Instructors	236	3.0	3.2	

Figure 11-3

Findings relating to Rated Helpfulness of Types of Instruction

Type of Instruction	Number Providing Rating	Mean Rating	Median Rating	Anal. of Var. Findings
Reciting on cases	247	2.1	2.1	
Lecture	357	3.2	3.2	+.081, p.=.043

Films and Video-tapes	337	3.7	3.9	
Reading Cases	302	3.1	3.1	
Questions from and to In-structors	354	3.8	4	+.129, p.=.008
Written, Self-paced	254	2.5	2.7	

Discussion of helpfulness rating-score correlations. Examination of the mean scores of officers giving particular ratings revealed that, in a few instances, officers assigning "0" or "1" helpfulness ratings had a substantially higher mean score than officers providing higher ratings. It may be that this resulted from relatively well-informed officers being particularly disappointed with an instructor or instance of use of a type of instruction. The effect on the correlational findings could be to obscure any actual tendency of poor instruction or type of instruction to be associated with low scores. Given this possibility, it is suggested that the lack of a statistically significant helpfulness-score correlation coefficient not be taken as establishing that a particular type of instructor or instruction is not effective to some degree in producing improvements in knowledge of search and seizure law.

Conclusions and implications regarding officer basic training. The previously reported low scores of police academy trainees tested before training on search and seizure law and the relatively high scores of police academy trainees at a different academy tested after such training (Chapter 5, supra) suggest that basic police officer training which includes strong emphasis on search and seizure law can, assuming trainees are sufficiently able, produce very substantial gains in knowledge in that area for a substantial percentage of trainees. While statistically significant only at a p.=.1 level, the finding of a +.2 correlation coefficient between score and number of months "out of basic training" for officers out 12 or fewer months suggests a weak tendency for knowledge acquired during basic officer training to deteriorate.

A finding which seems to bear interpretation regarding officer basic training is the findings of a statistically significant positive correlation of score and rated helpfulness of nonlawyer academy instructor. While the +.149 correlation coefficient could "explain" a maximum 2.2% of the variation in scores, it is seen as notable that this association survived the mean seven and three-fourths years

since officers completed basic training. The implication may be that administrators of police officer basic training programs should, while attempting to insure that all instructors on search and seizure law are competent, be particularly careful to insure the competence of any nonlawyer instructor in the area.

Persons familiar with instruction of police officers on search and seizure law would probably predict that officers would give films and videotapes high ratings. It might be cost-efficient for some police academies to obtain extremely concise, current, and high-quality films or videotapes for use as part of the means of instruction on search and seizure law, and officers could be expected to view that type of instruction favorably.

Departmental In-service Training

Determining how effective departmental in-service training on search and seizure law is in developing and maintaining knowledge of search and seizure law was a primary purpose of this research.

Frequency of in-service training. To obtain an estimate of the frequency, over the career of officers, of receipt of in-service training of officers on search and seizure law, the number of years the officer reported having been in police work was divided by the reported number of times the officer had received in-service training on the subject. The mean frequency of receipt of in-service training on search and seizure law obtained was once every 2.6 years and the median was once every 1.5 years. The Pearsons correlation coefficient between score and this measure of frequency was r=-.1 (p.=.014), indicating a weak tendency for score to go up as frequency of in-service training goes up.

Recency of in-service training. The correlation coefficient of score and reported months since most recent in-service training (r=-.077, p.=.069) was not statistically significant. However, analysis of variance after collapsing of cases into five groups according to number of months since in-service training (0-6, 7-12, 13-24, 25-60, and 61-89 months) indicated a statistically significant (p.=.026) but weak (F=5) association of recent in-service training and higher score. Correlation of score and number of months since in-service training for officers reporting receipt of such training within the last 12 months revealed no association.

As one would expect, there was a positive correlation (r=+.26, p.=.000) of length of time between in-service training sessions, calculated as indicated above, and reported length of time since most recent in-service training

on search and seizure law.

There are positive correlations of age with number of months since most recent in-service training (r=+.27, p.=.000) and with number of months between in-service training sessions (r=+.22, p.=.000). It appears, therefore, that in-service training on search and seizure law has been received slightly more recently and frequently by younger officers than older officers.

Existence of an in-service training program. The 402 officers (84.1%) who reported that their departments have in-service training on search and seizure law had a mean score of 8.38 and those who reported that there is no such training had a mean score of 8.01. The difference between these mean scores fails to reach statistical significance (F=2.7, p.=099). The 82.8% of the tested officers in departments which reported having in-service training programs on search and seizure law have a slightly higher mean score (8.37) than the remainder of the officers (8.06). This difference also failed to reach statistical significance.

Extent of in-service training. Participating departments reported the number of hours of in-service training "on search and seizure" their officers should have received during the past year. (The omission of the word "law" after "search and seizure" was unintentional.) The mean number of hours was 6.6 and the median was 4. Not surprisingly, the 77 officers in departments reporting that their officers should have received no search and seizure in-service training during the past year had a mean score of 8.09, which was below the mean score for all officers of 8.32. Surprisingly, however, there was a statistically significant negative correlation (r=-.21, p.=.000, N=288) of reported number of hours of in-service training officers should have received during the past year and score.

Types of instructor and instruction. The findings regarding rated helpfulness of types of instructor and instruction previously presented (Figure 12-4) are relevant to provision of in-service training and basic police officer training.

Testing at conclusion of in-service training. While the departments of 54.2% of the officers reported testing at the conclusion of in-service training on search and seizure law, there was no statistically significant difference between the scores of officers in those departments testing (8.45) and other officers (8.18).

Officer attendance of nondepartmental programs on search and seizure law. The 43 officers (9.1%) who reported attending "professional meetings, conferences, programs, or seminars,

other than training" concerning search and seizure law had only slightly higher test scores (8.46) than officers not reporting such attendance (8.31) and the difference did not approach statistical significance.

Conclusions and implications regarding in-service training. It is seen as independently significant that the departments of 82.8% of officers reported having a program to provide in-service training to officers on search and seizure law and that, even including the departments of the remaining officers, the mean number of hours of training which should have been received was 6.6. The project staff members who conducted testing at the 52 departments were impressed that virtually all the participating police departments had the physical facilities (a training or squad room) needed for in-service training to be conducted. Also, all of the 20 departments visited by the senior author had a television set which could be used in in-service training. Assuming that the participating police departments are representative of police departments in cities with populations over 10,000, it appears that generally police departments intend to provide in-service training on search and seizure law and have the physical facilities and at least some of the audio-visual equipment which might be needed for such a program. Other findings suggest that quality and currency of training must, in many instances, be missing.

The statistically significant but weak association of reported frequency of in-service training sessions on search and seizure law is taken as indicating that frequent provision of in-service training on this subject tends to result in improvement in officer knowledge. This is consistent, of course, with the previously discussed finding of a strong positive association of age of case principles and percentage of officers answering correctly items based on such principles.

The finding of a negative association of number of hours of training "on search and seizure" officers should have received in the past year and score has no clear interpretation. One possibility is that departments which are aware of significant officer deficiencis in the area are more likely to schedule a comparatively large number of hours of in-service training on the subject. Even given this possibility, this finding is interpreted as suggesting that it is unlikely that number of hours of training on the subject given during a year is one of the more important factors influencing officer knowledge.

While there was no association found between score and the rated helpfulness of films and videotapes, the mean (3.7) and median (3.9) ratings may be of particular interest to departments without access to instructors who are fully

qualified to instruct on this subject. After testing officers, the senior author regularly asked officers whether the type of videotape used in the testing, with questions interspersed in several realistic scenarios, would be helpful in in-service training on the subject and received uniformly strong positive responses.

The highest ratings given a type of instruction (mean=3.8; median=4) were for "instructor and students asking and answering questions back and forth about the law." Also, Pearsons correlation indicated a tendency ($r=+.13$, $p.=.008$) for those finding this type of instruction to be helpful to score higher on the test. This suggests that learning this subject matter is promoted by giving officers the opportunity to direct questions on the subject to a knowledgeable person and be questioned by him or her.

Recommendations regarding Training Standards, Curriculum Development, and Departmental Incentives

Training standards regarding search and seizure law instruction during officer basic training. Findings of grave deficiency of knowledge of a significant percentage of officers and substantial deficiencies of knowledge of a large percentage of officers have been reported. Findings indicating that reported quality of instructor and instruction is in some instances positively associated with officer score have been presented and discussed. An instance of a police training academy, presumably through high-quality instruction and a requirement for graduation of at least a minimum level of knowledge of search and seizure law, achieving relatively high levels of knowledge on the subject of a high percentage of trainees has been described. Based on these findings, it is recommended that state law enforcement training standards bodies implement, if not presently in effect, standards which would require the following:

> That basic police trainees, in order to be graduated and certified as law enforcement officers, meet demanding search and seizure law knowledge standards.

Such a standard should tend to improve the level of search and seizure law knowledge attained during police basic training and prevent from becoming police officers persons who are for some reason unable or unwilling to attain the minimal acceptable level of knowledge and understanding of search and seizure law.

Training standards regarding police department in-service training on search and seizure law. It has been reported that there is a very strong positive association of length of time since search and seizure law principles were announced

by the United States Supreme Court and officer knowledge of the principles. A weak but statistically significant positive association of frequency of in-service training on the subject and knowledge was reported. Also, a statistically significant negative association of reported length of time since receipt of in-service training on the subject and knowledge was found. Based primarily on these findings, it is recommended that state law enforcement training standards bodies implement, if not presently in effect, standards which would require the following:

> That all police officers receive an annual search and seizure law updating and a biennial search and seizure law review, utilizing training materials of established currency and high quality and, if reasonably available, an attorney instructor.

The requirement of annual updating would tend to achieve currency of knowledge. The requirement of biennial review should tend to result in better grasp by officers of the main principles of search and seizure law.

Training curricula. While this research did not involve evaluation or comparison of the effectiveness of search and seizure law training curricula, several of the findings are interpreted as suggesting factors which should be given emphasis in the development and improvement of these curricula. (1) The remarkably high positive correlation of age of legal principle and percentage of officers answering items testing knowledge of those principles indicates that the changing character of search and seizure law has contributed to the deficiencies in officer knowledge found in this research. (2) Assuming that the law relating to probable cause is complex, the finding that officers frequently made incorrect probable cause determinations in responding to test items suggests that complexity of the law is a significant factor contribution to deficiencies of knowledge. (3) Anyone familiar with search and seizure law realizes that that law is voluminous, meaning that it includes a large number of separate principles, and none of findings of this research suggests that this fact does not contribute to the difficulty of learning and retaining search and seizure law. (4) It was found that a majority of the erroneous answers given by offices represented lack of knowledge of authority to take law enforcement action. (5) Finally, the finding that officers incorrectly appraised their law-enforcement or self-protection authority approximately 40% of the time on the test indicates that officers are very often either incorrectly informed or unsure regarding what action they are authorized to take. The situations presented in the videotaped scenarios involved clear applications of legal principles and definite existence or absence of probable cause. It is assumed that police

officers regularly encounter situations involving much "closer" legal questions than those presented in the test. Also, officers must, in some instances, make their decisions regarding search and seizure under adverse conditions involving, for example, danger or scrutiny by a gathering of potentially hostile persons. Given these considerations, it is assumed that in "real life," police officers are even more likely than the officers tested to reach incorrect conclusions or to be uncertain regarding their authority. It is submitted that these factors should be given primary consideraton in the development of improved search and seizure law training curricula.

Specifically, it is recommended that researchers well-informed regarding search and seizure law and police work conduct empirical research of the sort recognized as producing information needed to develop "job-related" instruction (McCormick, 1979), to develop a prioritization of search and seizure law principles to be learned by line, uniformed police officers. A critical-incident approach (id), which would involve identification of positive and negative critical incidents which occur as a result of knowledge of or lack of knowledge of search and seizure law, might be used for this purpose. After such a prioritization of principles, training could be developed which would (1) allocate training time according to the importance of certain principles to line, uniformed police officers, (2) present, where possible, straight-forward, understandable principles and rules-of-thumb, (3) give substantial emphasis to what officers are allowed to do, as distinguished from what officers are prohibited from doing, and (4) emphasize steps officers can lawfully take when they don't know whether a search or seizure would be authorized (such as obtain additional information or request guidance from a supervisor).

Special attention in training development should be given to teaching officers to make sound probable cause determinations.

Departmental incentives to learn search and seizure law. It is reported in Chapter 12 (infra) that a high percentage of officers are unaware of occurrence of various possible adverse consequences of an officer not knowing search and seizure law and failing to act according to it. These findings and the findings of deficiencies in officers knowledge of search and seizure law together suggest that, generally in the United States, line uniformed police officers lack incentives to learn and retain search and seizure law. In order to create such incentive, it is recommended that police departments develop rewards for officer knowledge of this crucial area of the law. The rewards might relate to promotion or pay systems. Level of

knowledge could be determined through testing at the conclusion of in-service training. Of course, these incentives could be utilized to encourage knowledge of other important subject matters.

CHAPTER 12

OFFICER DUTY EXPERIENCE

Wilson (1970) has described differences in police behavior from department to department. Brown (1981) has suggested a typology of ways that individual police officers within police departments perform work duties. The Uniform Crime Reports (Federal Bureau of Investigation, 1985) document great variation in the crime and arrest rates from department to department. All of these sources suggest that work-related experiences of police officers vary greatly. This chapter is concerned with the relationship between work-related experience, most importantly that concerned with adverse consequences of illegal searches and seizures, and knowledge of search and seizure law.

Years in Police Work

The mean number of years in police work of the tested officers was 9.3 and the median was 8.6. Only 2.9% had more than 21 years. No statistically significant relationship between score and number of years in police work ($r=-.059$, $p=.1$) was found. This findings is particularly interesting, given that there was a stronger, but still weak, statistically highly significant relationship between age and score found.

Awareness of Court Scrutiny of Searches and Seizures

The tested officers were asked,

> "Approximately how many cases, if any, have you been involved in or are personally very familiar with in which a court has decided on the validity of a search or seizure by you or another officer in your department?"

