

**Class 17: Standing**

Admin

- Next Time: 464-86
- Two very short blurbs about Herring v. US posted to website.
- No Office Hours today

Last Time

Special Needs

- "Community Caretaking Function"
- Special Needs Generally
  - Perceived need, beyond the normal need for criminal LE makes the warrant and/or PC requirements impracticable or irrelevant

Roadblocks

- Brown v. Texas
- Fixed Checkpoints Allowed
  - At the border
  - Martinez-Fuerte: Interior Searches for Illegal immigrants
  - Sitz: Drunk driving checkpoints
  - Prouse: Dictum that fixed stops for unlicensed drivers/unsafe vehicles would violate
- Drug Possession/Trafficking (Edmond)
  - Facts
    - Stop, signs of impairment, plain view look through windows, **license and registration**, K-9 dog sniff
  - Held
  - Reasoning
- Case investigation (Lidster)
- Exceptions/Hypos from Edmond/O'Connor and Sitz/Stevens
  - Airline screening
  - Public building metal detectors
  - Subway passengers/metal detectors
  - Stevens' breathalyzer at toll booth
  - Terrorist attack.
  - Kidnapper fleeing the area with his victim.
  - Sniper

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Transition from Substantive to Procedural

What are the remedies for IV violations?  
Standing, the Exclusionary Rule, and Exceptions

Basic Idea of Standing

The extreme cases are obvious

Police break into your house, pat down your person, and seize things that belong to you.  
In a public place, police search you and guy 20 feet away from you. Arrest you both.

Early development of Rule

Alderman { "May not be vicariously asserted"  
"Personal rights"  
Jones { "One must have been a victim of a search or seizure"  
It's not enough that the fruit of the search will be used against you in court.

Possible Textual Hook

The right of the people to be secure in their persons, houses, papers, and effects . . .

NOT about Article III, case and controversy standing

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Effect of Rule

Payner

Facts

CI (with approval by  
govt agent of basic plan)

- Got target involved with female CI
- Target gave CI his key to apartment
- Lured Target out to dinner with CI

While Target and CI dined

Used key to get into apartment  
Took briefcase and delivered it to agent, who supervised photocopying.

Replaced briefcase.

Defendant was downstream

- Papers in briefcase led from Bank A to Bank B
- Subpoena to Bank B turned up evidence that D falsified tax returns

One fact omitted

District Court found: "the government affirmatively counsel[ed] its agents that Fourth Amendment standing limitation permits them to purposefully conduct an unconstitutional search and seizure of one individual in order to obtain evidence against third parties"

Held

No standing to complain.

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Hard Cases in the Middle

