FOURTH AMENDMENT KNOWLEDGE IN STUDENT HOUSING: A STUDY OF TEXAS PUBLIC UNIVERSITY OFFICIALS

By

GREGORY L HLADIK

DISSERTATION

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Supervising Committee:

Lewis Wasserman, Supervising Professor
Yi Zhang
John Connolly
James Hardy

Abstract

The purpose of this quantitative study was to analyze Texas public college and university housing professionals' knowledge of constitutional Fourth Amendment law using a 20-question True/False/Unsure survey. This survey was designed to investigate the legal literacy of housing officials in order to determine what they know and what predictors are associated with greater or less knowledge.

The participants in the study were full and part-time employees and student resident assistants of Texas public college and university housing programs. In total, 245 participants completed the survey in its entirety. The survey results were analyzed using Qualtrics where multiple regression was used to determine significance of six variables. Results revealed two variables, highest education completed and years of service, were significant predictors of knowledge. An interactive model revealed an interdependent relationship between these two variables. As years of service increased, the effect of education declined.

These findings suggest (a) Better educated employees measured by Highest Education Completed will be significantly more likely to have a better grasp of Fourth Amendment search and seizure law as it applies to college dormitories, in the early years of service, independent of generalized legal training they may have received; (b) The importance of Years of Education Completed diminishes over time as housing officials obtain more "on the ground experience" working in that capacity; (c) The overall level of knowledge of college and university housing officials, whether professional full or part time staff, or those currently enrolled as students, is generally poor relative to the responsibilities they have assumed; and (d) There is little evidence that administrators supervising housing operations have more knowledge of search and seizure law than other housing employees.

Dedication

Some would call you crazy to think you can fast track a doctorate degree while managing a full-time job, a wife, and 3 kids under 3 years old. Many days, I felt it was crazy. I acknowledge that none of this would have been possible without the support of several groups that contributed in their own way to my success and to them this document is dedicated.

The excitement of completing the doctorate is shared by my amazing wife. Melissa, you sacrificed more during this compressed timeline than we could have ever imagined prior to starting. My success here would not have been possible without your love, encouragement, never-ending patience, and sacrifice. I consider this degree as much yours as mine.

To Lilia, Harlow, and Piper, you will not recall the sacrifices you made during this process, but let the completion of this degree be an example of the importance our family places on education and the hard work and sacrifice it requires.

To our family, thank you for providing the continual encouragement and support needed for me to focus on 'the paper'. You have created high expectations for success and laid the groundwork for me to be standing where I am today.

To our extended family of the Mansfield group, your immeasurable support of our family allowed for us to manage this process to the end. You do not realize the contribution you made but I hope you know the appreciation our family has for you.

To my committee, Dr. Zhang, Dr. Hardy, Mr. Connolly, and Dr. Wasserman, thank you for your encouragement, guidance, and availability. Particularly to Dr. Wasserman, whose support, focus, and helpful comments have strengthened my dissertation and challenged me to keep moving forward in a sea of competing priorities. Finally, to Cohort 8, particularly Dr. Berg and Dr. Stoner, for the push to finish and especially the dinner and conversations along the way.

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Chapter I: Introduction

Student privacy on college and university campuses has received greater attention in the last decade with the passage of the Federal Educational Right to Privacy Act (20 U.S.C. § 1232g) and the unenacted Digital Privacy Acts of the 114th Congress (H.R.3157, 2015; S. 1341, 2015; S.1322, 2015). Violating any of these privacy protections results in serious consequences for colleges and universities, including the potential for lost federal support. Despite this greater attention to student privacy, college and university students' Fourth Amendment right to be free from unreasonable searches and seizures has received little attention in the literature. This should cause great concern for management of campus housing and those accountable for conducting regular searches on a college campus, not to mention students whose privacy interests are at stake. And while some institutions provide training for protecting students' academic records, little emphasis is placed on training staff to protect students' privacy under Fourth Amendment strictures in student housing and other university settings. In short, colleges and universities and their housing personnel may be at risk of violating students' constitutional rights unless they receive proper education and training.