Of the officers responding to this item, 46.6%, or 45% of all of the officers, reported "0," 10.6% reported once, and 9.8% reported twice. The correlation coefficient of score and this variable was +.14 and it was statistically significant ($p=.001$).

DA Case Dismissal for Illegality of Search or Seizure

Officers were asked,

> "Approximately how many cases, if any, have prosecuting attorneys 'dropped' because a

search or seizure by you or a person working with you was 'bad' (in violation of the law)?"

A striking 326 officers, 75.8% of those responding to the item, or 73.2% of all officers tested, reported "0", 11.5% reported "1," and 6.5% reported "2." No statistically significant relationship between responses to this item and score was found. Figure 12-1 presents, by reported number of cases dropped, the mean scores of the officers and the number of officers.

Figure 12-1

Mean Score by Reported Number of Cases "Dropped" by a DA

Number of Cases Dropped	Number of Officers	Mean Score
0	350	59.6% (8.34)
1	53	60% (8.4)
2	30	61.9% (8.67)
3	9	52.4% (7.33)
4	8	52.7% (7.38)
5	3	54.8% (7.67)
6	3	57.2% (8)
8	1	42.9% (6)
10	5	61.4% (8.6)

Disciplinary Actions relating to Searches

Officers were asked,

"How many departmental disciplinary actions are you aware of in your department or other departments for which you have worked, concerned with a search or seizure by an officer?"

Of the responding officers, 87.2%, or 81.2% of all officers tested, reported "0," 5.6% reported one, and 2.5% reported two. Five officers reported knowing of ten such disciplinary actions. No statistically significant relationship between responses to this item and scores was found.

At least one officer in 30 of the 52 participating police departments reported at least one instance of departmental discipline relating to a search or seizure. In one department, the more than 20 officers tested reported a mean of 1.56 instances of such disciplinary action. The 10 officers from another department reported a mean of 1.5 instances of such punishment. In only these two cases did the number of disciplinary actions reported by officers within a department exceed the number of officers tested from the department.

Law Suits concerning Searches or Seizures

The final questionnaire item asked,

> "How many times, if any, have you been sued in state or federal court as a result of a search or seizure (not including arrests) you conducted or participated in?"

Of the responding officers, 96.2%, or 94.8% of all officers tested, reported "0," ten reported "1," five reported "2," and one reported "3." Approximately one out of 25 officers, then, reported having been sued because of participation in a search or seizure in the line of duty. No statistically significant relationship between test scores and responses to this item was found.

Intercorrelations of Experience Variables

A relatively strong correlation between knowledge of court scrutiny of searches and cases dropped ($r=+.37$, $p.=.000$) was found. A surprisingly low correlation between number of disciplinary actions involving a search or seizure and number of cases dropped by a prosecutor as the result of an illegal search or seizure ($r=+.14$, $p.=.001$) was found. There was also a low correlation coefficient of cases dropped by prosecutors and times sued because of a search or seizure ($r=+.11$, $p.=.01$).

The correlation coefficient of number of disciplinary actions and number of times sued was +.17 ($p.=.000$).

Conclucions and Implications regarding the Effects of the Exclusionary Rule

Several of the findings of this research are relevant to controversies relating to effects of the Mapp (Chapter 1, supra) exclusionary rule.

Deterrence. In recent years, a considerable amount of research has tested the theory that perceived certainty and severity of punishment for any given prohibited behavior, more than actual certainty and severity, contributes to the determination of the incidence of the prohibited behavior (Anderson, 1979; Teevan, 1976). Extent of one's own performance of the prohibited behavior and extent of punishment of the individual for such actions would be expected to contribute to the formulation of a perception of certainty and severity of punishment.

Suggestive information regarding the incidence of

illegal searches and seizures by line, uniformed police officers is found in the findings regarding types of errors made by officers on the test. Nearly 14% of the test answers represented incorrect perception that the officer was authorized to conduct a search, seizure, stop, or frisk. It is clear that one cannot justifiably assume that officers would, in real-life situations comparable to those depicted in the videotaped scenarios, consistently take the unlawful action thought to be lawful (Davis, 1975; Cruse and Rubin, 1973; Memory, 1977). However, it is believed to be reasonable to assume that, in some percentage of comparable circumstances, officers would take the unlawful action, believing it to be lawful. Assuming that the circumstances depicted in the videotaped scenarios are frequently encountered by police officers in the United States, even a low incidence of such illegal searches, seizures, stops, and frisks would have produced a substantial number of unlawful actions by the officers tested, who had been in police work a mean of 9.3 years, or a mean of 18,600 hours of work at the rate of 50 40-hour work weeks per year.

It has been reported in this chapter that 73.2% of the officers tested reported not ever having been aware of a prosecutor's having "dropped" a case "because a search or seizure by" that officer or a work partner was "bad." An additional 11.1% of the officers knew of only one such case. The mean number of cases known of was .57. If one assumes that officers experience as punitive gaining the knowledge that a case the officer has "made" has been "dropped" by a prosecutor, then these findings should be seen as measuring an experiential variable which would serve as one of the bases of the officer's perception of certainty of "punishment" for illegal searches and seizures.

Findings of this research clearly do not support definitive statements regarding Exclusionary Rule deterrence. However, they do provide previously unavailable information regarding the possible incidence of illegal searches and seizures the officer believed to be lawful and regarding extent of officer awareness of occurrence of one type of adverse consequence of his own or a work partner's illegal search or seizure. Both may be relevant to the issue of perception of certainty of "punishment" for illegal searches and seizures.

It can be assumed that police officers are not informed regarding some number of "their cases" which are "dropped" by prosecutors as a result of search or seizure legality problems. While these data do not allow estimation of the incidence of such occurrences, the finding of widespread unawareness of any such case droppings would seem to support a recommendation that prosecutors insure that officers are informed when a case is declined or dismissed

for this reason. Officers obviously can be neither deterred nor educated by prosecutorial actions they have no knowledge of.

Educational effect of the Exclusionary Rule. Skolnick and Simon (1984) have described the court hearing on a motion to suppress evidence on the grounds that it was obtained by means of an illegal search or seizure as being, for the police officer who seized the evidence, "a form of training in which the application of the fourth amendment to a real life situation the officer remembers...is gone over in detail" (p. 17). They argue that this represents an educational function of the Exclusionary Rule.

In this chapter there has been reported a finding of a statistically significant, though weak, relationship between number of cases the officer has been involved in or very familiar with in which a court has ruled on the legality of a search or seizure by the officer or another officer in his department. One might reasonably expect to find a negative relationship between extent of court scrutiny of officers' searches and seizures and officers' knowledge of search and seizure law resulting from officers with deficient knowledge being more likely to carry out searches and seizures which defense attorneys attack. Not only was this intuitively expectable negative relationship not found, a statistically significant positive relationship was found. This is interpreted as suggesting that the type of educational effect of evidence suppression hearings Skolnick and Simon described is being achieved and is powerful enough to produce a statistically significant finding in spite of a possible tendency of officers who are less knowledgeable regarding search and seizure law to carry out searches and seizures which will be attacked by defense attorneys.

Conclusions and Implications regarding the "Knowability" of Search and Seizure Law

Commentators on search and seizure law and the Exclusionary Rule have discussed whether search and seizure is too complex to be known and applied by police oficers and have noted that complaints regarding the complexity of that law are often heard (LaFave, 1978, pp. 451-2; Sunderland, 1980, p. 360, fn. 164). The remarkably high correlation of age of legal principle and percentage of officers answering correctly items testing knowledge of the principles suggests that delays in the dissemination and assimilation of principles contributes importantly to deficiencies of knowledge. It may be, however, that delay in assimilation of principles results, in some instances, from complexity of the principles and of the ways in which principles relate to other principles of search and seizure law. Independent of the dissemination-delay phenomenon, the high test error rate

of the sample officers is interpreted as supporting the arguments that search and seizure law is too complex, given the realities of police work and police officers. (The high incidence of errors by attorneys tested suggests that officials other than police officers are troubled by this complexity.) In particular, the frequently-occurring failure of officers during the test to make probable cause determinations correctly is taken as strongly suggesting that the law relating to probable cause is so complex that officers in general are likely to apply it incorrectly in a high percentage of cases.

The implication is clear that every effort should be made by those who shape search and seizure law to make that law easier to learn, retain, and apply. Several specific issues and proposals are relevant to this implication.

A "sliding-scale" approach to probable cause. Barrett (1980) has argued for the implementation of a "sliding-scale" formulation of the probable cause standard which would require in each case the balancing of "the seriousness of the suspected crime and the degree of reasonable suspicion possessed by the police against the magnitude of the invasion of the personal security and property rights of the individual involved" (p. 63). Such a change would inadvisedly make probable cause determinations even more difficult for officers.

Consideration of the seriousness of the crime involved in probable cause determinations. LaFave (1978, pp. 455-59) has discussed the proposal that the probable cause standard be altered to be progressively less stringent as the crimes involved are more serious. While the policy arguments for such a proposal are very strong, the findings of this study are interpreted as suggesting that, at present, adding even this degree of greater complexity to the probable cause determination would not be advisable.

The less-likely-than-not probable cause to search standard. The United States Supreme Court, in Illinois v. Gates (462 U.S. 237, 103 S.Ct. 2317 (1983)), required that, before issuing a search warrant, a magistrate determine whether there is "a fair probability that contraband or evidence of a crime will be found in a particular place" (p. 2332). It appears that this language establishes a "less-likely-than-not" or less than 50% probable cause to search standard. One might argue that departure from a 51% standard makes the probable cause standard less clearly defined and, thus, more difficult to apply and less likely to be applied consistently by officers. It is hoped, based on the findings of this research, that, if a less-likely-than-not probable cause to search standard is to apply, appellate courts and legislatures will further define

it in ways that will make it optimally understandable and applyable with consistency by officers.

Examples of clear, understandable, and applyable principles. It is submitted that, while the sample officers did not apply the Belton (Appendix B) and Long (Appendix B) decisions very well in the test administered in this research, those two decisions do represent commendable efforts of the United States Supreme Court to announce principles which can be understood, learned, retained, and applied with consistency by police officers. In Belton, Justice Stewart, announcing the decision of the Court, noted that having this type of search and seizure law is important to ordinary citizens, as well as to police officers.

> When a person cannot know how a court will apply a settled principle to a recurring factual situation, that person cannot know the scope of his constitutional protection, nor can a policeman know the scope of his authority.
>
> 453 U.S. 454, 460-61, 101 S.Ct. 2860, 2864.

Discussion of Findings as They May Relate to Effectiveness of Law Enforcement

Failure to obtain convictions of clearly guilty persons. The finding of a high percentage of officers who did not know of any instance in which a prosecutor had "dropped" a case as a result of illegality of a search or seizure he or a work partner had made is relevant to the controversy regarding the extent to which the Mapp exclusionary rule results in failures to obtain convictions of clearly guilty persons (LaFave, 1986, p. 3, fn. 9). However, utilizing that finding to produce a nation-wide estimate of this type of consequence of the Exclusionary Rule would require the collection of a variety of data, development of facially valid assumptions regarding the level of a substantial number of effects, and various calculations. That process is beyond the scope of this research.

Some speculation regarding causes of what seems to be a high percentage of officers who are unaware that a prosecutor has ever "dropped" a case because of illegality of a search or seizure by the officer or a work partner seems appropriate. In 1984, the 467,117 city, county, and state police officers in the United States (Federal Bureau of Investigation, 1985, p. 240) were estimated to have made 11,564,000 non-traffic arrests (Federal Bureau of Investigation, 1985, p. 163). The mean number of non-traffic arrests, misdemeanor and felony, per officer would be 24.8, or approximately two per month. This is consistent with the findings of research concerning police work that, in most

instances, a small percentage of a police officer's time is taken up performing law enforcement functions, such as search and arrest (Wilson, 1970; Reiss, 1971). The implication for low officer awareness of prosecutor "dropping" of cases may be that, nation-wide, police officers submit for prosecution fewer non-traffic cases than one might assume and, therefore, have fewer opportunities to have a case "dropped" than might be assumed.

Possible consequences for law enfocement of lack of officer awareness of law enforcement authority. Findings of this research regarding type of error made by officers (Chapter 6, supra) indicate that line police officers in the United States are in many instances unaware that they are authorized to conduct a search, seizure, stop, or frisk. Research in one city has indicated that, during the period studied, a highly disproportionately large percentage of arrests were made by a small number of police officers (Forst, Lucianovic and Cox, 1977). One interpretation of findings of that sort could be that some officers are placing themselves in positions to take law enforcement action more and taking law enforcement action more than other officers. This approach to police work, which is sometimes referred to as "proactive," has been the subject of research and other discussion (Koenig & DeBeck, 1983; Hollinger, 1984). It may be that the failure of a high percentage of police officers to perform their duties more "proactively" and, thus, make more "good busts" results, to some extent, from the lack of knowledge and misunderstanding of search and seizre law shown by this research.

The enforcement of criminal law, crime prevention, maintenance of order, protection of citizens' civil rights and liberties, and self-protection are all very important functions of police. How effective police officers can be in performing each of these functions depends to some extent on their knowing what actions they can lawfully take. It may be that improving officer knowledge of search and seizure law, especially more recent United States Supreme Court decisions which have expanded officer authority in that area (Appendix B), could have fairly direct "pay-offs" in quality, efficiency, and "productivity" of line uniformed officer duty performance.

