

Search and seizure

[Law](#), [Common Law](#)



In this paper I will discuss a homicide scenario that involves a widow Mary Ellis and her son William Ellis and neighbor Clyde Williams. I will discuss how the 4th Amendment relates to the story and several court cases. This paper will also include what is needed for police to obtain a warrant and what circumstances will allow law enforcement to enter a residential home. I also plan to discuss what the meaning of the exclusionary rule and fruit of the poisonous tree doctrine. This paper will discuss the scenario of Mary Ellis and her Son William.

I will discuss the 4th amendment rights and the exclusionary rule of the evidence as it applies to Mary and Williams's story. I will also discuss several different cases involving the exclusionary rule and the fruit of poisonous tree. On Saturday morning Mary Ellis, a widow who lives with her adult son William Ellis, went to open her walk-in closet and found her neighbor Clyde Stevens lying on the floor and unresponsive. Mrs. Ellis called 911 and upon their arrival Mr. Stevens was pronounced dead from a stab wound. The stab wound was caused by a large butcher knife that was protruding from his back. Mrs.

Ellis was taken to the hospital for observation because she was distraught. The 4th Amendment of the U. S. Constitution states the rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (FindLaw, 2014) Even though the 4th Amendment states no

warrants shall be issued without probable cause law enforcement can search you home without one.

For example, if an adult is home and he or she has control over the property and gives an officer permission to search no warrant is needed, if the police is called to a resident's home and an arrest is made no warrant for search is needed, if an officer is in your home and the items are in plain view no search warrant is needed. A search warrant is an order signed by a judge that allows law enforcement to look in specific places or specific items at a certain time.

An officer would only need to show probable cause meaning there are facts or evidence that lead a reasonable person to believe that a suspect has committed a crime and that could be something as small as the smell of drugs. In the case of the Mary and William Ellis their 4th Amendment rights have not been violated. Mary called 911 and along with paramedics the police was given permission to enter the home. After entering the home it was determined that there had been a homicide due to the butcher knife planted in Mr. Stevens back in plain view. It was apparent to law enforcement that a crime had taken place and Ms.

Ellis's adult son William was not in the home at the time of their arrival which could fall under the guidelines of exigent circumstances. Exigent circumstances exist when a person's life or safety is threatened, a suspect's escape is imminent, or evidence is about to be removed or destroyed. When officers violate a person's 4th Amendment right like in the case of *Weeks v. United States* (1914) any evidence that is seized is no longer usable. Weeks was not home at the time of law enforcement's arrival. When law

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enforcement arrived neighbors advised them of the location of an extra key to the home.

Once officers gained entrance they searched and seize several items illegally. At this point law enforcement has the legal right to access the Ellis household because the entire home is now considered a crime scene. The victim's body was found in Mary's room and blood evidence was found in William's room making the entire home part of the crime scene. Crime scene investigators actively process the scene finding William's bloody fingerprints adjacent to a light switch in his room and the blood DNA matches the victim Clyde Stevens.

Law enforcement needs to limit the amount of people entering and exiting the home so that proper securing and collecting of evidence can take place. If law enforcement didn't follow the proper procedure and did a search of the home all of the blood evidence found in William's room could not be used in court. For example in the case of *Mincey v. Arizona* where narcotics officer and several plainclothes officers raided the home of Mincey. One officer was killed and Mincey was injured. Mincey's apartment was searched for four days while he was in the hospital barely conscious.

While in the hospital officers proceeded to question him even though he asked for an attorney. Mincey's 4th Amendment rights was violated when his apartment was searched and when he was questioned after stating he wanted an attorney. Court papers stated that after being involved in a shootout instead of looking for more victims, officers were searching the apartment. When evidence is obtain illegally it then falls under the exclusionary rule which is a court created rule that prevents law

enforcement personnel to use evidence obtained by an illegal search and seizure that was in violation of an individual's rights.

This rule can apply to everyone within the United States regardless of their citizenship or if they are just visiting. Fruit of the poisonous tree doctrine states that any evidence obtained from the assistance of illegally obtained evidence is also excluded from trial. However, if evidence was discovered separately from the illegal activity it can be used at trial. One example of the exclusionary rule and the fruit of the poisonous tree is the case of *Nardone v. United States*. Law enforcement officials illegally tapped the phones and intercepted messages for Frank Nardone regarding smuggling and concealing alcohol.

Law enforcement then acted on the information received to make arrest and gather evidence. The initial tapping of the wires was done illegally so any evidence obtain through information gathered from the wire taps would be considered fruit of the poisonous tree making it inadmissible in the court of law. The exclusionary rule and the fruit of the poisonous tree are important because it is the only effective tool the judiciary system has for preserving the integrity of its warrant-issuing authority.

I believe this rule can be used as a deterrents to law enforcement personnel to be careful and follow all policies and procedures when conducting a search, gathering and storing evidence. I believe this will also show the public that no one is above the law. These rules and guidelines have been set in place for a reason without them everyone would be free to do as they please causing total disarray of society. This rule can also lead to a better

trained and more prepared officer, because more attention will be given to training if there is a fear that evidence can be dismissed.

In the scenario of Mary and William Ellis the exclusionary rule and fruit of poisonous fruit don't really apply in my opinion. All the evidence obtained during the search should be considered admissible because it was only conducted after Mary Ellis contacted 911 after finding Mr. Clyde Stevens' body in her walk in closet. Also due to the fact that her adult son William was not in the home at the time of law enforcements arrival and the butcher knife sticking out of Mr. Stevens back was in plain view giving law enforcement probable cause. Once an officer has probable cause no warrant is needed for a search.

After reading the story of Mary and William Ellis I would make the following changes to insure a positive outcome. After arriving to the scene I would have taken Ms. Ellis to another room to see if she could answer any questions regarding who was all present in the home and when the last time was she seen or spoke with Clyde Stevens. I would also want to know when was the last time she seen or spoke to her son William. I would also want to know if William was on any type of medications or if there was ever any problems between William, Clyde, and Mary.

After speaking with Ms. Ellis I would ask if she minded if I took a look around. After determining my crime scene I would close off and secure my crime scene area. Post an officer at the door of the home to eliminate anybody who didn't need to be there and make sure I contacted the appropriate law enforcement officials to come and properly gather and store all physical evidence. I feel if my search is legal any information located and found would

be admissible in a court of law. I would also make sure that any evidence found was stored and tagged properly to stop any mistakes that could be made.