The balance of student privacy with campus security is a major concern that campus administrators must consider. In recent history, public universities including Appalachian State University, University of Wisconsin, and Southern University had policies written into their housing contract for students to forfeit constitutional protections and consent to a warrantless police search of their rented room for criminal evidence (Christman, 2002). However, the enforceability of such waivers may be in doubt. The courts have limited the ability of local police to cross the threshold of a dormitory room in search of criminal evidence without first obtaining a search warrant.

In *Piazzola v. Watkins*, (1971), for example, the court held that it is unconstitutional to condition attendance at a state college on a waiver of constitutional rights. Moreover, even in the absence of waiver provisions, other campus policies at public universities allowing for such searches without sufficient cause may result in searches that intrude on students' Fourth Amendment protections. Such policies are often created with the laudable goal of enhancing campus safety but may nevertheless exceed constitutional limits. These instances illustrate the importance of college and university officials understanding the limits of their power over students who reside in dormitories they oversee and the conditions under which officials may lawfully search student residences.

Statement of the Problem

An uninformed campus administration can have significant repercussions for colleges and universities and their student housing employees. A violation of a student's constitutional protections could result in imposition of compensatory monetary damages against college and university employees and in some cases against the university itself. Moreover, in egregious cases, campus administrators can be made to respond in punitive damages (*Moral v. Grigel*, 1976) brought under 42 U.S.C. § 1983. In addition, where a college or university administrator works in concert with the police, the exclusionary clause would make any evidence obtained as a result of an unlawful search or seizure inadmissible in later-brought criminal court proceedings (*Smyth v. Lubbers*, 1975).

The Fourth Amendment guarantees an individual's expectation of privacy in their home, on their person, and in other areas where society has recognized that people enjoy a reasonable expectation of privacy. It provides:

> 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 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. (U.S. Const. Amend. IV)

This constitutional protection promotes individual freedom from a government-induced search and seizure unless a search warrant is issued based on probable cause or if one of a few narrowly tailored exceptions are met. These protections exist to prevent an open invitation for government agents to invade an individual's expectation of privacy.

Thus Fourth Amendment principles implicate important policy considerations for colleges and universities. On one hand, a student's civil liberties will be violated if campus policies are overly intrusive. At the same time, it becomes more difficult for campus administrators to control campus safety and order when overly cautious policies stop short of lawful searches. In short, it becomes difficult to know where the legal boundary is when housing administrators lack Fourth Amendment legal literacy. As a result, administrators look to the courts for clarity.

The United States Supreme Court has not yet reviewed a lower court decision applying the Fourth Amendment to dormitory searches or seizures. This leaves lower courts interpreting the extent to which those protections apply in this environment – not always in a consistent fashion, for example compare *Keene v. Rodgers*, 1970 with *Smyth v. Lubbers*, 1975. As a result, there are not always clear guidance for colleges and universities to follow. Zwara (2011) notes:

> Case law has failed to generate a clear consensus and… has left colleges and universities guessing how a court will rule in any given case. The cases, fairly limited

> in number, turn on a wide variety of justifications, leaving institutions with little guidance. (p. 419)

This lack of certainty has been called hazy, and creates anxiety among college administrators trying to understand the degree to which mandates apply in the post-secondary education setting (Christman, 2002; Jones, 2007).

Christman (2012) notes, "College administrators should take inventory of their knowledge about what constitutes legal search and seizures to be able to make better policy decisions regarding them" (p. 141). This is echoed by Lemons (2012) who underscores the need for campus administrators to understand a student's rights under the Fourth Amendment so that policy can be drafted to respect student privacy consistent with constitutional requirements. Privacy protections may differ across state lines, so Christman (2002) argues it is the responsibility of the prudent campus administrator to know their local statutes and to make sound policy decisions accordingly.

Christman is not the first to discuss the importance of having legal understanding or literacy. Teacher and principal's knowledge in the area of school law has been the focus of several investigators (Burch, 2015; Call, 2008; Coleman & Keim, 2000; Mirabile, 2013; Fradella, Morrow, Fisher & Ireland, 2010; Schimmel & Militello, 2007; Wagner, 2006). Although these studies do not occur in great numbers, all but one involved public PK-12 school investigations. Fradella et al. (2010) is the only investigation focused on the Fourth Amendment at the collegiate level. This study quantified where students and faculty thought a degree of privacy should exist in various areas under situations arising in leading Fourth Amendment cases. However, the study did not test the legal literacy of those individuals.