To obtain some indication whether there is a relationship between officer knowledge of search and seizure law and officer crime prevention and law enforcement effectiveness, the Pearson correlation of (1) mean test scores of officers in departments with 12 or more officers tested and (2) city burglary rates in 1984 (Federal Bureau of

Investigation, 1985) was obtained. It was thought that the rate for a serious property crime--robbery, burglary, or auto theft--which might be suppressed through police action should be used. The burglary rate was used because (1) its rate varies less from very large cities to smaller cities than the rates for the other two crimes (Federal Bureau of Investigation, 1985) and (2) there is less difference in rates of arrest for different races for burglary than for the other two crimes (Federal Bureau of Investigation, 1985). The correlation coefficient was -.58 (p.=.024). In evaluating the significance of this finding, one should consider that citizens in cities with police officers who are viewed as not very knowledgeable and competent might be less likely to report burglaries. Also, officers in cities with low crime rates may have less exposure to evidence-suppression hearings and other experiences which might result in acquisition of knowledge of search and seizure law. Both of these hypothesized relationships would be evidenced by a positive association of score and burglary rate, with low officer knowledge and low burglary crime rates being found together and vice versa. Therefore, it is viewed as particularly notable that a strong and statistically significant negative association of score and reported burglary rate was found.

This correlation coefficient definitely does not establish a causal connection between knowledge of search and seizure law and crime rate. It does not establish that teaching search and seizure law better will reduce burglary or other crime. It is submitted, however, that this finding would tend to rebut a prediction that making officers more aware of search and seizure law will reduce their law enforcement and crime prevention effectiveness.

Implications regarding Officer Selection

In spite of the Mapp exclusionary rule, requirements that police officers complete basic training including instruction on search and seizure law, nearly universal in-service training and updating procedures regarding search and seizure law, and widespread college study of police officers regarding search and seizure law, line, uniformed patrol officers' knowledge of search and seizure law is generally woefully inadequate. Approximately fifteen percent of the officers tested answered correctly 43% or less of the time. It is submitted that allowing officers who are so poorly informed on search and seizure law to exercise search and seizure power is similar to allowing officers who do not know use of deadly force rules to carry and use a weapon. (A significant difference, of course, is that the officer who doesn't know search and seizure law is unlikely to get the chief sued.)

The findings of this research suggest that

deficiencies result to some extent from inadequate training, lack of motivation to learn the law, the rapidly changing nature of the law, and the complexity of the law. It may be that intellectual ability is a factor, but no measurement of that variable was attempted in this study. After extremely intensive instruction on search and seizure law which allowed six trainees to answer all of the test questions correctly and four to answer all but one correctly, two basic law enforcement course trainees missed eight of 14 and five missed seven of 14. Based on the findings of this research, one would expect whatever knowledge these low-scoring officers have to deteriorate somewhat during the first year after completion of basic training. It is submitted that any of these officers who became police officers after being tested in this study probably joined the ranks of officers who actually have no working knowledge of search and seizure law.

Regardless of cause of inadequacy of knowledge, it is only reasonable to assume that retaining as line, uniformed police officers those with extremely deficient ability to apply search and seizure law will inevitably result in violations of Fourth Amendment rights, loss of convictions as a result of such violations, and failure to take authorized law enforcement actions.

It should be hoped that more stringent basic training search and seizure law knowledge requirements will prevent from going into police work persons whose lack of knowledge may be irremediable. The resulting improvement in officer abilities should be reflected in other knowledge and function areas. If more stringent training achievement standards are put into effect, police administrators may be required to adjust officer selection criteria to some degree in order to avoid waste of training funds on officers who are unlikely to meet graduation standards.

Implications regarding Disciplinary Procedures and Civil Liability

Disciplinary procedures. Perceptual deterrence theory (Anderson, 1979; Teevan, 1976), previously discussed in this chapter, would appear to apply well to the issue of deterrence of illegal searches and seizures through the threat of departmental disciplinary action. Of the officers responding to the item, 87.2% reported not knowing of any instance in which an officer had received departmental discipline concerning a search or seizure. Perceptual deterrence theory would seem to suggest that, if nearly 90% of officers with a mean of 9.3 years experience in police work know of no instance in which any officer has received punishment concerning a search or seizure, then those officers would, at least based on previous information,

perceive that it is practically certain that an officer will not receive departmental punishment for misbehavior, or omissions, concerning search and seizure.

Consistent with this, the correlation coefficient between "cases dropped by a prosecutor" and number of disciplinary actions known of was only +.14 (p.=.001). This suggests that departmental disciplinary action very seldom follows declination to prosecute or case dismissal because of illegality of a search or seizure.

These findings and applications of perceptual deterrence theory suggest that departmental discipline, as presently administered, cannot be expected to serve as a significant deterrent of illegal searches and seizures by officers.

The finding that at least one officer in 30 of the 52 participating police departments reported knowing of at least one instance of such punishment suggests a moderate degree of dispersion of disciplinary activity in such cases.

Civil liability. The one out of 25 officers tested who reported having been sued one or more times "as a result of a search or seizure (not including arrests) [he] conducted or participated in" presumably was greatly impressed by that experience. However, given that the officers tested had a mean of 9.3 years experience in police work, only a very small percentage of officers, at any one time, would be expected to be involved in such an action. Consistent with this finding, an authoritative source on civil liability of police gives liability incurred as a result of search or seizure-related actions comparatively a very small amount of attention (Territo, 1984). It may be that the suggested relatively low level of civil suit activity relating to searches and seizures by police officers results from (1) low level of possible damages in illegal search or seizure cases, which would limit availability of attorneys, and (2) absence of potential plaintiffs who would be appealing to civil action juries. The Malley v. Briggs (106 S.Ct. 1092 (1986)) situation, involving substantial damages and attractive plaintiffs, would be expected to be the exception rather than the rule.

Therefore, the findings of this study, along with other factors, suggest that the threat of civil liability is unlikely to be serving as an important deterrent of illegal searches and seizures, at least as to line uniformed police officers.

Figure 5-2

Results of Analyses of Responses to Test Items

Item	Upper 1/3 % Correct	Lower 1/3 % Correct	P. Biserial Value	Signif.
1	55.2%	25.7%	.27	.0001
2	96%	64.5%	.375	.0001
3	88.8%	62.5%	.269	.0001
4	98.4%	78.3%	.288	.0001
5	98.4%	96.1%	.054	.239
6	97.6%	82.9%	.271	.0001
7	69.6%	38.2%	.294	.0001
8	85.6%	32.9%	.403	.0001
9	74.4%	28.3%	.374	.0001
10	40.8%	5.9%	.369	.0001
11	51.2%	6.6%	.397	.0001
12	84.8%	48.7%	.344	.0001
13	40.8%	32.2%	.057	.211
14	68.8%	25%	.343	.0001

The low, but positive, point biserial value for the correct response to item five resulted from the low difficulty of the item. While the low, but positive, point biserial value for the correct response to item 13 is of concern, the authors are satisfied that the item is legally sound.

Comparison Testing Results

While the comparison testing of judges, prosecutors, police attorneys, college and university students, and police academy trainees cannot support generalization concerning those groups nationally because of the lack of random selection and the small numbers of persons tested, the scores achieved (Figure 5-3) do provide benchmarks which can be used in interpreting the scores of the police officer sample.

Figure 5-3

Mean Test Scores of Comparison Groups

Type of Group	Number Tested	Mean Score
Asst. DA's from major city DA's office	6	79.8% (11.2%
DA and 11 of his asst. DA's	12	65.5% (9.2)
Elected DA's at meeting	15	61.4% (8.6)
Police atty. and asst. police atty.	2	93%(13),57%(8)
All attorneys tested (composite of above five groups)	35	66.9% (9.4%)
State trial criminal court judges at training program	36	58.9% (8.25)
Police trainees with with no police work exper., before S&S training	24	40.8% (5.7)
Police trainees, some with police work exper., before S&S training	17	47.5% (6.7)
Police trainees after S&S training	55	76% (10.6)
Tech college students	7	43.9% (6.1)
University students	27	49.5% (6.9)

Full Results of Judge Testing

Because the 36 judges completed a questionnaire (Appendix M) including items on demographics, work experience, and other subjects, more detailed findings were possible concerning judges than the other comparison groups.

Description of the judges tested. The mean age of the 36 judges was 48 years, while the mean age of 185 respondents to

a 1979 national random sample survey of judges in state criminal trial courts was 52 (Memory, 1981, p. 183). The 35 judges who had completed law school did so a mean of 21.3 years previously. The mean tenure as a judge was 10 years, which was also the mean tenure as of judge of respondents to the author's national survey (Memory, 1981). A mean of 45% of work time during the previous five years was reported to have involved acting as a judge handling criminal cases. Sixteen of the judges had misdemeanor-court (limited jurisdiction) duties and 28 had felony-court (general jurisdiction) duties. All of the respondents reported having ruled on a Fourth Amendment evidence-suppression motion and the mean estimate of motions ruled on was 62. Mean totals of 14 hours of continuing judicial education and six hours of continuing general legal education on search and seizure law were reported.

The judges' mean selfrating of "comparative competence to apply search and seizure law in evidence-suppression hearings" on a nine-point scale, with "1" being "equal to least qualified trial-court judge" and "9" being "equal to best qualified," was 5.6. This surprisingly low selfrating and the fact that the tested judges applied to attend a training course on constitutional criminal procedure are interpreted as suggesting that the tested judges were, in effect, self-selected because of felt need to improve competence in certain areas of the law, including search and seizure law. These factors, along with non-random selection and low number of judges tested, would make it clearly unjustifiable to generalize concerning knowledge of state trial criminal court judges based on the scores of these judges.

Test scores of the judges. The mean score of the 36 judges was 8.25 correct answers (58.9%). Six or fewer correct answers were given by 6 (16.7%) of the judges. Though the differences were not statistically significant, the 28 judges with general jurisdiction court duties had a mean score of 8.46 correct and the eight without such duties had a mean of 7.5 correct.

The mean score of all 46 judges attending the training program, including the 36 judges described above, was 8.21 correct answers (58.6).

CHAPTER 6

ANALYSIS OF TEST RESULTS BY ITEM

Given that each question tested on a significant and distinguishable principle of search and seizure law (Appendix B), the composite results for each question bear interpretation. The following section presents a brief discussion of each question, the short-form versions of the alternative answers to be chosen from, and discussion of the distribution of responses. After indication of the percentage of officers marking each incorrect alternative will appear an indication of the type of error selection of that alternative involved, through use of one of the following abbreviations: nonawareness of law enforcement power (Nonawr LE Pwr), incorrect perception of law enforcement power (Incor Percep LE Pwr), nonawareness of officer protective power (Nonawr Off Prot Pwr), incorrect perception of officer protective power (Incor Percep Off Prot Pwr). Powers are categorized as law enfocement powers if the legally sanctioned purpose of exercise is to advance enforcement of the criminal law, as through seizure of evidence of crime. Powers are categorized as "officer protective" if the legally sanctioned purpose of exercise is protection of the officer or others. "Nonawareness" of a power was exhibited when the officer answered in a way that indicated that he did not recognize that an officer in that situation would have a particular power. "Incorrect perception" of a power was exhibited when the officer answered in a way that indicated that he believed that, in a particular situation, an officer would have a power which he, in fact, would not have.

Question 1.

This item concerned authority to enter the residence of Rocco and Lisa Barone to arrest Rocco Barone under an arrest warrant, which was in the possession of the officers. In Figure 6-1 and in the other figures of its type, the letter preceding the correct statement is underlined.

Figure 6-1

a. Entry without consent under arrest warrant is OK. (40.4%)

b. Search warrant is necessary to enter without consent to arrest. (43%) (Nonawr LE Pwr)

c. Entry without consent and without arrest warrant is OK.

(10.5%) (Incor Percep LE Pwr)

Given that, prior to Payton v. New York (445 U.S. 473 (1980)), police officers lawfully entered residences of persons to be arrested without consent or any type of warrant to effect routine arrests for felonies, the 10.5% who answered in accordance with the old law might, according to one's perspective, be viewed as a distressingly high or reassuringly low number.

Question 2.

The statements concern whether seizure of a ring under the "plain-view" doctrine is authorized.

Figure 6-2

a. "Plain-view" seizure of ring is not OK. (2.3%) (Nonawr LE Pwr)

b. Search warrant describing ring is needed to seize it. (14.4%) (Nonawr LE Pwr)

c. "Plain-view" seizure of ring is OK. (83.3%)

The "plain-view" doctrine is a very well-established part of search and seizure law which might come into play during nearly any aspect of the line patrol officer's duty performance. It allows him to seize evidence of crime, an instrumentality of crime, fruits of crime, or contraband which he inadvertently views while lawfully in a position to obtain a "plain view" of the item (Coolidge v. New Hampshire, 403 U.S. 443, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971)). It is seen as very notable that nearly seventeen percent of the officers did not know of or could not effectively apply this doctrine.

Question 3.

Question 3 concerned the authority needed to enter a person's residence without consent to arrest a person who does not live in that residence.

Figure 6-3

a. Entry without consent under arrest warrant is OK. (14.4%) (Incor Percep LE Pwr)

b. Search warrant is needed to enter without consent to arrest Barone. (76.8%)

c. No authority to enter without consent to arrest Barone even with search warrant. (8.8%) (Nonawr LE Pwr)

Both the 14.4% who thought that entry with only the arrest warrant is permitted and the 8.8% who thought that entry without consent was entirely prohibited could compromise law enforcement by acting on their conclusions.

Question 4.

Question 4 concerned whether an officer on patrol in a residential area had sufficient basis to detain a pedestrian for brief on-the-street questioning regarding possible participation in a rash of day-time burglaries in the area.

Figure 6-4

a. Detention on street for brief questioning is OK. (89.1%)

b. Detention on street for brief questioning is not OK. (8.4%) (Nonawr LE Pwr)

c. Stopping man and taking him downtown for questioning is OK. (2.5%) (Incor Percep LE Pwr)

As discussed in Chapter 2 (supra), two panels reviewing the videotaped test for legal sufficiency had differing opinions concerning whether alternative "a" was clearly correct. For a variety of previously discussed reasons, "a" was treated as correct.

If one assumes that officers would generally take action concluded to be lawful, the responses of officers on this item can be interpreted as suggesting how most line uniformed police officers would apply the Terry v. Ohio (392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 705) "stop" authority in the type of situation shown in the scenario.

Question 5.

This question concerned whether the officer, after asking the pedestrian several questions, could take him, without consent, to police headquarters for fingerprinting.

