

# EXAM STUDY GUIDE

EIGHTH EDITION

New Jersey  
Arrest, Search and Seizure  
& Confession Law

*Practice Questions and Materials*

LARRY E. HOLTZ

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# Exam Study Guide

## Part I

### The Laws of Arrest, Search & Seizure Practice Questions and Materials

*(All of the case law may be found in  
Volume 1 of the NJ Law Enforcement Handbook)*

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# **Part I**

## **Laws of Arrest**

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## **Search & Seizure**

### **Preliminary. – Constitutional Issues**

**1.** The first ten (actually the first eight) amendments to the United States Constitution are called the:

- (a) Preamble
- (b) Inalienable safeguards
- (c) Bill of Rights
- (d) Judiciary article.

**2.** The power and authority of the United States Supreme Court may be found in

- (a) Article I of the United States Constitution.
- (b) Article II of the United States Constitution.
- (c) Article III of the United States Constitution.
- (d) Article IV of the United States Constitution.

**3.** During the course of custodial interrogation, a burglary suspect stated that he did not wish to make a statement—that he wanted to remain silent. This suspect has exercised his rights under which amendment to the United States Constitution?

- (a) First Amendment
- (b) Fourth Amendment
- (c) Fifth Amendment
- (d) Sixth Amendment

4. After a jury found a defendant not guilty of murder, police officers discovered that the murder had been videotaped by two tourists who had not known of the murder trial. The videotape clearly shows the defendant stabbing his victims. Since the state has just acquired additional evidence which shows beyond all doubt that the defendant committed the crime, the state may

(a) now re-open the case and try the defendant a second time for murder.

(b) not re-try the defendant because, under the Fifth Amendment, this would constitute double jeopardy.

(c) now try the defendant for murder based on the “newly discovered” evidence.

(d) not try the defendant a second time because, under the Sixth Amendment, this would violate the proper venue clause.

5. A person who burns the flag of the United States to express his disagreement with some aspect of government may be protected by which of the following amendments?

(a) First Amendment

(b) Fourth Amendment

(c) Fifth Amendment

(d) Fourteenth Amendment

6. Which Amendment to the United States Constitution guarantees a citizen the right to petition the Government for a redress of grievances?

(a) First

(b) Second

(c) Fifth

(d) Sixth

**7.** The right to effective assistance of counsel is guaranteed in:

- (a) the Criminal Code.
- (b) the Sixth Amendment to the United States Constitution.
- (c) the Fifth Amendment to the United States Constitution.
- (d) Article I of the United States Constitution.

**8.** During the course of a roll call training session, Sergeant Trent explains that evidence obtained as a result of illegal government action will be excluded from evidence. This idea pertains not only to physical evidence but also to intangibles such as confessions, admissions and identifications. The sergeant is talking about the:

- (a) Concept of New Federalism.
- (b) Fruit of the Poisonous Tree doctrine.
- (c) Separation of Powers doctrine.
- (d) Doctrine of Judicial Supremacy.

**9.** The exclusionary rule

- (a) is a judicially-created device which serves to remedy constitutional violations by deterring police misconduct.
- (b) is purely a personal right.
- (c) impairs the ability of law enforcement officials to enforce the criminal laws.
- (d) is a judicially-recognized, defense-oriented discovery tool.

***Go on to the next page.***

**10.** The function of the exclusionary rule is to:

I. deter police misconduct.

II. punish the errors of judges and lawyers, in addition to deterring police misconduct.

III. serve as this State's indispensable mechanism for vindicating the constitutional right to be free from unreasonable searches and seizures, in addition to deterring police misconduct.

IV. cure the invasion of the defendant's rights and liberties.

(a) I. only.

(b) II and IV

(c) I and III

(d) IV only.

**11.** When confronted with an unreasonable search and seizure, a state court may:

(a) rely on its own constitution to provide greater protection to the privacy interests of its citizens.

(b) impose greater restrictions on police activity than those the United States Supreme Court holds to be necessary under federal constitutional standards.

(c) both (a) and (b).

(d) neither (a) nor (b).

**12.** New Jersey law enforcement officers are required

(a) to establish proper case law prior to engaging in any sort of criminal procedure activity.

(b) in many areas, to abide by stricter rules of criminal procedure than their federal counterparts and many of their sister state counterparts.

(c) to always follow stricter rules of criminal procedure as a matter of New Federalism.

(d) to follow the same procedures as set down by the United States Supreme Court in its interpretation of the United States Constitution.

**13.** Recently, defense attorneys representing Megan’s Law offenders lost a battle in court related to whether Megan’s Law was a form of “retroactive punishment.” This issue related to the

- (a) Due Process Clause of the Fourteenth Amendment.
- (b) Cruel and Unusual Punishment Clause of the Eighth Amendment.
- (c) Ex Post Facto Clause of Article I, Section 9 of the Constitution.
- (d) Privileges and Immunities Clause of the Constitution.

**14.** The United States and New Jersey Constitutions have an extremely important role in law enforcement procedures. In this regard, all law enforcement officers in this State have the duty to protect the constitutional rights of all citizens. This is true PRIMARILY because

- (a) the citizens expect it.
- (b) all officers were citizens at one time.
- (c) law enforcement officers have taken an oath to uphold the federal and state constitutions.
- (d) officers will be subject to civil liability if they don’t.

**15.** Which Amendment to the United States Constitution safeguards the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures?

- (a) Fourth
- (b) Fifth
- (c) Sixth
- (d) Seventh

**16.** During a trial, the State wants to call a woman who will testify that she heard a man say that the defendant committed the crime because the man was at the scene and actually saw the defendant do it. The man who was at the scene does not want to testify. The woman's proposed testimony is

- (a) proper because the man refuses to testify.
- (b) hearsay and not admissible under the Sixth Amendment's confrontation clause.
- (c) admissible, so long as the woman takes the oath.
- (d) not admissible because the woman's proposed testimony is probably not true.

**17.** The Sixth Amendment to the United States Constitution guarantees a criminal defendant each of the following rights, except the right to

- (a) the assistance of counsel.
- (b) indictment by grand jury.
- (c) a speedy trial.
- (d) a public trial in a proper venue.

**18.** Which Amendment to the United States Constitution prohibits cruel and unusual punishment, as well as excessive fines and bail?

- (a) Third
- (b) Fourth
- (c) Seventh
- (d) Eighth