Further, a 2003 case study of litigation involving resident assistants spanning from 1960-2002 noted an increase in lawsuits involving the resident assistant. Out of 50 cases identified, two-thirds were reported after 1990 and over half between 1995 and 2002. This illustrates a rapid growth in litigation involving the resident assistant. As a result, the authors of the study recommend periodically updating the educational and training materials of resident assistants (Helms, Pierson & Streeter, 2003). However, no method has been introduced to test for legal knowledge and training shortcomings of resident assistants.

Purpose of Study

The purpose for this study is to provide the first inventory of campus housing personnel to determine their level of knowledge, i.e. "legal literacy," regarding the Fourth Amendment principles to search and seizure made on campus. This inventory will enable the investigator to (1) determine the level of legal knowledge achieved and (2) identify what indicators are more likely to predict their knowledge, or lack thereof.

There are an unknown number of searches conducted in campus housing each year, but anecdotal experience indicates resident assistants are frequently involved in incidents involving underage drinking and minor drug use throughout the semester. From this, one can conclude that all student housing personnel should have a general awareness of the law as they either create search or seizure policies or are the ones conducting the search themselves. Results from this study will be used to develop policy and training protocols for personnel employed in college and university housing activities and other student services providers.

Research Questions

Specifically, this study will examine the following research questions:

RQ1. What is housing officials' actual knowledge of Fourth Amendment as it relates to search and seizures in student housing?

- Do housing officials believe that they are knowledgeable?
- Are housing officials in fact knowledgeable?

RQ2. What is the relationship between predictors of legal knowledge and search and seizure legal literacy?

- What is the relationship between the extent of post-secondary education attained by the employee and search and seizure legal literacy?
- What is the relationship between the cumulative amount of time in which the employee has served in a student services capacity and search and seizure legal literacy?
- What is the relationship between the extent to which the student services employee supervises other employees in the organization and search and seizure legal literacy?
- What is the relationship between prior participation in legally-related courses and training with participant's search and seizure legal literacy?
- What is the relationship between the employees' interest in learning more about higher education law and search and seizure legal literacy?

Significance of the Study

Past research by Christman, Zwara, Jones, and Lemons support the need for campus administrators to have an understanding of how the Fourth Amendment applies to the dormitory setting. During a review of literature, no comprehensive studies were found to assess campus administrators' legal literacy. Prior research studies were restricted to assessing the expectation

of privacy of students and faculty based on relevant Fourth Amendment cases (Fradella et. Al., 2010), or focused on the general legal literacy of public PK-12 school administrators (Burch, 2015; Call, 2008; Coleman & Keim, 2000; Mirabile, 2013; Fradella et. al, 2010); Schimmel & Militello, 2007; Wagner, 2006). This study will be the first to assess the legal literacy of housing officials at public college and universities concerning job-specific principles.

Results from this study provide insight on important questions related to job functions by identifying training and education shortcomings of housing staff. These insights will be used to provide policy implications and recommendations for campus administrators to more confidently operate within the confines of the Fourth Amendment strictures. As a final goal, this study aimed to establish a measure to assess the legal knowledge of public college and university officials so that it can be replicated for other areas of higher education law where a strong foundation of legal literacy is required (guns, establishment clause, free speech, etc.).

Limitations of the Study

While this study provided useful information, it had several notable limitations. First, the generalizability was limited to just public college and university officials in the state of Texas. The results are not likely to represent all housing professionals in the United States. Instead, this model can be replicated in other states and compared to the results of this study.

Second, the housing official's sample was limited to just contacts available on public websites or resident assistant contacts made available through campus liaisons. The Texas Higher Education Coordinating Board provided a housing survey noting all public institutions in the state of Texas and associated student housing beds at each. Unlike previous studies that were able to take advantage of preexisting teacher and principal certification databases for their sample, none was available for housing administrators. Instead, the housing survey was used as

a population framework to build a database of contacts at each institution with student housing. The database was limited to only those contacts that are listed on the institution's housing website, typically under the "Contact Us" or "Meet the Staff" pages. The sample was further limited to the accuracy of the information on these public websites.