Figure 6-5

a. Taking man without consent to HQ for fingerprinting is OK. (3.1%) (Incor Percep LE Pwr)

b. Officer has probable cause to arrest. (.4%) (Incor Percep LE Pwr)

c. Neither arresting man nor taking him without consent to HQ for fingerprinting is OK. (96.4%)

If many officers had been answering randomly, more

marking of "b" probably would have occurred.

Question 6.

Question 6 concerns whether a man whom officers on patrol encountered angrily kicking his truck tire could be frisked for weapons after one of the officers saw a knife on the truck seat as the man was walking toward the open truck door.

Figure 6-6

a. Full search of man is OK. (1%) (Incor Percep LE Pwr)

b. Neither frisk nor full search of man is OK. (7.1%) (Nonawr Off Prot Pwr)

c. Frisk of man for weapons is OK. (91.8%)

Question 7.

Question 7 concerns whether the officers, after seeing the knife on the truck seat of the angry and belligerent driver, could search the interior of the passenger compartment for weapons.

Figure 6-7

a. Lifting cap to check for weapons is not OK. (6.7%) (Nonawr Off Prot Pwr)

b. Lifting cap to check for weapons is OK. (54.4%)

c. Search of passenger compartment for weapons without consent is not OK. (38.9%) (Nonawr Off Prot Pwr)

In Michigan v. Long (103 S.Ct. 3469 (1983)), the United States Supreme Court, while extending the Terry v. Ohio (392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)) frisk-for-weapons authority, in certain circumstances, to the passenger compartment of a car, used the very unfrisk-like language, "search of the passenger compartment for weapons." Therefore, it may be understandable that a relatively high percentage of officers would be attracted to the incorrect alternative "c."

Question 8.

Question 8 concerns authority to conduct a full search incident to arrest in a traffic case.

Figure 6-8

a. Only frisk for weapons is OK. (38.5%) (Nonawr LE Pwr)

b. Full search is OK. (58.2%)

c. No authority to search or frisk. (3.3%) (Nonawr Off Prot Pwr)

Given that arrests with intent to take the arrestee "downtown" often occur in the traffic-enforcement situation, it is striking that 38% thought that only a frisk for weapons was allowed. Approximately one of 30 officers thought that not even a frisk was allowable.

Question 9.

This item concerns primarily authority to conduct a search incident to arrest of a car driven by a person who has been arrested both for a traffic offense and under a felony arrest warrant the officer was aware of, for an embezzlement which occurred six months previously.

Figure 6-9

a. Probable cause exists to get warrant to search car for embezzlement evidence. (32.2%) (Incor Percep LE Pwr)

b. Warrantless search now for embezzlement evidence is OK. (9.8%) (Incor Percep LE Pwr)

c. Search incident to arrest now of passenger compartment is OK. (46%)

d. No authority to search car now nor probable cause to get warrant. (11.9%) (Nonawr LE Pwr and Nonawr Off Prot Pwr)

The fact that fully 42% of the officers believed there was probable cause to search the car for embezzlement evidence indicates, in the opinion of the senior author, failure of a startlingly high percentage of officers to apply the concept of "probable cause" correctly. In the scenario, there was no information given that would suggest that evidence relating to the embezzlement could be found in the car.

The preference of officers for obtaining a warrant to search for the embezzlement evidence indicates, as do the responses to question 10, that the great majority of officers are not aware of the Carroll v. United States (267 U.S. 132, 45 S.Ct. 280, 69 L.Ed. 543 (1925)) and Chambers v. Maroney (399 U.S. 42, 90 S.Ct. 1975, 26 L.Ed.2d 419 (1970)) doctrine which allows the warrantless search on probable cause of automobiles that are stopped and remain movable out "on the highway."

An additional 11.9% were not aware of the authority,

under New York v. Belton (453 U.S. 454, 69 L.Ed.2d 768, 101 S.Ct. 2860 (1981)) to conduct searches of cars incident to arrest of the driver-arrestee.

Question 10.

This item concerns a clear application of the Chambers (supra) rule, which allows warrantless probable cause searches of movable automobiles.

Figure 6-10

a. Search of the car without warrant for cocaine is OK. (18.8%)

b. Officers can get warrant, which they need, to search car for cocaine. (56.5%) (Nonawr LE Pwr)

c. No authority to search without warrant and no probable cause to obtain warrant. (24.7%) (Nonawr LE Pwr)

From the law enforcement point of view, it is troubling that 24.7% were not able to recognize that there was probable cause to search for cocaine. This is consistent with the previously noted (question 9) weakness of the officers in applying the concept of probable cause.

The fact that 56.5% answered that a search warrant was needed in a clear Chambers rule situation is puzzling. To obtain some indication whether some of the officers answered based on departmental directives which are more restrictive than the Chambers doctrine, policies and procedures and training materials from eight of the participating departments were examined. In two instances departmental policies were interpreted as being somewhat more restrictive than Chambers (supra), which clarified and extended the Carroll doctrine. It may be relevant that discussions of the senior author with officers after testing indicated that many departments rely on the inventory of impounded automobiles as a means to search cars lawfully.

Question 11.

This item concerns a situation very similar to that in United States v. Ross (456 U.S. 798, 72 L.Ed.2d 572, 102 S.Ct. 2157 (1982)), in which officers conducting a warrantless search for illicit drugs on probable cause of an automobile opened the trunk and encounted a closed "sandwich-type" bag and a relatively small leather pouch zipped closed.

Figure 6-11

a. Searching bag without search warrant is OK; search

warrant necessary to open pouch. (6.9%) (Nonawr LE Pwr)

b. Searching bag and pouch without search warrant is OK. (24.5%)

c. Search warrant necessary to search bag or pouch. (65.7%) (Nonawr LE Pwr)

d. Lounge/apartment search warrant authorizes search of bag and pouch. (2.9%) (Incor Percep LE Pwr)

In spite of having been instructed that they could assume that all actions taken by officers in the scenarios were lawful and having observed the warrantless search of the interior of the car, a strikingly high percentage of officers (65.7%) concluded that a search warrant had to be obtained to search either container. Again, the tendency to view the warrantless search of cars and items in cars as unlawful was seen.

Question 12.

This item concerns whether a person officers have reason to believe is the resident of a place the officers have a warrant to search can detain that person during the conduct of the search.

Figure 6-12

a. Detention of woman during apartment search is OK. (68.2%)

b. No authority to detain during apartment search. (4%) (Nonawr Off Prot Pwr, Nonawr LE Pwr)

c. More evidence that woman lives in apartment and works in lounge is needed before detention is OK. (27.6%) (Nonawr Off Prot Pwr, Nonawr LE Pwr)

The failure of 27.6% of the officers to recognize that there clearly was sufficient reason to believe the woman lived in the apartment and worked in the lounge, in spite of her having a tattoo of the exact sort the informant described the woman as having, is seen as notable and consistent with the previously observed difficulty of officers in applying the subjective probable cause standard.

Question 13.

This question concerned whether officers conducting the day-time search for cocaine under a search warrant of a bar with two non-threatening looking customers had the authority to search them for cocaine or frisk them for

weapons.

Figure 6-13

a. Search of customers for cocaine is OK. (1%) (Incor Percep LE Pwr)

b. Frisk of customers for weapons is OK. (38.7%) (Incor Percep Off Prot Pwr)

c. No authority to search for drugs or frisk for weapons. (36%)

d. Both search of customers for cocaine and frisk for weapons is OK. (24.3%) (Incor Percep LE Pwr, Incor Percep Off Prot Pwr)

Tested officers consistently stated to the senior author after testing that they would, in a situation such as that presented in this scenario, frisk the customers for weapons, for their own protection, even if it were not lawful to do so. This information supports the generalization that one cannot assume that police officers will not take law enforcement or order maintenance action they know they cannot lawfully take. With regard to the test, it may be that the 36% who incorrectly concluded there was authority to frisk for weapons were marking the answer they wished to be correct. Under such an interpretation, officers might be inclined to see in situations bases to act to protect themselves, such as frisking for weapons, but no authority to act in ways, such as searching a car without a warrant, that will potentially get them in trouble or increase the amount of work they will have to do.

Question 14.

This item concerns whether it is necessary to obtain a warrant to search a house in which a homicide has occurred, after full checks for additional suspects, search incident to arrest, and plain-view seizures have occurred.

Figure 6-14

a. Full search without warrant of house for homicide evidence is OK because case is homicide. (36%) (Incor Percep LE Pwr)

b. Search warrant needed for full search of house for homicide evidence. (47.9%)

c. Search of house incident to Farley arrest is OK. (16.1%) (Incor Percep LE Pwr)

Given that each item of evidence in a homicide case

can be crucial to the prosecution of the case, the fact that more than fifty percent of the officers thought search of the house without a warrant was authorized is, from the law enforcement point of view, notable.

Types of Errors Made

Of all of the test answers, 21.1% reflected nonawareness of law enforcement power; 10.1% reflected incorrect perception of law enforcement power; 5.6% reflected nonawareness of officer protective power; and 3.6% reflected incorrect perception of officer protective power. (When an error fell under two different categories, half was assigned to one and half, to the other.)

It is interesting that all of the incorrect perception of officer protective power error was made on item 13, which involved a factual situation similar to that in the Ybarra v. Illinois (444 U.S. 85, 100 S.Ct. 338 (1979)).

Probable Cause Errors

A large percentage of officers found probable cause when it was absent on item 9 (42%). It was not recognized, though present, on item 10 (24.7%). On item 12, existing factual basis to detain during a search was not recognized by 31.6% of the officers. There are too few instances of such errors to identify a pattern of either seeing probable cause when it was absent or failing to recognize it.

Factor Analysis Results

Several versions of factor analysis of the test response data all produced very similar findings. Figure 6-15 presents the results from the Varimax Rotated Factor Matrix.

Figure 6-15

Results of Varimax Rotated Factor Analysis

Factor 1

Item	Item Case	Possibly Significant Circumstance	Loading on Factor
10	Carroll	Warrantless search of car	+.59
11	Ross	Warrantless search of containers in trunk	+.69

Factor 2

3	Steagald	Search to arrest	+.24
7	Long		-.19
8	Robinson	Search incident to arrest	+.72
14	Mincey	Search incident to arrest	+.18

Factor 3

4	Terry	Investigative stop	+.31
6	Terry	Frisk for weapons	+.48
7	Long	Car search for weapons	+.21
9	Belton	Car search incident to arrest	+.22
12	Summers	Resident detention during dwelling search	+.29
13	Ybarra	Customer frisk during search of bar for drugs	-.39

Factor 4

1	Payton	Search of house to arrest	+.66
3	Steagald	Search of house to arrest	-.20
9	Belton	Search of car after arrest of driver	-.18

Discussion of and Conclusions Based on Factor Analysis Results

Factor 1. It is clear that factor 1 involves knowledge of the Carroll doctrine authority to conduct warrantless probable cause searches of movable vehicles.

Factor 2. While item 8, based on the Robinson decision holding that searches incident to arrest in traffic cases when the arrestee is to be taken "downtown," loads very heavily on this factor, there is no clear explanation for the loading of other items.

Factor 3. All of the factor 3 items, except items 9 and 12, concerned, at least to some degree, knowledge of the Terry stop and frisk authority or detention authority. Item 9 concerned authority to conduct a search incident to arrest of a car driven by the person arrested and discovery of weapons is a recognized purpose of searches incident to arrest (Chimel v. California, 395 U.S. 752, 89 S.Ct. 2034, 23 L.Ed.2d 685 (1969)). Item 12 concerned authority to detain a resident during a search under a search warrant in circumstances in which the detention might increase the safety of officers, consistent with Terry. Therefore, this factor clearly concerns knowledge of authority of the police officer to take action to protect himself.

As one might predict, the officer's having the understanding represented in this factor tended to result in his missing item 13, which was based on Ybarra.

Factor 4. Factor 4, with heaving loading on item 1 based on Payton, appears to involve sufficiency of an arrest warrant as authority to enter private places.

Conclusions and Implications concerning Officer Knowledge of Search and Seizure Law

Unfortunately, the design of this research could not detect whether a particular incorrect answer resulted from lack of knowledge of the relevant legal principle or inability to apply correctly a known principle. In this discussion, "knowledge of search and seizure law" is assumed to encompass ability to apply correctly.

It is assumed that the scores achieved by 24 police academy trainees with no police work experience or search and seizure law training (mean of 40.8%, 5.7 correct) and 7 technical college students with no education or training on search and seizure law (43.9%, 6.1 correct) suggest what score on the test can be achieved, through chance and commonsense, by persons about equal to police officers generally in intelligence but having less general life experience and no relevant training or work experience. The fact that the mean score of the sample officers (59.4%, 8.32) is only about two and one half correct answers higher than the composite mean of these groups (41.5%, 5.8) is interpreted as indicating that police officer training, work experience, and other life experiences are not very effective in producing usable knowledge of search and seizure law among line uniformed police officers.

It is particularly disturbing that the 15.5% of the officers with 6 or fewer correct items (6 of 14=42.9%) had

lower scores than the mean score of technical college students with no search and seizure law training or education. This suggests that a significant percentage of line uniformed police officers in states with law on warrantless searches and seizures no more restrictive than United States Supreme Court decisions have practically no working knowledge of that law.

Citizens can be justifiably concerned that a national sample of line, uniformed police officers in states with law on warrantless searches and seizures no more restrictive than United States Supreme Court decisions made, on the average, an incorrect decision concerning search, seizure, frisk, or detention authority in two out of five depictions of fairly ordinary duty situations.

It may be consolation to police officers, trainers, and chiefs, but not to citizens, that a group of 15 elected district attorneys and a group of 36 judges from across the United States had mean scores on the test as low as the officers' (Chapter 5, supra). Scores of the judges and district attorneys should be evaluated in light the fact that the videotaped test was developed to test police officers', not judges' and district attorneys', abilities to make good decisions on warrantless search and seizure authority in the types of situations officers frequently encounter. Also, as previously discussed (Chapter 5, supra), for a variety of reasons, the scores of the prosecutors and judges should not be taken as representative of the level of usable knowledge on search and seizure law of prosecutors and judges generally.

