

Class 4: Knowing Exposure And Seizure

Admin
Next Time: 132-62
Next Thursday: NO supplemental reading (assignment: 187-202)
Week from Tuesday: Handout will be posted.

Last Time
Places Tests
The vantage point of the officer / mode of intrusion { ground versus air
ladder versus bus
The mode of info collection
The intimacy of the info collected
The Home

Seizure
Physical Seizure
Intangible Seizure
Omitted from excerpt { Coming technology
Bypass molecules (wireless)
Skip third-party intermediaries
Circumventing virtual walls and doors
Two tests { Dominion and Control { Stevens Dissent in Karo
The Right to Delete { This is "meaningful dispossession" of intangible data.

Class 4: Knowing Exposure And Seizure

Knowing Exposure / Assumption of Risk

- No expectation of privacy in these things
 - Garbage left outside home
 - Financial information voluntarily left with a bank.
 - Numbers dialed recorded at phone company
 - Where you travel around town (augmented through a tracking beeper)
 - Certain Dog Sniffs

- Expectation of Privacy in these things
 - Tracking beeper movement inside a home.
 - Heat emanating from different parts of your home, as viewed through thermal imager.

- Knowing Exposure and "third-party" doctrine
 - Three Points
 - Is risk "assumed" here?
 - FN5: What is an acceptable risk?
 - Note 1: To whom is the information exposed?
 - Hypo: E-mail inbox

Use FN7 on 127 as review problem.

Statutory response

Smith v. Maryland

- Facts
 - Police request and telephone company installs a pen register at telco's central offices
 - No warrant or court order
 - Used to find person making harassing phone calls.
- Held
- Reasoning