Third, the means of electronic survey that was used relied on nonrandom sampling. This creates a threat to external validity. To minimize this, a large sample size of 1,100 participants was drawn from over 30 public colleges and universities in the state of Texas. This helped increase the representativeness of the sample.

Delimitations of the Study

The survey arguably included some of the most important legal principles facing search and seizure policies in student housing today. The respondents selected in this study created limits on the ability to generalize results to only housing professionals who are employed at a public college or university in the state of Texas and work in student housing.

Due to the short window in which the survey had to be administered before participants departed for the summer, no attempt was made to test the reliability of the various questions between different participant groups. Lastly, the terminology used was not meant to confuse the question. However, participants were not likely to be familiar with legal jargon. As a result, survey questions were written to provide a clearly true or false response if the answer was known by the participant.

Operational Definitions

The following phrases, terms, and acronyms are jargon used by housing practitioners and the legal community, but may be unfamiliar to those outside of student housing. These definitions are provided here for clarity and specificity.

Resident Assistant (RA): An RA is a student employee hired by the university to monitor residents living in a residence hall and trained to assist in carrying out the institutional mission (Stanley, 1998). The position title varies by institution, but generally, job duties are similar. RAs play an important role managing the day-to-day operations of working with students in student housing. They typically far outnumber other housing staff and are the front-line employees who are most frequently involved in a search of student rooms.

Dormitory (a.k.a. dorm, apartment, residence hall, student housing): A term used to describe a rented room on a college or university campus where students of a college or university stay while enrolled and taking classes. The verbiage "dormitory" has become less common in the student housing community due to the lack of community it implies. Today, residence halls, student housing, or an equivalent term are used to describe the living arrangements of students.

Housing or University Official: This is an individual who is employed by the university with operational job duties related to student housing. This can be full or part-time employees, including graduate or undergraduate students. Generally, I use the term housing official or university official to refer to any employee, including a resident assistant that is actively employed in student housing.

Student Housing Overview

In order to understand the principles of a Fourth Amendment search in student housing at a public college or university, one must understand the student housing structure on campuses today. In the section that follows, I provide a brief overview of student housing today. This is followed by an abbreviated outline of the privacy interests for today's students that call these

buildings home. I conclude this introduction section with a description of how the Fourth Amendment's applicability in student housing has changed since 1960.

Every year, millions of students go off to college. In 2009, 7.7 million students were enrolled in public 4-year postsecondary institutions of higher education while 5.2 million were enrolled in private institutions (U.S. Census Bureau, supra note 1). It is estimated that 40% of students attending public institutions and 64% of private institution live in university housing on campus (Zwara, 2012). These *homes away from home* have many names, such as dormitories, residence halls, university housing, or on-campus housing.

Dorms vary across the country. They differ by size, floor plan, count of students in each bedroom, private or shared bathrooms, gender, year in school, and even include campus houses to name a few. They are further differentiated by ownership and management. Some are university owned and operated, others are public-private partnerships where the university leases land to a private party who oversees the day-to-day functions. Others are private companies that own and operate the facility through contractual obligations. Although dorms vary from institution to institution on a variety of characteristics, they are all specifically targeted to providing a home to students.

Universities hire staff to oversee the day-to-day operation of these facilities. Some staff are full-time employees, commonly called directors, headmaster or residence director, while others are part-time student staff commonly called resident assistants. Their overall function is to oversee the community, promote academic and social development, and ensure the safety and normal operation of the facility (Stanley, 1998). As institutions have evolved, university housing accommodations have expanded their mission to provide support for a student's academic success and personal development while also providing a safe place to sleep. As a

result, dormitories now provide places to sleep, eat, relax, study, and socialize in addition to providing a student a place to secure valuables.

Today, dormitories are at a unique intersection of Fourth Amendment protections. Courts have recognized the important and unique role campus housing plays in students' success. They also acknowledge the balance between the university's need to enforce rules and policies and the students' desire for privacy. At least one court has recognized a split in authority among the various jurisdictions who have considered the issue (*State v. Hunter*, 1992).