While major deficiencies in usable knowledge of line uniformed police officers were found in this study, the authors would expect that similar deficiencies in work-related knowledge relating to important and difficult subjects could be found in many professions and vocations. Support for this prediction could be given. It may be that, were the full truth known about professional and vocational competence, the most notable thing about this research would be that so many police chiefs were willing to take the risk of having their officers tested, in hopes that the research would contribute to the improvement of usable knowledge in this important and difficult area.

CHAPTER 7

REGION AND CITY VARIABLES

Regions

The mean scores of officers from the various FBI regions and the number tested in each region are shown in Figure 7-1.

Figure 7-1

Mean Test Scores by Region

Region	Number of Officers Tested	Mean Score
New England	39	57% (8)
Middle Atlantic	103	58.7% (8.2)
East North Central	100	58.6% (8.2)
West North Central	30	63.6% (8.9)
South Atlantic	96	59 (8.3)
East South Central	25	64.6% (9)
West South Central	44	60.9% (8.5)
Mountain	41	59.4 (8.3)

The differences among scores from the various regions were not statistically significant.

Differences among Cities

In discussing with department representatives the request that their departments participate in the study, staff members gave assurances that test results would not be reported by department. It can be reported, that the seven officers tested in one small department with a very active in-service training program had a mean score of 10.43. At the other end of the spectrum, the more than 20 officers tested in one large police department had a mean score of 7.17.

While there were statistically significant differences among the mean scores of officers from different cities (analysis of variance, F=2.39, p.=.0000), Pearsons correlation of city size and test score showed no statistically significant correlation. It is interesting that officers in Group 4 cities (25,000 through 49,999) had the lowest mean score (7.75) by more than half of an answer.

Discussion

The fact that no statistically significant relationship between city size and test score of officers was found has not been taken as establishing that there is, in fact, no relationship between city size and knowledge of search and seizure law of line uniformed police officers working in cities of the various sizes. As discussed in Chapter 3 (supra), no testing was conducted in Group VI cities (below 10,000 population). Also, as reported in Chapter 4 (supra), more difficulty was encountered in obtaining participation of police departments in Group V cities (population from 10,000 through 24,999) than with cities of any other size. It may be that the very small police departments generally have less well-educated officers and are less likely to have effective in-service training programs, assistance of a police attorney or district attorney, and exposure of officers to court-scrutiny of searches and seizures. If so, one would expect, based on findings reported later in this report, that officers in very small departments in small cities would have significantly less knowledge of search and seizure law than officers in larger cities and departments.

CHAPTER 8

OFFICER CHARACTERISTICS

Sex

Of the 478 officers tested, 10.7% were female. It was reported in the Uniform Crime Reports (1985, p. 240) that, nationwide for the reporting agencies in 1984, six percent of the sworn officers were female and that, in suburban counties, females comprised nine percent of the sworn officers. It may be, therefore, that the overrepresentation of females officers in the sample is, to some extent, the result of the fact that all of the officers tested work in cities within 50 miles of a city with a population of at least 100,000.

The difference between the mean scores of males (8.37) and females (7.9) did not reach statistical significance (F=3.2, p.=.073). Given the slightly lower scores of female officers, the overrepresentation of female officers in the sample would have tended very slightly to deflate the mean score of sample officers.

Race

Approximately fifteen percent (15.3%) of the officers tested were black. It is notable that no officers who identified their race as "oriental" were tested. The differences among score means of blacks (7.84), whites (8.4), and those of other races (8.57) were small but statistically significant (F=3.2, p.=.04).

Age

The mean age of the officers tested was 33.6. Pearsons correlation (r=-.11, signif.=.009) indicated a weak but statistically significant tendency for older officers to have lower scores. Figure 8-1 presents the mean scores of officers for five-year age cohorts.

Figure 8-1

Mean Test Scores for Five-Year Age Cohorts of Officers

Age Range	Mean Score	Number of Officers in Range
20-24	59.5% (8.33)	39
25-29	61.5% (8.61)	109
30-34	59.4% (8.32)	134

35-39	59.4% (8.31)	102
40-44	55.4% (7.75)	40
45-49	56.6% (7.93)	14
50-54	58.7% (8.22)	9
55-62	59.5% (8.33)	6

It is interesting that the mean score of the 109 officers from 25 through 29 years of age was 8.6, while the mean score of the 40 officers from 40 through 44 was 7.75.

The mean age of the men tested was 33.8 and the mean age of the women was 31.6. The mean age of white officers was 33.6 years; of black officers, 33.8; and of officers of other races, 32.7.

In Chapter 12 (infra) a statistically significant positive correlation of test score and a measure of officer familiarity with court scrutiny of searches and seizures by the officer or others in his department is reported. To determine whether that variable tends to suppress a stronger relationship between age and score than indicated by the zero-order correlation coefficient, analysis of covariance was conducted with score as the dependent variable, with age, collapsed into eight five-year groupings, as the main effect variable, and with the measure of awareness of court scrutiny of searches and seizures as the control variable. No strengthening of the age-score relationship was found. In fact, the relationship between age and score ($F=1.76$, $p.=.094$) became statistically nonsignificant.

In Chapter 11 (infra) it is reported that there is a positive association of frequency of in-service training and score. Analysis of covariance was conducted with score as dependent variable, age and education as main effects variables, and frequency of in-service training and familiarity with court scrutiny of searches and seizures by the officer and others in his department as control variables. While the positive relationship between score and education (Chapter 9, infra) remained statistically significant, the relationship between age and score was eliminated altogether ($F=.95$, $p.=.47$). Relevant to this, it is reported in Chapter 11 (infra) that older officers report receiving in-service training on search and seizure law slightly less frequently than younger officers.

Discussion

The general tendency found for older officers to have lower scores is very weak. It appears that the difference between the mean scores of officers from 25 through 29 years old (8.61) and those 40-44 (7.75) nearly completely accounts for this relationship. Controlling for familiarity with court scrutiny of searches and seizures by the officers and

others in his department produced the unexpected result that the weak relationship became even weaker and statistically nonsignificant. Controlling for frequency of in-service training and the court scrutiny variable resulted in the relationship between age and score vanishing.

Implications. The lower scores of officers in their 40's and the fact that controlling for frequency of in-service training causes the relationship between age and score to vanish suggests that police departments would be well-advised to be especially careful to insure that somewhat older officers continue to receive frequent, high-quality in-service training on search and seizure law.

CHAPTER 9

OFFICER EDUCATION

Findings regarding Officer Education

Figure 9-1 shows mean officer scores by reported educational level.

Figure 9-1

Mean Test Scores by Educational Level

Level	Percentage of Officers	Mean Score
GED (High school equivalency)	5.3%	51.4% (7.2)
High school graduation	22.2%	58.2% (8.1)
Credits toward 2-year degree	23.9%	58.8% (8.2)
2-year degree	11.1%	59.9% (8.4)
Credits toward 4-year degree	14.3%	60.9% (8.5)
4-year degree	23.1%	61.8% (8.7)

Spearman's correlation (coefficient=.15, p.=.001) indicates a statistically significant tendency for those with higher education levels to score higher on the test. Analysis of variance (F=12.7, p.=.0004) indicated the same. Analysis of variance revealed a statistically highly significant difference (F=10.9, p/=.001) between the scores of officers with GED's (mean=7.2, N=25) and the remaining officers (mean=8.4, N=443). Analysis of variance also revealed that, when officers with GED's are eliminated, the relationship between education and score (F=5.9, p.=.016) is very much weaker than when they are included.

Analysis of covariance with score as the dependent variable, education as the main effect variable, and the measure of officer familiarity with court scrutiny of his and other officers' searches and seizures as the control variable produced a weaker, but still statistically significant, relationship between education and score (F=3.2, p.=.008). Analysis of covariance controlling for officer familiarity with court scrutiny of his and other officers' searches and seizures and frequency of in-service training produced a still weaker, but still statistically significant,

relationship between education and score (F=2.62, p.=.02).

There was no statistically significant relationship found between score and number of college or university classroom hours of instruction on search and seizure law. In fact, those who reported "0" on college or university classroom hours on search and seizure law had a mean score on the test of 8.47, which was above the total sample mean of 8.32. If one used some measure of intelligence and correlated extent of college instruction on search and seizure and score, one might find that a positive correlation is suppressed (Sherman, 1980). However, these data do not allow such an analysis. As a substitute for such an analysis, responses to the number of classroom hours on search and seizure law item which may have represented misunderstanding of the item and responses indicating "0" hours were eliminated. One hour through 17-hour responses were eliminated because the officers may have thought the item referred to credit hours rather than classroom hours. Responses of 108 and higher were eliminated because it was thought to be unlikely that an officer would have received more than the fairly arbitrary figure of 107 hours of college or university classroom instruction on search and seizure law. The remaining responses were correlated with score, producing a Pearsons product-moment correlaion coefficient of +.14 (N=180), which was statistically significant at the p.=.028 level.

There was no association found between score and rated helpfulness of college instructors on search and seizure la". Such instructors had a mean helpfulness rating of 3 on a maximum of "5" rating scale.

The 66.7% of the officers who reported having read something, in addition to training and conference materials, on search and seizure law during the past year had a higher mean score (8.44) than those who reported not having done so (8.07) and the difference was statistically significant (F=4.5, p.=.034).

A positive association (r=+.18, p.=.000) of college or university classroom hours on search and seizure law and cases known of in which a court had ruled on the legality of a search or seizure conducted by the testee or another officer in his department was found.

Conclusions and Implications regarding Education of Police Officers

The mean score of officers with only a GED or high school equivalency was nearly one correct answer lower than that of those with no more education than graduation from high school. Even though only 25 officers listing GED as

educational level were tested, the difference between their mean score and that of the remaining officers was statistically highly significant. The particularly low scores of officers with only a GED are interpreted as supporting standards requiring that police officers have at least a high school diploma.

Higher education of police officers has been the subject of a great deal of controversy (Sherman, 1978; Reppetto, 1980). Many have argued that substantial benefits can be realized by police officers' completing four-year college or university degrees (Bell, 1979; Roberg, 1978). The finding that the mean score of four-year college or university graduates was only one-half of a correct answer, or 3.6%, higher than the mean score of high school graduates with no college credits indicates that, at least as to knowledge of search and seizure law, the benefits of higher education of police officers at present cannot be very great in magnitude.

No general relationship between amount of college or university instruction on search and seizure law and score was found. Officers who had had no such instruction actually scored very slightly better, but not significantly better, than those who had received such instruction. The correlation of score and number of classroom hours for officers reporting between 18 and 108 classroom hours did reveal a weak but statistically significant positive association. There was evidence, then, that college or university study of search and seizure law generally has produced at least small long-term gains in knowledge.

It was not feasible in this study to measure officer general intelligence or special aptitude for law. No measurement of interest in search and seizure law or motivation to learn it was attempted. Only primitive measurement of quality of instructor and instruction was achieved. It may be that those variables, more than number of credit hours on the subject or completion of a degree, determine knowledge of this subject matter.

CHAPTER 10

POLICE DEPARTMENT CHARACTERISTICS AND PROCEDURES

Information was obtained regarding a variety of characteristics and procedures of the police departments and analyses were conducted to determine which, if any, have general relationships with officer score.

Size of Department

The mean size of department in which the tested officers worked was 1084 and the median size was 359. The smallest participating department had nine officers and the next smallest had 16 officers. The largest department had approximately 6800 officers.

Figure 10-1 reports the mean scores of seven groupings, by number of officers, of departments.

Figure 10-1

Mean Test Score by Size of Department

Number of Officers In Departments	Mean Score	Number of Officers
9-34	58% (8.1)	34
35-48	58.6% (8.2)	71
60-96	56.6% (7.9)	41
111-273	59.8% (8.4)	71
274-690	62.2% (8.7)	96
984-1200	60.4% (8.4)	85
1331-6800	57.9% (8.1)	80

Pearsons product-moment correlation and analysis of variance after size grouping of departments also failed to reveal any statistically significant linear relationship between size of department and score. The pattern of mean scores shown in Figure 10-1 seems to suggest a tendency for officers in moderately large departments to have the highest scores, but no statistically significant deviation from linearity was found.

Shift Worked

Figure 10-2 shows the shifts worked by the tested officers and the mean test scores by shift.

Figure 10-2

Mean Scores of Officers Assigned to Various Duty Shifts

Shift	Number of Officers	% of Officers	Mean Score
Day	175	36.6%	58.5% (8.19)
Afternoon	148	30.9%	60.2% (8.43)
Midnight	76	15.9%	61.3% (8.58)
Swing	46	9.6%	57.9% (8.11)
Other	11	2.3%	62.3% (8.72)

The differences among the groups' mean test scores were not statistically significant.

Procedure to Inform Officers of Changes in Law

There was no statistically significant difference between the scores of the 64.2% of the officers tested who reported that their departments had procedures to inform officers of changes in search and seizure law and the other officers. Department representatives also indicated whether their departments had such a procedure, and the 93.5% of the officers tested who were in departments claiming to have such a procedure had a mean test score of 8.37, compared to the 7.86 mean score of the 28 other officers. Once again, the difference was not statistically significant ($F=2$, $p.=.16$).

To further probe the issue of adequacy of updating of officers on changes in search and seizure law, the correlation between (1) the number of months that had passed since the United States Supreme Court's announcement of decisions upon which questions were based and (2) percentage of officers answering items correctly was calculated. In the first analysis, data relating to item 2 on the test were omitted because there was no one United States Supreme Court decision which could be viewed as the basis for that application of the "plain-view" doctrine. Item 5 was not included because of the relatively low point biserial value of its correct response and because Hayes v. Florida (Appendix B), upon which it was in part based, did not announce a departure from generally accepted law. The data on item 13 were omitted (1) because of low point biserial value of the correct response, (2) because of treatment in the question of two different major legal principles, and (3) because of treatment in the question of procedures relating search under a search warrant. Data regarding items 10 and 11 were omitted because of the previously discussed possibility that a significant percentage of officers answered incorrectly because of departmental or police or prosecuting attorney guidance which was more restrictive than relevant United States Supreme Court decisions. The positive correlation coefficient ($r=+.706$) was significant at the .017

level.

