

The Fourth Amendment

The Fourth Amendment, applicable to the states through the 14th Amendment, reads:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrant shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

Fourth Amendment Doctrines

- Doctrines that have arisen from the Fourth Amendment:

Exclusionary Rule:

- If evidence is seized illegally by a government agent, that evidence cannot be used against the defendant at trial.
 - **Good faith exception:** If the search was done pursuant to an apparently valid warrant that later was discovered to be invalid, the search is okay

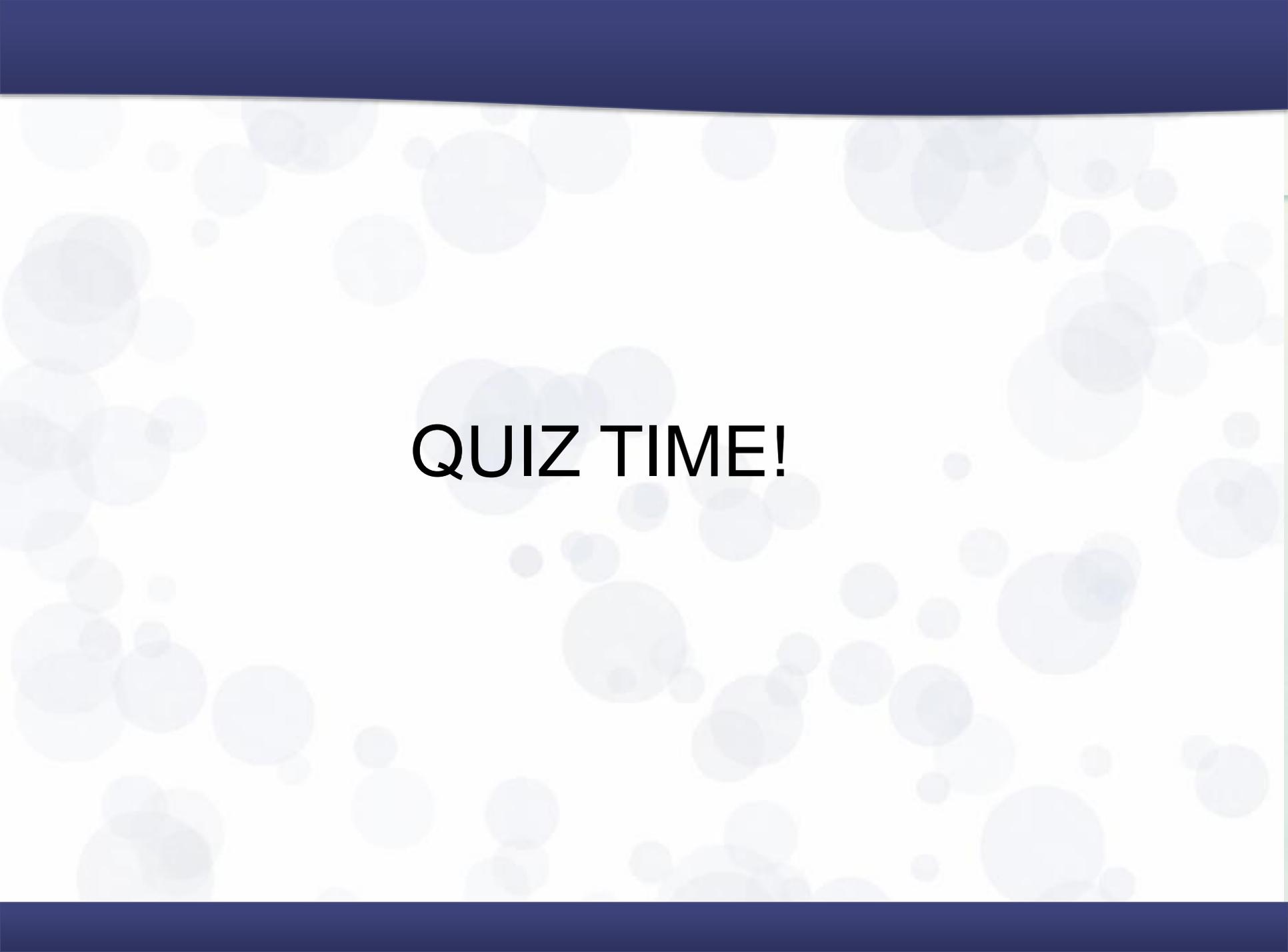
“Fruit of the Poisonous Tree” Rule:

- If an illegal search leads to information that causes other evidence to be discovered, that evidence is not admissible!

Exceptions

The Fruit of the Poisonous Tree Rule does not apply where:

- Independent source for the discovered evidence, other than from the information gathered during the illegal search
- Inevitable discovery (it definitely would have been discovered anyway)

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QUIZ TIME!

Definition of “Search”

- For the exclusionary rule to apply, the action in question must be classified as a “search.” Otherwise, the above rules are inapplicable.

A “search” requires:

- **1) Government Conduct:**

The searcher must be a government agent; the 4th Amendment does not apply to a private person “stealing” evidence and then turning it over to the police

- **2) The police must not be in the place legally; i.e., if there is a legitimate reason why a police officer is in an area, that is not called an illegal search!**

Reasonable Expectation of Privacy

- 3) The search must be of a place in which the defendant has a **“reasonable expectation of privacy”**

The following are areas in which there is no reasonable expectation of privacy:

- Areas outside the “curtilage” of one’s home, even if that area is private property
- The sound of a voice
- Paint on a vehicle’s exterior
- Odors emanating from luggage
- Handwriting
- Bank records
- Garbage left outside for collection
- Anything visible from the air or from a public place