These differing interpretations stem from the unique balancing act required of the courts. The *Moore* (1968) court stated:

> A student naturally has the right to be free of unreasonable search and seizures, and a tax-supported public college may not compel a "waiver" of that right as a precedent to admission. The college, on the other hand, has an "affirmative obligation" to promulgate and enforce reasonable regulations designed to protect campus order and discipline and to promote an environment consistent with the educational process. (p. 725)

Courts must balance an individual's Fourth Amendment protections against college and university's expectation to provide a safe and secure community. Universities, on the other hand, have the responsibility to provide students with an environment "conducive to educational pursuits" and it is "incumbent upon the university to take whatever reasonable measures are necessary to provide a clean, safe, well-disciplined environment in its dormitories" (*State v. Hunter*, 1992, p. 1036).

With such few cases reaching the highest courts, there are several unsettled questions regarding this relationship, which create uncertainty for housing officials. To maintain an educational atmosphere on campus, administrators oftentimes have deviated from the predicates

of a reasonable search. These deviations were "defended by administrators and often upheld by courts under a variety of theories" (Kaplan, 2006, p. 861). These included acting *in loco parentis*, acting as a traditional landlord to protect its property interests, obtaining general consent through a housing contract, and conducting an administrative search.

Student expectation of privacy. Courts have recognize the similarities between a student's home off-campus compared to one on campus. The *Cohen* court stated: "To suggest that a student who lives off campus in a boarding house is protected but that one who occupies a dormitory waives his Constitutional liberties is at war with reason, logic and law" (*People v. Cohen*, 1968, p. 373). The United States Court of Appeals stated, "A dormitory room is analogous to an apartment or a hotel room. It certainly offers its occupant a more reasonable expectation of freedom from governmental intrusion than does a public telephone booth" where courts had previously ruled there to be an expectation of privacy (*Piazzola v. Watkins*, 1971, p. 288*)*. This was further clarified in *Morale v. Grigel* (1976), where a United States District court ruled:

> A dormitory room is a student's home away from home, and any student may reasonably expect that once the door is closed to the outside, his or her solitude and secrecy will not be disturbed by a governmental intrusion without at least permission, if not invitation. The Fourth Amendment by its very terms guarantees this. (p. 997)

Privacy in a residence hall is a desired commodity difficult to come by (*Athens v. Wolf*, 1974). Typically, floor plans allow seclusion and privacy in a bedroom, but other parts of the facility are considered common or shared space. These rooms are used for students to keep personal property and courts have recognized a student has a right to privacy in these spaces (*Moral v.*

Grigel, 1976). It is clear some lower courts consider the Fourth Amendment protections to extend into the dormitories. However, this has not always been the case.

History of student housing search. The philosophy of enforcing campus policy, housing rules, and laws in student housing has changed in the past 50 years. Prior to the 1960's, higher education was governed by *in loco parentis* meaning in place of the parent. The application of this model at the university level "prevents the court from intervening into the student-university relationship, just as the court would not intervene into the parent-child relationship" (Zwara, 2012, pg. 432). However, during the 1960s Civil Rights movement, college students pressed for more rights with regard to due process and free speech, which resulted in a shift in how colleges and universities viewed the relationship with the student. This is best noted in *Morale v. Grigel* (1976) where a federal district court stated:

> [A] college cannot, in this day and age, protect students under the aegis of *in loco parentis* authority from the rigors of society's rules and law, just as it cannot, under the same aegis, deprive students of their constitutional rights. (p. 997)

As such, the university was no longer able to act in the place of the parent. Instead, this relationship became viewed as one between an independent adult, albeit a student, and the university.

In the late 1970s and early 1980s, university administration and law enforcement had a tentative truce on college and university campuses. Campus administrators and police used discretion in not criminally enforcing behavior in campus housing that they viewed as relatively harmless in nature, common and socially acceptable, and was conducted privately and quietly (Olivas & Denison, 1984). For example, Berkeley campus police expressed reluctance to conduct dormitory searches for minor drug and alcohol use (Delgado, 1974). However,

colleges and universities recognized a greater need to enforce drug and alcohol regulations on campus in the late 1990s and began to utilize dormitory searches to a greater extent (Stanley, 1998). This shift lead to a greater number of student room searches by both campus officials and police for the purpose of collecting criminal evidence.