As a comparison to the nine-item case age and percentage correct correlation analysis, the same calculation was done omitting only the data regarding items five (Hayes (Appendix B)) and 13 (Ybarra (Appendix B)). Coolidge v. New Hampshire (Appendix B) has been described by LaFave (1978, p. 240) as the most frequently cited case articulating the "plain-view" doctrine. Therefore, the date of that decision was taken as indicating the "age" of that principle. The United States Supreme Court in Chambers v. Maroney (Appendix B) made it clear that the Carroll doctrine authorizes not just the seizure but also the search of movable automobiles on probable cause. Therefore, the date of that opinion was taken as the age of the legal principle tested in item 10. The Pearsons product-moment correlation coefficient obtained in the 12-item procedure was +.39 (p.=.106).

Departmental Policies regarding Search and Seizure

The departments of 82.4% of the tested officers reported having policies or procedures on search and seizure. The difference between the mean test scores of these officers (8.37) and the mean score of the other officers (7.96) was not statistically significant (p.=.061). Relevant to this subject, it is reported in Chapter 12 (infra) that 87.2% of the officers responding to the questionnaire item reported knowing of no instance of an officer in the officer's department receiving departmental discipline concerning a search or seizure. It is also reported that there was no association found between knowledge of such disciplinary actions and score.

To determine whether officers were likely to answer items incorrectly as a result of departmental guidance provided in policies, procedures, or training materials, the policies, procedures, or training materials on search and seizure law obtained from eight participating departments were examined to identify deviations from United States Supreme Court decisions tested on. As reported in Chapter 6 (supra), in two instances, a departmental policy or procedure was concluded by the senior author to be more restrictive on warrantless searches of automobiles than Chambers v. Maroney. While these examinations are not reported as authoritative legal reviews of the materials, no other instances of deviation were identified.

Supervisor Authority to Approve Searches and Seizures

The departments of 40.8% of the officers reported that "police supervisors (shift captains, squad sergeants, etc.) have...special authority to approve or disapprove warrantless searches and seizures by line patrol officers." The mean

test scores of officers in such departments and in other departments were virtually identical.

Search and Seizure Law Guidebooks

Approximately thirty-two percent of the officers (153) reported carrying a guidebook of some sort on search and seizure law. However, there was no statistically significant difference (p.=.18) between the mean test score of these officers (8.48) and that of officers reporting that they do not carry a guidebook (8.25). The mean and median helpfulness ratings of guidebooks were 3.6. While no statistically significant relationship between rating and score was found, if officers assigning a rating of "0" (N=7, mean score=9.57) are deleted, there is a perfect positive linear relationship between rated helpfulness of guidebook and score. Those rating their guidebook "1" (N=4) had a mean score of 7.75 and those rating their guidebook "5" (N=42) had a mean score of 8.86.

The departments of 65.5% of the officers reported issuing officers some sort of search and seizure guidebook. One can note by comparing this figure with officer reports on carrying guidebooks that approximately half of the officers issued guidebooks carry them. The mean scores of officers in departments claiming to issue guidebooks was 8.27 and that of officers in other departments was higher at 8.39. The difference was not statistically significant.

Attorney Assistance

The status of the legal advisors of officers' departments, as reported by department representatives, and the mean test scores of officers in departments served by the various types of attorney are reported in Figure 10-1.

Figure 10-2

Mean Test Scores of Officer Duty Shift

Status of Attorney	Percentage of Officers	Mean Scores
Police attorney	27.4%	59.6% (8.34)
City attorney	18.6%	57.6% (8.07)
District attorney	46.4%	59.7% (8.36)
No one	2.1%	60.7% (8.5)

The differences in the mean scores of these groups of officers were not statistically significant.

Police attorney assistance. One of the strongest relationships found in the study was the correlation coefficient between rated helpfulness of police attorneys as instructors on search and seizure law and test score (+.211, p.=.001, N=207). However, the helpfulness rating of police attorneys as instructors (mean=3.1, median=3.4) is lower than that given prosecutors (mean=3.5, median=3.7). It may be that there is substantial real variation in the abilities and helpfulness of police attorneys as search and seizure law instructors. This was suggested by the scores of the police attorney (13 of 14, 93%) and assistant police attorney (8 of 14, 57%) tested in this study.

The departments of 70.9% of the officers reported having available 24-hours a day an attorney to "answer questions on...search and seizure law." The officers in those departments had no better test scores than officers in other departments. Consistent with this, there was no relationship found between test score and officer's rating of ease in obtaining "advice of an attorney...when a search or seizure law question arises during...performance of duty." The mean rating was 2.89. Similarly, there was no relationship found between rated helpfulness of the advice of attorneys when search and seizure questions arise and test scores. The mean rating of the 416 officers providing a rating was 3.4 and the median was 3.7.

District attorney assistance. While 86.5% of the officers were employed by departments reporting that an assistant prosecuting attorney goes "over line officers' cases very soon after arrests to insure legal" sufficiency, there was no statistically significant difference between the scores of these officers (60.4%, 8.46) and other officers (58.4%, 8.18).

Similar to the case with police attorneys as instructors, there was a statistically significant positive correlation (r=+.13, p.=.01, N=297) between rated helpfulness of prosecutors as instructors and test scores. With a mean rating of 3.5 and median rating of 3.7, prosecutors had the highest helpfulness ratings of the various types of instructors.

Conclusions and Implications

The findings reported in this chapter may suggest procedures with some potential to produce greater officer knowledge of search and seizure law. They do indicate that merely having a procedure, whether to inform of law changes, to guide the conduct of searches and seizures, to have supervisors approve and disapprove of searches, or to provide officers search and seizure law guidebooks, cannot be expected to make a substantial positive difference in officer

required serious consideration.

As reported in Chapter 5 (infra), use of the SAS procedure for determining validity of test items (ITEM) indicated that item 4 was highly valid, with 98.4% of officers in the top third of scorers on the other 13 items giving the designated "correct" answer and 78.3% of officers in the bottom third of scorers on the other 13 items giving the designated "correct" answer. Therefore, the more knowledgeable officers on search and seizure law in the sample, in effect, expressed a judgment that sufficient basis to "stop" (detain) was shown. Because of these results, because of the favorable review of the item by the previous panel, because elimination of item 4 would require redoing of all statistical analyses, and because inclusion of the item should not tend to produce an underestimation of officer knowledge of search and seizure law, the decision was made to treat the original "correct" answer as correct.

CHAPTER 3

RESEARCH DESIGN

General Considerations

It was concluded that obtaining a sufficient level of police department cooperation would probably be impossible unless the testing of officers was done at the departments and at times convenient to the departments. Further, it was decided that, in order to insure testing in accordance with set procedures, a project staff member should administer the test in every instance. Testing in the maximum number of states and cities allowed by project budget and time constraints was made a high priority.

The Approach to Stratified Random Sampling

Because the Federal Bureau of Investigation had previously developed and regularly uses a regional breakdown of the states and reports numbers of officers and citizens in six size-grouped categories of cities within each of the nine regions (Federal Bureau of Investigation, 1985, pp.44-51), the decision was made to use that grouping of states, which is shown in Appendix D, as the basis of a stratified random sample. Numbers of officers to be tested in regions and in cities of given sizes within regions were determined by the number of police officers indicated by FBI figures (1984, p. 242) to be employed within the indicated regions and by cities of the indicated sizes within the indicated regions.

Group VI cities, with populations under 10,000, were not included in the sampling scheme because (1) time and budget limitations would not permit staff persons to go to a sufficient number of the small departments in cities of this size to test the proportionate number of officers and (2) it was doubted that the chiefs of such small departments would agree to participation in research which would require that majority, if not all, of his on-duty officers be "off-the-street" at one time.

To maximize the number of states and metropolitan areas in which testing would occur, it was decided that in each region at least one Group I city (population of 250,000 and over) and at least one Group II city (population from 100,000 through 249,999) would be randomly selected. (These cities will be referred to as major sites.) Because of budget and time constraints, the Group III (population from 50,000 through 99,999), IV (population from 25,000 through 49,999), and V (population from 10,000 through 24,999) cities

were randomly selected from among the cities with the indicated populations within 50 miles of the major sites. It was understood that this approach to selection would, unfortunately, probably produce an overrepresentation of police departments in suburban cities near the major site cities.

Appendix D presents the results of initial random selection of major sites and various information regarding ancillary site selection.

Consistency of State Law with U.S. Supreme Court Decisions

Insuring that all of the participating police departments were subject to state law that was no more restrictive regarding permissible police searches and seizures than United States Supreme Court decisions used as the basis for test questions was accomplished by the following process. The senior author telephoned the attorney general's office in each state in which there was at least one tentatively selected first- or second-choice site city. Inquiry was made regarding whether there was in the office a person who could make an authoritative statement regarding whether the state's law regarding search and seizure by line, uniformed police officers was more restrictive than United States Supreme Court decisions. If such a person could not be identified within the attorney general's office, referral to a law professor or some other very knowledgeable person on the subject was requested. By this means, a person whose position indicated that he or she should be qualified to make the judgment requested and who was willing to make such a judgment was located in each state. Appendix E is a listing of offices in which persons providing these authoritative legal judgments were employed. Additionally, members of the project Advisory Board, both of them elected district attorneys, advised project staff that court decisions in California and Massachusetts made the law in those states more restrictive on search and seizure in some instances than United States Supreme Court decisions.

The result of these inquiries was the elimination from participation in the study of police departments in California, Oregon, Washington, Louisiana, New York, Massachusetts, and New Hampshire. The exclusion from the study of police departments in California, Oregon, and Washington, which together have the great majority of the Pacific region's population, made it advisable to eliminate that region, with only Alaska and Hawaii remaining, from the study entirely. Therefore, the findings of this study cannot be seen as supporting generalization regarding knowledge of search and seizure law of line police officers in that region or in other states with search and seizure law which is more restrictive than United States Supreme Court decisions

relating to search and seizure.

Preliminary inquiry regarding Colorado law indicated probable consistency with United States Supreme Court decisions. Because of need to finalize the site visit schedule and a generally tight project schedule, Denver and Boulder, Colorado, were included as project sites. A definitive response from the Colorado Attorney General's Office obtained after testing of officers in Denver and Boulder indicated that the Colorado Supreme Court has issued an opinion that is more restrictive regarding search incident to arrest of an automobile driven by the arrested person than New York v. Belton (453 U.S. 454, 69 L.Ed.2d 768, 101 S.Ct. 2860 (1981)), which was the basis for question 9 on the test. The answers given by Colorado officers on this item were retained in the study data because (1) those answers represented a very small percentage of the study test data (0.43%), (2) 37.9% of Colorado officers answered the item "correctly," compared to 46% of all officers, and (3) retaining data from Colorado police departments in form comparable to that from police departments in other cities was desired.

Securing Cooperation of Police Departments

Based on project staff expectations that about half of the police departments requested to participate would agree to do so and because of desire to expedite the process of confirming which police departments would participate, request letters from the Project Advisory Board (Appendix F) were sent to the first- and second-choice cities.

While the exact subject of the research was not indicated in the request letters, it was correctly predicted by project staff that the majority of departments would want to have that information before a final decision regarding participation would be made. In such cases, department chiefs and contact persons designated by them were told the subject of the study over the telephone, with the requests that (1) the minimum necessary number of persons be given this information, (2) no special preparation for the testing be made, and (3) officers to be tested not be informed in advance regarding the subject of the research.

The departments in which testing occurred, unusual aspects of site selection and securing of cooperation, and number of officers tested in each department are shown in Appendix D.

Selection of Officers to Be Tested

During telephone conversations with department chiefs and designated contact persons, project staff members always

discussed possible approaches to achieving random selection of officers to be tested, which would limit inconvenience to the department and minimize the number of officers taken "off the street" to be tested at any one time. Appendix G is the "on-site procedures and checklist" used by staff members who conducted testing. Appendix H provides information regarding the means by which officers to be tested were selected in the participating cities.

The subjective impression of the staff members administering the test was that administrators and other contact persons generally attempted to cooperate in genuinely random selection of officers. The senior author conducted testing in 20 departments and had the impression that deviations from random selection of officers were more likely to have resulted from attempts to reduce inconvenience to a department rather than from departments' desires to select very knowledgeable officers or weak officers whose presence on patrol would not be missed. The junior author conducted testing in 22 departments and had the impression that there were some instances of a departments attempting to have particularly knowledgeable officers tested.

Test Administration Procedures

To achieve uniformity of administration of the test, an "explanation of study and instructions" sheet (Appendix I), a copy of which was given to each officer before testing, was read to each group to be tested by the staff member administering the test. The sheets instructed the officers to select answers which were correct under United States Supreme Court decisions and assured them that their participation was anonymous. It also informed them that their department's highest scoring officer(s) would be able to claim a certificate from the President of the National Association of State Directors of Law Enforcement Training by presenting an "ID number slip," one of which each officer received at the time of testing. In several cases, officers decided not to receive "ID number slips" and compete for a certificate and, in several very small departments, the staff member deleted this aspect of the procedure to avoid identification of the one or two officers with lower scores through the awarding of a certificate to the highest scorer. The awarding of such certificates was provided for to give officers tested some degree of incentive to "take the test seriously" and genuinely try to select the correct statements.

Additional procedures to be followed during testing are found in Appendix G, the "on-site procedures and checklist" document.

Completion of the Background Questionnaire

Each officer tested also completed a "background information questionnaire" (Appendix J), which elicited demographic information, information regarding search and seizure law training of the officer, and the officer's impressions regarding incidence of various possible adverse consequences of conducting an illegal search or seizure.

