

# Free search and seizure essay example

[Law](#), [Evidence](#)



1. Can you seize the marijuana plants at that time? If yes, what is your legal justification for doing so? If no, what legally prohibits you from doing so?

Yes, the officer can seize the marijuana plants at that time. While the Fourth Amendment, generally requires that a search or seizure is made pursuant to a warrant there are several exceptions. One such exception is known as the “ plain-view” doctrine which provides that a police officer can seize evidence without a warrant if: she is legitimately on the premises; discovers the evidence in plain view and has probable cause to believe the evidence in contraband. In the scenario presented, the officer was legitimately on the premises to investigate a noise complaint in violation of a local ordinance; discovered the marijuana plants in plain view and knew (from her training and experience as a police officer) that it was contraband (assuming that the incident did not take place in Colorado or Washington State). Accordingly, she had the right to seize the marijuana at the time she discovered it.

2. Based on your observation of the marijuana plant, do you need a search warrant to enter the house and residence? If yes, what is the basis for this legal requirement? If no, what is the justification for this exception to the search warrant requirement?

No, I do not need a search warrant to enter the house and residence. The observation of the marijuana plants along with the loud music gives the police officer probable cause to believe that it is being consumed inside the house in violation of the law. Furthermore, the officer could also argue that the “ evanescent nature” of marijuana, which can be quickly flushed down a toilet or thrown into a fire, requires that she enter the residence immediately to preserve any remaining evidence before it can be destroyed. Additionally,

if the officer arrested the resident for the possession of the marijuana plants, she would be allowed to search his person incident to arrest for weapons or further evidence and depending on where the arrest was made, the officer is also allowed a “ protective sweep” of the immediate area around the arrested resident for weapons or further evidence.

3. If you enter the residence and seize additional evidence inside and that search and seizure is later deemed illegal, would the additional evidence be admissible in court? Why or why not?

No, the additional information would not be admissible in court. Under the “ Fruit of the Poisonous Tree” doctrine, any evidence that is obtained as a result of an illegal search or seizure will be deemed inadmissible in court under the exclusionary rule. In the scenario presented, if the officer enters the house without probable cause, for instance, any evidence, even evidence that is clearly a violation of the law (such as weapons or more marijuana plants) that was obtained by the police officer would be inadmissible. This is because, the additional evidence would not have been discovered but for the police officer’s illegal actions. Under the Fourth Amendment, this is considered an unreasonable seizure and it therefore not allowed.

## **References**

Hendrix, N., & Inciardi, J. (2013). *Experience Criminal Justice*. New York: McGraw Hill.

LaFave, W. R., Israel, J. H., & King, N. J. (2000). *Criminal Procedure* (4th ed.). St. Paul, MN: West.