The courts look to the purpose of a search when it involves both campus officials and police. Campus officials have more latitude to conduct warrantless searches, although not without bounds, than does a law enforcement officer. The facts of these searches, although not applicable in all situations, provide housing officials a framework to operate within, albeit a hazy framework. The remaining literature review aims to outline this framework, first by discussing general Fourth Amendment principles followed by principles specific to a search conducted on a college or university campus.

With few exceptions, search warrants are almost always required when police conduct a search for criminal evidence in student housing. There are very few conditions in which a search for criminal evidence would be permitted without a search warrant. These exceptions to the search warrant predicates allow the search or seizure to proceed when narrowly tailored. These exceptions, discussed in more detail below, include obtaining consent, items in plain view, following a lawful arrest, and exigent circumstances.

In summary, there is still uncertainty in how the Supreme Court would rule on a dormitory search case before it. This makes it difficult for campus administrators to balance the need to promote the institutional interests and safety while maintaining the privacy rights of students. It is clear courts intend to provide institutions with opportunities to conduct narrowly tailored warrantless searches when the purpose is different from that of law enforcement. Christman, Zwara, Jones, and Lemons argue for campus administrators to have a good

understanding of how the Fourth Amendment applies to the dormitory setting in their specific jurisdiction. However, no study has yet to assess campus administrator's legal literacy. This study will be the first.

Chapter II: Literature Review

Introduction to the Fourth Amendment

The Fourth Amendment has been at the core of campus housing litigation since the 1960s. A significant amount of litigation emanates from the acquisition of evidence that leads to criminal charges. This literature review examines modern search and seizure jurisprudence as it relates to municipal police, university police, and housing official's searches on and off college and university campuses. The details of each court case vary greatly and are highly fact dependent. Because of this, I have separated the literature review into sections by subject matter, citing relevant court cases that address each topic in turn. Throughout the review, I bring attention to the decision-making process used by courts to determine the constitutionality of a search.

Overview

The Fourth Amendment protects an individual's expectation of privacy against unreasonable search and seizures by the government. It provides:

> 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 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. (U.S. Const. amend. IV)

The cornerstone of the Fourth Amendment is reasonableness. The Fourth Amendment recognizes that individuals have a reasonable expectation of privacy that protects people, not places, and this privacy is determined by what society considers reasonable (*Katz v. United States,* 1967*)*. The Fourth Amendment protects privacy interests of individuals unless a search is authorized by a warrant.

For example, it is well established that an individual has an expectation of privacy inside their body, including their blood (*Schmerber v. California*, 1966); interior parts of a vehicle not in plain view (*New York v. Class*, 1986; *Rakas v. Illinois*, 1978; *United States v. Baker*, 2000; *United States v. Buchner*, 1993); letters (*United States v. Jacobsen*, 1984); containers (*United States v. Runyan*, 2001; *United States v. Ross*, 1982); hotel rooms (*Stoner v. California*, 1964); boarding houses (*McDonald v. United States*, 1948); in their homes (*United States v. Karo*, 1984; *Welsh v. Wisconsin*, 1984); and in temporary dormitories on public college and university campuses (*Morale v. G*rigel, 1976; *Piazzola v. Watkins*, 1971; *Smyth v. Lubbers*, 1975). In these areas, government authorities must usually obtain a search warrant prior to conducting a search.

It is important to understand how the courts define the terms *search* and *seizure* as the literature oftentimes use "search" to represent both. A seizure occurs when there is some meaningful interference with an individual's possessory interests in property (*United States v. Chadwick*, 1977). That said, the act or fact of holding a person in custody, confinement, or compulsory delay is considered a seizure as well. This includes when a person is seized, for instance, through an arrest (*Scott v. Harris*, 2007), or when evidence is removed from a person's possession. The seizure has to be conducted within the parameters of the Fourth Amendment in order to withstand a constitutional challenge in court.

A search is conducted for a variety of reasons by various persons. However, the courts use a narrow definition when defining a search from a constitutional perspective. In the legal sense, a search is defined as:

> An examination of a person's house or other buildings or premises, or of his person, or of his vehicle, aircraft, etc., with a view to the discovery of contraband or illicit or stolen

> property, or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which he is charged. (Garner & Black, 2004)

This definition categorizes a search as one that has a purpose to discover evidence for criminal prosecution, but a broader definition may apply such as finding evidence for non-criminal rules violations as well.