Collection of Information regarding the Participating Police Departments

Information regarding each participating police department was collected by having a person, generally the contact person designated by the police chief or the chief himself, complete a copy of the "questionnaire regarding participating agency," a copy of which is Appendix K. In most instances, the staff member had the opportunity to read through the responses with the person completing the form to insure that questions were correctly interpreted and responded to fully.

Comparison Group Test Administrations

In order to have test scores with which to compare the scores of the sample police officers, the test was administered to persons other than working line police officers on a total of nine occasions.

Prosecutors and police attorneys. On one occasion, fifteen elected district attorneys, who were attending a state prosecutors' association meeting, and six assistant district attorneys from the district attorney's office in a major city were tested. On another occasion, an elected district attorney, eleven of his assistant district attorneys, a police attorney, and an assistant police attorney were tested.

Police officer trainees. To have some indication of the scores that can be achieved by police officer trainees who have received no search and seizure law training, the test was administered to 24 trainees at a major city's police department training academy before such training, and to 17 trainees, most of whom had worked for some period as a police officer, at a regional law enforcement academy before the testees had received any in-service or academy training on search and seizure law. To obtain some indication of scores that can be achieved by police trainees after instruction on search and seizure law, 55 members of a basic law enforcement officer training course at a state law enforcement training academy were tested immediately at the conclusion of such training. The instructors were informed regarding the subjects covered in the project test and seemed motivated to

have their students perform well on the test. Also, trainees are required to have a 75% grade average on ordinary legal subjects tests in order to continue in training.

College and university students. In order to have an indication of how well persons other than police officers, but with backgrounds similar to those of police officers, would do on the test, seven students in a Midlands Technical College (Columbia, South Carolina) course were tested. To have additional basis for comparison, students in two University of South Carolina College of Criminal Justice classes (13 and 14 students) were tested. Again, only persons who had had no training or education on search and seizure law were tested.

State trial criminal court judges. At the request of and with the assistance of the National Institute of Justice, arrangements were made to test state trial criminal court judges attending a four-day continuing judicial education program on constitutional criminal procedure. Prior to testing, a project staff member gave each judge a copy of an instruction sheet (Appendix L) and requested that it be read. The day after testing, judges completed a demographics, training, and work-experience questionnaire (Appendix M).

CHAPTER 4

THE DATA AND DATA ANALYSES

Participating Police Departments and Numbers of Officers Tested

The police departments in which testing occurred, with indication of the number of officers tested, are shown in Appendix D, along with the region and Group of each city and the number of officers intended to be tested there. Twenty-six more officers than the sample called for were tested in the South Atlantic region because of (1) testing at the police department in Orangeburg (South Carolina), which is a Group V city, to compensate for failure to secure cooperation of a department in a Group V city in the Mountain Region, and (2) staff misunderstanding regarding the group categorization of Richmond, Virginia. The testing of 41 rather than 26 officers in the Mountain region resulted from a clerical error in the recording of numbers of officers to be tested. Because the analysis of variance indicated no statistically significant differences between officer test scores from region to region and in order to have as large a sample as possible, extra data were retained.

Figure 4-1 presents, for each city-size group within each region, the number of cities initially sought to participate and the number of "first-choice" cities which agreed to partipate. In several instances it was not logistically feasible to have first-choice cities which agreed to participate, participate.

Figure 4-1

Fraction of "First-Choice" Cities Agreeing to Participate by Region and City-Size Group

	City-Size Groups					
Regions	I	II	III	IV	V	Total %
New England		1/1	0/2	0/2	0/2	14%
Middle Atl.	0/2	0/1	1/1	1/2	0/3	22%
East N. Cent.	2/2	1/1	1/1	1/3	1/3	60%
West N. Cent.	0/1	1/1	1/1	1/1	1/1	80%
South Atl.	1/1	0/1	1/1	1/1	2/2	83%
East S. Cent.	1/1	1/1	1/1	1/1	0/1	80%
West S. Cent.	0/1	1/1	1/1	1/1	0/1	60%
Mountain	1/1	1/1	0/1	1/1	0/1	60%
Total %	56%	75%	67%	58%	29%	54%

Data Coding and Missing Values

The authors coded the data with clerical assistance and excluded responses to individual items or even cases when there appeared to be substantial basis, such as giving of 15 rather than 14 item answers, to question the validity or reliability of response.

Fairly frequently, officers' responses to item 6 ("Shift worked now (write in hours)") of the background information questionnaire were not sufficient for the officer's shift to be determined. On each of the items from 24 through 27, one or two officers reported numbers, in some instances in the hundreds, that were so far out of line with the numbers reported by the great bulk of officers that the credibility of their responses was questionable. In these instances, the officers' responses on the items were excluded from the analyses.

Statistical Analyses

Pearsons product-moment correlation and analysis of variance were used to examine the relationships between variables and score. A correlation matrix of all of the study interval-scale variables was obtained to identify potentially significant intercorrelation of variables which might be seen as determining score. A limited number of analysis of covariance procedures were conducted to control for the effects of interval-scale variables which had been shown to be significantly associated with score in examining further the relationships of certain variables with score.

The "helpfulness" in learning search and seizure law ratings given types of instructors and types of instruction by officers were, lacking better measures of quality of instructor and instruction, correlated with score to gain some suggestion regarding the effectiveness of the various types of instructor and instruction.

Item analyses of the test response data (Chilko and Smith, 1986) were conducted to determine the validity of test items. Several variations of factor analysis were conducted with the test response data to determine whether groups of the 14 items in fact measured some identifiable item of information or understanding of a major legal principle, information-processing ability, or test-taking ability.

To obtain some indication whether delay in dissemination of information regarding United States Supreme Court decisions influences knowledge of search and seizure law, the number of months since announcement of principles tested on and the percentage of officers answering the corresponding item

confidence interval and level of confidence. For these reasons, confidence intervals and levels of confidence are not reported.

Bases for Generalization from the Findings

Problems in obtaining police department agreement to participate in research of this type and in achieving random selection of officers to be tested in such a study are probably unavoidable and were encountered in this research. While these difficulties and the identified and other possible sources of bias of scores should be considered by readers in deciding to what extent the findings of this research support generalization, the following factors would tend to support generalization:

(1) The researchers tested 478 line uniformed police officers who were selected by as random means as possible in 52 cities, the great majority of which were either randomly selected first-choice or second-choice cities, in states with search and seizure law which is no more restrictive than United States Supreme Court decisions.

(2) The test used was found by an authority and two panels of experts on search and seizure law to be a valid and legally sound and representative instrument to be used in testing line uniformed officers' knowledge of search and seizure law.

(3) The researchers detected no reason to believe that officers were prepared in any way for testing.

(4) Staff supervision of all testing reduced the possibility of "cheating" by officers.

(5) Statistical analysis of officers' answers to items indicated that the test items were valid (Chapter 5, infra).

Level of Statistical Significance and Approach to Reporting Findings

The general level of statistical significance utilized was .05. However, when only a small number of a particular statistical procedure were conducted with a relatively small number of cases, the .1 level was utilized.

When statistical analyses are conducted with data from a relatively large number of subjects, as was the case in this study, some number of correlation coefficients and other measures of association can be expected to meet the standard for statistical significance as a result of random distribution rather than as a result of the existence of an actual general association. This fact cautions one to be skeptical of weak but

statistically significant associations found in this type of study. However, the senior author (Memory, 1977), in a review of the literature on police nonexercise of discretion to arrest (Cruse and Rubin, 1973; Finckenauer, 1976; Goldstein, 1963), identified at least 63 different variables which might influence this decisionmaking. Just as police officer behavior is clearly influenced by many factors, one would expect to find that police officer knowledge of and ability to apply search and seizure law would be influenced by a large number of variables. When a large number of variables are causally related to another variable, variables which have a consistent general influence on the dependent variable may be shown to be only weakly associated with the dependent variable. Also, correlation coefficients might be found to be low as a result of low variation in dependent or independent variable values (Blalock, 1972), which occurred in some instances in this study, such as distribution of officer scores (Chapter 5, infra).

Because police officer knowledge of search and seizure law has substantial policy significance and practically significant variables should be expected in some instances to be found to have only weak associations with score, the decision was made, in some instances, for informational purposes, to report correlation coefficients which failed to achieve statistical significance, with indication of the associated level of probability.

CHAPTER 5

TEST RESULTS

Sample Test Scores

The mean score of the 478 officers tested was 59.4% (8.32 correct answers out of 14) and the median score was 60% (8.39). Only one officer gave correct responses to all 14 items and only one answered all but one item correctly. (Six of the 55 trainees tested at the conclusion of search and seizure law training answered all of the items correctly and four answered all but one item correctly.)

Test Score Distribution

The distribution of test scores of the sample officers is shown in Figure 5-1.

Figure 5-1

Distribution of Test Scores

Number Correct	Number with Score	Percentage Correct	Cumulative Frequency
3	2	.4%	.4%
4	6	1.3%	1.7%
5	18	3.8%	5.4%
6	48	10%	15.5%
7	79	16.5%	32%
8	97	20.3%	52.3%
9	104	21.8%	74.1%
10	79	16.5%	90.6%
11	30	6.3%	96.9%
12	13	2.7%	99.6%
13	1	.2%	99.8%
14	1	.2%	100%

Reliability and Validity of the Test Instrument

Test responses of the 478 police officers were analyzed using an academic statistical package (SAS) procedure (ITEM) (Chilko & Smith, 1986) to determine the validity of test items. Figure 5-2 shows the percentage of officers who answered particular items correctly and were in the top thirds of scorers on the remaining 13 items and the corresponding percentages for officers in the bottom thirds.

"probable cause," suggesting that it is difficult to understand and apply. (2) Questionnaire responses of police officers suggest that much training on search and seizure law is going on. Still, major deficiencies in knowledge and the ability to apply the knowledge were found. (3) While six of 55 police trainees tested immediately after intensive and current search and seizure law training answered all of the items correctly, five missed six items, five missed seven items, and one missed eight items. (4) The judges tested reported participating in a substantial amount of continuing education and independent updating on search and seizure law and ruling on a search and seizure suppression motion approximately once every two months. Yet, these judges generally had less than thorough knowledge of this area of search and seizure law. (5) Elected district attorneys supervising attorneys who presumably routinely decide on the legal sufficiency of searches and seizures had scores insignificantly higher than those of police officers. (6) None of the six reviewing experts on search and seizure raised a potentially important issue relating to the application of Payton v. New York (445 U.S. 573, 100 S.Ct. 1372, 63 L.Ed.2d 635 (1980)) to the first item, suggesting that even experts have difficulty applying this law, even under ideal circumstances.

One might argue that recruitment of more "able" persons as police officers, elimination of officers with clearly deficient competence in the area, substantial improvement of basic and in-service training, and other measures should produce significant improvements of officer knowledge of search and seizure law. Regardless, it seems reasonable to conclude that, under present conditions, search and seizure law may be, for a significant percentage of line uniformed police officers, practically "unknowable."

Educational effect of court evidence-suppression proceedings. One might expect officers who have been exposed to numerous Fourth Amendment evidence-suppression hearings to have relatively lower test scores as a result of less knowledgeable officers being more likely to carry out unlawful searches and seizures which defense attorneys would be likely to attack. In fact, a statistically significant, but weak, positive association (the higher the exposure to suppression proceedings, the higher the knowledge) was found. This finding is interpreted as suggesting that the Mapp v. Ohio (367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961)) exclusionary rule may have some "educational effect" (Skolnick & Simon, 1984) for police officers. (p.64)

Surprisingly, no association of judge score and estimated number of suppression motions ruled on was found.

Modification of the Mapp Exclusionary Rule as it applies to warrantless searches and seizures. It is assumed that, for citizens' Fourth Amendment rights to be protected and for police officers to be as effective as possible in law enforcement, crime prevention, and order maintenance, officers must have adequate knowledge of search and seizure law. Since protection of citizens' rights, law enforcement, crime prevention, and order maintenance are primary functions of police (Wilson, 1970), any modified version of the Mapp exclusionary rule applicable to warrantless searches and seizures should (1) tend to promote acquisition by police officers of adequate knowledge of search and seizure law and (2) not create incentives not to know that law. (p.71)

Exposure of police officers to adverse consequences of illegal searches and seizures. Of the officers responding to the relevant questionnaire items, 46.6% reported never having been directly exposed to a Fourth Amendment evidence-suppression hearing or having been very familiar with a case in which one occurred; 75.8% reported never having had a case "dropped" by a prosecutor as a result of illegality of a search or seizure; only 12.8% reported knowing of one or more instances of departmental disciplinary action as a result of a search or seizure; and one out of 25 reported having been sued as a result of a search or seizure. Given that the sample officers had a mean of 9.3 years of experience in police work, these findings are taken together as indicating that, in general, line uniformed police officers are aware of only a relatively low incidence of adverse consequences of illegal searches and seizures by officers.

Police officer motivation to learn search and seizure law. Two major conclusions of this research are that (1) the great majority of line uniformed police officers in states with search and seizure law no more restrictive than United States Supreme Court decisions on search and seizure have significant gaps in their knowledge of that law and (2) police officers in these states are, in general, aware of only infrequent occurrence of adverse consequences of illegal searches and seizures by police officers. The statistical analyses could not be used to either prove or disprove a causal connection between these two conditions. However, there is certainly strong suggestion that officers, convinced that adverse consequences of illegal searches and seizures are unlikely, have had little motivation to learn and stay current on search and seizure law.

It may be that, in a similar way, police departments generally have had little incentive to insure that officers are fully informed concerning search and seizure law.

Possible consequences of deficiencies in knowledge for law enforcement effectiveness. Of all of the test answers given by police officers, 21.1% reflected lack of awareness of the availability of a law enforcement power in a particular situation and an additional 5.6% reflected lack of officer awareness of the availability of authority in a particular situation to take action to protect himself or herself. Adding the 21.1% and the 5.6% shows that 26.7%, or more than one out of four, of all of the test answers by police officers reflected failure to know or recognize that he or she would be authorized in a given situation to take either action to enforce the criminal law or to protect himself or herself. It follows that informing officers better regarding search and seizure law might contribute, even substantially, to their law enforcement effectiveness and, to a lesser extent, the safety of officers. (This is suggested knowing that officers will not always exercise law enforcement powers they know they have (Goldstein, 1963) and they will not always refrain from actions they know to be unlawful (Rubenstein, 1973).)

