

Writing Assignment 2

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CRJS 262 Law & Criminal Justice System

1.

1a. Do you need a warrant to search Joe's apartment? Do you need a warrant to search Joe's red Mustang? What are your options, if any, for both?

Based on the information provided, I believe that a search warrant is necessary for both Joe's apartment and red Mustang. However, a search warrant may not be needed if Joe gives consent to law enforcement to search his apartment and Mustang. There are different scenarios in which his Mustang can be searched, the first one being while he is actually operating the vehicle, and the other one being that his Mustang is parked outside his apartment. Overall, in this situation, I believe that a search warrant is certainly necessary unless Joe consents. Another thing is that since Joe is only a suspect and not under arrest or in custody, so it is likely that law enforcement would need a warrant.

1b. What investigative steps would you take to develop facts and circumstances to establish probable cause to search Joe's apartment and red Mustang? Use your imagination: Identify people you might interview, what you might observe, and what type of information and evidence you want to collect?

One step that could be taken to establish probable cause to search Joe's apartment and red Mustang would be to consider having police monitor his activity over the next few days to make sure that the anonymous callers can be trusted. Another step that can be taken is to interview the anonymous callers to see if they might have any more information. I could also interview people at the pawn shop since it has been reported that Joe frequently visits there. I could ask them how often he goes there, as well as what is in the boxes that Joe is giving to them.

1c. Now suppose you do not conduct any searches because you fail to develop sufficient information through your investigation, though you still believe Joe is responsible for the campus burglaries. So instead, you decide to meet Joe and question him in his apartment while his roommate Sherlock is present. Must you give Joe *Miranda* warnings under these circumstances? Explain and justify your answer, including why it might be difficult to answer this question with the few facts given, and what specific facts might help determine whether *Miranda* warnings are needed or not.

Under the circumstances given, I would not give Joe his Miranda warnings. While I would be interrogating Joe by questioning him on the burglaries, there is no custody in place to give Joe his Miranda warnings. To give Miranda warnings to someone, **both** interrogation and custody are needed. This question could be difficult to answer with such few facts because though we are suspicious of Joe, we do not actually know if he is actually guilty. If we were to put him in custody along with interrogating him, we then could give him Miranda warnings.

2.

2a. You are the judge presiding over Larry's motion to suppress his confession. Whose position will prevail – Officer Gonzalo's or defendant Larry's? In answering this question, what more would you like to know, if anything? What legal standards relating to Miranda will you use to justify your ruling?

I believe that Officer Gonzalo's position will prevail. Though Larry claimed that he was interrogated by Officer Gonzalo, there is also nothing that suggests that Larry was under custody. The question also mentions that the two were "chatting" which is not the same as

interrogation. It appears that the two were making small talk which eventually led to Larry's confession. One thing I would like to know is what they were talking about leading up to Larry's confession. The main legal standard relating to Miranda that can be used to justify why I think Officer Gonzalo's position will prevail is because Larry was never in custody.

3.

3a. What impact does the use of technologies by law enforcement agencies have on individual U.S. Constitution Fourth *and* First Amendment rights? In answering this question, include *at a minimum* the following U.S. Supreme Court cases: *U.S. v. Carpenter*, *Katz v. U.S.* and *Kyllo v. U.S.* For each court case cited, describe the specific technology used by law enforcement, what data did law enforcement actually collect using the technology, and why that data and how it was collected might raise constitutional concerns.

Law enforcement's use of technology is continuing to have a major impact on the rights of Fourth and First Amendment rights. The first case regarding the use of technology by law enforcement is *Kyllo v. U.S.* In this case, thermal imaging devices were used near *Kyllo's* home on the suspicion that he was growing marijuana there. Through the thermal imaging, officers were able to detect a hotter presence within a certain area of *Kyllo's* home, which was in fact 100 marijuana plants. The main concern was that *Kyllo's* home was unlawfully entered in from outside, which is unconstitutional without a search warrant and a violation of the Fourth Amendment. The next case regarding the law enforcement's use of technology is *Katz v. U.S.* In this case, *Katz* was spied on in a phone booth by a tap that was placed on it by law enforcement. After listening in on *Katz's* phone calls, they arrested and charged him on

knowingly transmitting wagering information by phone between states, which is a federal crime. The tap on a public phone booth was a violation of the Fourth Amendment and a person's reasonable expectation of privacy. The last case regarding law enforcement's use of technology is *Carpenter v. U.S.* This case is about the privacy of cell site location information (CSLI) and when the government can access it. The government unlawfully used CSLI to gather information on Timothy Carpenter through his phone over 127 days, which led to his arrest for his involvement in nearby robberies. This was also a violation of the Fourth Amendment, as a search warrant is required to gather information on a person.

3b. Now specifically address the use of drones by law enforcement agencies. You must explain what drones are, how drones are used by law enforcement, and what impact does the use of drones by law enforcement agencies have on individual U.S. Constitution Fourth and First Amendment rights.

Drones are devices that can capture videos or images of things from a birds-eye view. Law enforcement agencies used drones for many reasons, including SWAT operations, hostage situations, as well as for surveillance of large crowds and suspicious activity. These drones used by law enforcement can violate the Fourth Amendment as they are an invasion of privacy. However, drones can be used in the case that there is a search warrant. Police drones are not a violation of the First Amendment, as they are a creation of videos, which is protected by the First Amendment.