A search for non-criminal purposes includes inspection of life and safety, code, rule, or policy enforcement. These are known as an administrative searches and viewed differently from a criminal search by the courts. Whether the search is criminal or administrative in nature is a factor in determining if a search warrant is required.

Determining if a Search Warrant is Required

The Fourth Amendment's search warrant clause ensures that in the absence of some grave emergency, a magistrate is placed between the citizen and the police. This is to ensure the grounds used to support a search are "drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime" (*Johnson v. United States*, 1948, p. 14). The use of a search warrant issued by a magistrate is a means to protect from unconstitutional invasions on an individual's privacy and is considered constitutional when issued with convincing probable cause (Jones, 2007).

The purpose of a search is one of several factors used to determine whether a search warrant is required. To differentiate when a warrant is required, the courts look to what motivated the search or inspection. The motivation for the search will categorize the search as either criminal or administrative. Generally, the courts create a distinction between police searches for criminal evidence and those for other non-law enforcement administrative searches, such as a fire hazard or code enforcement inspections (Zwara, 2011).

Generally, a search warrant is required when the search is conducted by a government actor motivated to find evidence of criminal activity to be turned over to a judicial authority for prosecution. There are several conditions discussed later where the warrant requirement is excused. An administrative search does not always require a search warrant. These differences are discussed next.

Criminal search. A criminal search triggers the constraints of the Fourth Amendment and requires a search warrant based on probable cause. Probable cause is defined as having a "fair probability" or "substantial chance" a search will lead to the collection of incriminating evidence (*Illinois v. Gates*, 1983).

Probable cause is established when police demonstrate the focus of the search or object to be seized contains evidence of a crime (*United States v. Karo,* 1984). The issuance of a search warrant requires the acquisition of enough knowledge to convince a prudent person to believe a suspect has committed or is committing a crime (*United States v. Sokolow*, 1989). Once probable cause has been collected, government authorities submit it to a magistrate for the purpose of issuing a search warrant. A warrant is then issued for a specific location and specific items to be searched or seized (*Vernonia School District 47 v. Acton*, 1995).

Administrative search. An administrative search is motivated by a need to enforce a rule, policy or law unrelated to criminal prosecution. These include inspections for the purpose of regulation or code enforcement and, although they still require a search warrant, are not held to the probable cause standard to justify the warrant. Instead, an administrative search uses a less strict standard of *reasonable suspicion* when determining whether a search of a particular individual is justified (*Camara v. Municipal Court*, 1967). Reasonable suspicion is used in a search where there is a "moderate chance" of yielding evidence that the target has violated

school rules, policies, or criminal law (*Safford v. Redding*, 2009). A magistrate can be convinced to issue a warrant based on much less evidence when using reasonable suspicion instead of probable cause.

Criminal or administrative searches are two broad types of searches. The search is considered criminal in nature if the goal is to discover criminal activity or evidence used in prosecution and triggers Fourth Amendment predicates. Administrative searches involve an inspection motivated by the need to maintain normal operations unrelated to criminal prosecution and do not always require a search warrant.

A reasonable search in PK-12 public education. *New Jersey v. T.L.O.* (1985) established the use of reasonable suspicion as a predicate for a personal search of a student at a public PK-12 school as long as the search is *reasonable in its scope*. *T.L.O* involved a teacher who found a 14-year old student smoking in the bathroom with another student. The assistant principal confronted the other student, who denied she had been smoking. The assistant principal inspected her purse and found a package of cigarettes and a package of rolling papers commonly used to smoke marijuana. This led to a more extensive examination of the purse where marijuana, a pipe, plastic bags, a substantial amount of money, and a list of other students that owed T.L.O. money were found. The student was later convicted in juvenile court. However, upon appeal to the New Jersey Supreme Court, the convicting evidence was determined to be a result of an unreasonable search under the Fourth Amendment and was therefore suppressed.