Consistent with this, a strong ($r=-.58$) and statistically significant ($p.=.024$) negative association of mean officer score and reported 1984 burglary rates for the cities with 12 or more officers tested was found. (In other words, the higher the police officers' test scores, the lower their city's reported burglary rate tended to be.) That association is interpreted as suggesting that improvement of officer knowledge of search and seizure law should at least not be expected to result in decrease in crime prevention and law enforcement effectiveness of officers. (pp.67-68)

The Prospects for Change

It is clear that the Mapp exclusionary rule prompted much of the training and education on search and seizure law which was reported by police officers and police departments participating in this research (LaFave, 1978, p. 26). Unfortunately, it was found in this study that those training and educational efforts have been unsuccessful in conveying to a substantial percentage of line uniformed police officers a minimal working knowledge of search and seizure law or preventing the great majority from having significant gaps in their knowledge. Incentives for police officers, judges, and others to improve their knowledge on this subject may be difficult to increase. Greatly improved training curricula, even assuming they will become available, cannot overcome the reality that this is a voluminous, complex, difficult, and, at times, rapidly changing area of law. Significant general improvements in the competence of instructors and methods of instruction will be difficult to achieve. The demands of police and judicial work and the types and abilities of

persons who enter these positions are very unlikely to change. Therefore, unless institutions, agencies, individuals, and the general public learn of these deficiencies in knowledge of persons who apply search and seizure law, decide that these deficiencies must be overcome, and are willing to take concerted remedial action, the likelihood of significant general improvements in knowledge on this important subject is low.

Recommendations

Even though this was a broad and somewhat exploratory study of knowledge of a limited area of law among a certain category of police officers in states with relevant law no more restrictive than United States Supreme Court decisions, several of the conclusions drawn from data analysis findings are so clearly well supported that recommendation of action in several cases seems justifiable. Recommendations for action by particular actors in the criminal justice process are presented together.

Police training standards agencies.

(1) Implementation, if not presently in effect, of standards requiring that basic police trainees, in order to be graduated and certified as police officers, meet demanding search and seizure law knowledge requirements. (p.56)

(2) Implementation, if not presently in effect, of standards requiring that law enforcement agencies provide, at least to line uniformed officers, annual search and seizure law updating and biennial search and seizure law review, utilizing materials of established currency and high quality and, if available, an attorney instructor. (p.56)

Police departments. Many of the findings and conclusions of this research may suggest action that police departments might take. While not wishing to discourage consideration of other actions, the following recommendations are made:

(3) Implementation, if not presently in effect, of a search and seizure law in-service training program consistent with requirements in recommendation 1 above. (pp.53-55)

(4) Measures to insure that all age groups of officers, young and older, receive required in-service training on this subject. (p.39)

(5) Implementation of departmental incentives, possibly

involving pay and promotion systems, for officers to know search and seizure law and be able to apply it correctly. (p.58)

(6) Movement into non-sworn positions of officers who are unwilling or unable to acquire or retain adequate knowledge of search and seizure law.

Police attorneys.

(7) Availability to instruct on search and seizure law and answer officer questions on the subject of an attorney with a thorough knowledge of that law and understanding of police duty situations in which officers may apply the law. (p.47, pp.53-56)

District attorneys.

(8) Availability to police departments, if needed, of instructors as described in recommendation 7 above. (p.47, pp.53-56)

(9) Implementation of a system, if not in effect, for informing police officers of declinations to prosecute and case dismissals resulting from illegalities of searches or seizures. (p.63)

Appellate courts.

(10) Articulation of search and seizure law principles which are not unnecessarily difficult for police officers to understand, learn, retain, and apply in duty situations with an acceptable level of accuracy and consistency. (pp.64-66)

Legislative bodies.

(11) Allowance of adequate funding for training in accordance with recommendation 1 above. (pp.50-53)

(12) Scrutiny of legislation concerning search and seizure to insure that the promulgated principles are not unnecessarily difficult for police officers to understand, learn, retain, and apply in duty situations with an acceptable level of accuracy and consistency. (pp.64-66)

CHAPTER 1

INTRODUCTION AND OVERVIEW

A line uniformed police officer's lack of knowledge of search and seizure law might result in a wide variety of consequences, most of which are generally viewed as undesirable. They include violation of a citizen's Fourth and Fourteenth Amendment rights, exclusion of the items seized from introduction into evidence at trial (Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961)), failure to obtain the conviction of clearly guilty persons, failure to take authorized law enforcement action, liability for damages (42 U.S.C. section 1983), and disciplinary action taken by the officer's department, among others. Information regarding officers' knowledge of search and seizure law could be seen as relevant to significant issues, such as the effectiveness of various types of training, higher education of police, police selection, the effects of the Mapp exclusionary rule, and others. In spite of the obvious importance of the line officer's knowledge of search and seizure law, there has previously blen no known national study on the subject.

The Research Questions

The research reported here addressed the following major questions:

1. How well can line uniformed police officers in states with search and seizure law no more restrictive than that delineated in United States Supreme Court decisions apply that law?

2. How great is the variation in knowledge from department to department and from region to region?

3. What types of training and police department procedures are associated with relatively greater success in application of search and seizure law?

4. Generally, which of a variety of demographic and experiential variables can be shown to have statistically significant relationships with officer ability to apply this law, suggesting possible causal connection?

While testing of relatively small numbers of judges and prosecutors occurred, it was not a central aspect of the research. Instead, it and testing of groups of police trainees and college and university students were conducted to provide some suggestion regarding how line uniformed police officer performance compared with that of members of several other

groups.

Organization of the Report

This report is expected to have a diverse readership. Because it presents the findings of the first research of its scope on the subject, because legal and methodological soundness are crucial to the validity of the research, and because the findings may be seen as having a variety of significant policy implications, detailed descriptions of the development of the test instrument, the site selection, and the data collection are provided in the following two chapters. The next chapter describes the data and data analyses. Chapters 5 and 6 report the results of officer testing using a videotaped test and provide interpretations of those findings. Chapters 7, 8, and 9 present findings, conclusions, and implications relating to the data on region, city size, officer demographics, and officer education. Chapter 10 concerns police department procedures and attorney assistance as they relate to knowledge of search and seizure law. Chapter 11 presents findings, conclusions, implications, and recommendations concerning training of police officers on this subject. Chapter 12 includes report of findings and conclusions regarding the relationship of various aspects of officer duty experience and knowledge of this law and implications regarding a variety of significant issues. Finally, Chapter 13 presents suggestions for additional research.

CHAPTER 2

DEVELOPING A LEGALLY SUFFICIENT TEST INSTRUMENT

In order to be able to quickly test officers, some with limited reading abilities, on a sufficient number of search and seizure law principles to have an arguably valid and reliable measure of knowledge, the decision was made to videotape scenarios in which multiple-choice questions would be interspersed. It was agreed by the project staff and the project Advisory Board (Appendix A) that, in order for dispute regarding legal sufficiency of the test to be minimized, scenarios and questions should be based on specific United States Supreme Court decisions. The Advisory Board suggested decisions to be used for that purpose and attorney members of the Advisory Board and attorney members of their staffs participated in the early development and revision of scenario scripts.

Scenario Drafting Principles

The senior author conducted final revisions of the scenario scripts and drafted and placed questions based on the following principles, which were agreed to by the Advisory Board and project staff:

(1) Each scenario should, if possible, be used to test on more than one principle, so as to reduce the tape running time needed to accomplish the maximum extent of testing.

(2) Information should, if possible, be conveyed through action or dialogue, rather than by a narrator, to increase the "real-life" quality of the videotape.

(3) Use of ambiguous terms should be avoided: officers in every part of the United States should be able to understand all of the language used.

(4) While retaining the crucial factual elements, the major cases upon which the scenarios were based should be made unrecognizable, so as to avoid answering of questions based strictly on case recognition.

(5) Complicating factors in the major cases, such as the possible application of legal principles not addressed in the decisions, should be avoided in the scenarios.

(6) Officers should be shown taking only lawful action and the testees should be instructed to assume that all of the actions taken by officers were lawful, so as to avoid the possibility that an officer would answer a question

based on the perception of prior illegality of officer action.

(7) The number of actors and elaborateness of sets and action should be reduced as much as possible, without jeopardizing the legal sufficiency of the test, so as to reduce taping time and cost.

(8) Multiple choice-type questions should be used, so as to reduce the likelihood that correct answers will be chosen by chance.

(9) Officers should, for each question, be instructed to select the correct statement, be shown and read full versions of each alternative statement, and, finally, be shown simultaneously on the screen abbreviated versions of the same statements.

(10) Instructions should include the instruction that the officer select the best-available, most correct statement.

(11) Officers should be instructed not to allow disagreement with police procedures followed by officers in scenarios to influence their selection of answers.

The United States Supreme Court decisions upon which items were based and brief statements of the principles of law tested on are shown in Appendix B.

Legal Review of the Scenario Scripts, Items, and Answers

The project staff and Advisory Board agreed that establishment of legal soundness of the test was very important. To accomplish this, Joseph Grano, Distinguished Professor of Law at Wayne State University, was contracted with to review the scripts and develop an opinion regarding whether the selections of "correct" alternatives were clearly legally correct and whether the scenarios and questions together, faithfully produced in videotape form, could be utilized in valid and representative testing of line uniformed police officers regarding search and seizure law under United States Supreme Court decisions applicable to their function. While making several suggestions regarding revision of the scenarios and questions, Professor Grano expressed positive opinions in response to the submitted questions.

Pretesting of Scripts

After revision in accordance with the suggestions made by Professor Grano, the scripts were pretested with the 37

members of a basic law enforcement course class at the South Carolina Criminal Justice Academy in Columbia, South Carolina, which had completed its search any seizure law instruction. The full scripts were projected on a screen and simultaneously read to the class.

The responses were subjected to item analysis utilizing the South Carolina Criminal Justice Academy item analysis program. In all but one instance (item 3), students with above-average scores on the other 13 items were more likely than the students with below average scores to answer items correctly. Discrimination index scores, which represent the difference in the percentage of the above-average scorers on the other 13 items answering the item correctly and the percentage of the below-average scorers answering it correctly. Those scores were (1) .412, (2) .152, (3) -.003, (4) .000 (all students answered correctly), (5) .105, (6) .263, (7) .201, (8) .421, (9) .368, (10) .345, (11) .614, (12) .36, (13) .096, and (14) .208. Items three and four clearly did not distinguish between officers with strong and weak abilities to apply search and seizure law. However, they were concluded to be legally sound and were retained. The results generally were interpreted as indicating that the test could serve as a valid and reliable means of measuring officers' knowledge of search and seizure law.

Production of the Videotape

The final scripts (Appendix C) and questions were used by the Alameda County (California) District Attorney's Office in producing the videotape which was used in testing. Police officers of Oakland-area police and sheriffs' departments were used as actors. Appendix C also shows ways in which the videotaped dialogue and action deviated from the scripts.

Payton Question Problem

After receiving the results of authoritative legal review, after arranging for taping of the scenarios, and after the taping of the first scenario, the senior author learned that the "correct" item 1 answer, "a," while being clearly the most nearly correct statement, is arguably not totally correct. The problem was that there was not established, as required by Payton v. New York (445 U.S. 573, 100 S.Ct. 1372, 63 L.Ed.2d 635 (1980)) and later cases (State v. Loftin, 276 S.C. 48, 275 S.E.2d 575 (1981) and State v. Roepke, 217 Neb. 139, 347 N.W.2d 857 (1984)), reason to believe that the person to be arrested under an arrest warrant was in his residence at the time of entry without consent. Because of tight project time schedule, it was not feasible to have the tape altered to solve this problem.

Because the officers' instructions were to select the "most accurate and correct answer under U.S. Supreme Court decisions," because alternative "a" was clearly the "most accurate and correct answer," and because pretesting indicated that there was no tendency for high-scoring testees to miss the item and low-scoring testees to answer it correctly, the decision was made to leave the question in, pending results of the item analysis of the sample results.

The item analyses of sample result, utilizing the SAS "ITEM" procedure (Chilko & Smith, 1968), revealed that 54.8% of those above the 66.6 percentile in score on the other 13 items answered this item correctly and 25.5% below the 33.3 percentile answered it correctly. The "correct" response, "a," had a point biserial value of .269 (p.=.0001) and the other responses had values of -.17 (p.=.0002) and -.15 (p.=.001). These findings indicated that there was no tendency for the more knowledgeable officers to give an answer other than "a." Based on these considerations, the decision was made to retain the item responses in the test data.

Panel Reviews of the Videotaped Test for Legal Sufficiency

During June of 1986, the senior author arranged to have two senior attorney instructors on search and seizure law at the South Carolina Criminal Justice Academy review the videotaped test for legal sufficiency. James Kirby and Henry Wengrow viewed the videotape together and concluded that all of the alternatives designated as "correct" by project staff were correct and that none of the other alternatives were correct.

Because the testing of judges did not occur until August of 1987, about 16 months after the production of the videotaped test, panel review of the test for current legal sufficiency was arranged. Justice William A. Grimes, retired Chief Justice of the New Hampshire Supreme Court, Justice Joseph R. Weisberger, Associate Justice of the Supreme Court of Rhode Island, and Judge Charles E. Moylan, Jr., Associate Judge of the Court of Special Appeals of Maryland were posed the same questions as Professor Grano. After viewing the videotape together, the panel prepared a written review opinion.

After concluding that "in nearly every instance the rule of law was clearly illustrated and the suggested correct answer was a proper reflection of a rule adopted by the Supreme Court," the panel stated, concerning item 4, that "the presence of an articulable suspicion was arguable, although we would probably have sustained a trial justice who found articulable suspicion." Obviously, this opinion