The case was then brought before the United States Supreme Court who reversed the ruling and readmitted the evidence. In doing so, the Court noted the difficulty schools have in maintaining order in public schools. The court established four guidelines to follow. These

include (a) the search is justified at inception, (b) the scope of the search should be reasonable for the search, (c) the search should be reasonably related to the objective of the search, and (d) the search shouldn't be excessively intrusive in light of the age and sex of the student and the nature of the infraction (*New Jersey v. T.L.O,* 1985). These conditions are fluid and are viewed in light of the individual circumstances around each search (Stradler, 2013). If a search by public administrators violates one of these prongs, the search is unconstitutional under the Fourth Amendment.

Universities' special needs. Similar to PK-12 schools, public college and universities have a broad supervision duty to maintain a campus environment conducive to student learning through the use of university regulations. Courts recognize this need and provide for more lee-way to conduct routine inspections in order to enforce these regulations. Courts generally acknowledge the college or university's claim of being responsible to provide a "healthy, structured, and safe learning environment" (Jones, 2007, p. 6) conducive to academic success. And while this need for order and discipline may diminish a student's right to privacy, it does not vitiate the student's reasonable expectation of privacy afforded by the Fourth Amendment (*Smyth v. Lubbers*, 1975; *Piazzola v. Watkins*, 1971).

The United States District Court in *Moore* notes that an action to assist in controlling discipline and maintenance will be presumed "facially reasonable despite that it may infringe to some extent on the outer bounds of the Fourth Amendment rights of students" (*Moore v. Student Affairs Comm. of Troy State University*, 1968, p. 729). When the university can demonstrate a special need to conduct a search, courts are likely to grant lee-way as long as actions taken are reasonable and narrowly construed to maintain an academic environment.

This is still conditional upon the purpose for the search and the involvement of government authorities.

University officials must know the boundaries of warrantless administrative searches. The administrative search must advance the educational interest of the institution and be different from that of law enforcement. A search of a dormitory room initiated by university officials to locate stolen property may not always be considered as promoting the educational interest and therefore, invalid (*Morale v. Grigel*, 1976). Further, overly broad inspections including those involving state action intrude on Fourth Amendment protections and are considered unconstitutional (*Moore v. Student Affairs Comm. of Troy State University*, 1968*).*

Administrative searches focused on enforcing regulations in public university dormitories are typically authorized through student consent to enter and inspect for specific and tailored purposes. This is oftentimes provided through a housing contract or other regulation the student agrees to abide by when living on campus. However, consent given to the university via the housing contract for administrative searches cannot be delegated to allow a police search for criminal evidence. (*Commonwealth v. McCloskey*, 1970).

Parties Involved in the Search

State actors. Fourth Amendment principles only apply to state actors. State actors include any government authority including police, city inspectors, and employees of public colleges and universities. Police actors include municipal officers with full arrest powers, university police that may or may not have full arrest powers, or campus security guards that do not have arresting powers.

The Supreme Court stated in *Griffin v. Maryland* (1964) regarding a deputy sheriff working as a private security guard at an amusement park that "[i]f an individual is possessed of

state authority and purports to act under that authority [even in private action], his action is state action" (p. 135). Therefore, if a state actor "wears the uniform" and is clothed in government power, even if acting for a private agent, the action is state action. This includes state actors without arresting powers, such as campus security guards and university officials who conduct a search with the intent to discover criminal evidence to be turned over to a judicial authority. Courts consider this to be state action, resulting in Fourth Amendment protections.

Private actors. Under the *State Action Doctrine*, a search or seizure is wholly inapplicable to private parties as long as government officials did not participate or have knowledge of the search or seizure (*United States v. Jacobson,* 1984). This turns on the degree to which the government participates in the private party's activities. This can only be determined based on the unique facts of the search (*Duarte v. Commonwealth*, 1991).

This is demonstrated best in *Limpuangthip v. United States* (2007) where a search of a dormitory room at a private university was conducted by a university official and university police officers but not considered state action. A resident assistant at George Washington University was notified through a tip that there might be drugs in Limpuangthip's room. The resident assistant contacted the university police officers to be present to provide evidence bags and security. The university police officers were not fully sanctioned police but had "limited authority to arrest and search within their jurisdiction." They were employed by the university and given the equivalent commission as a municipal police safety officer, including slightly broader powers than security guards and citizens. It was the resident assistant's decision to conduct an administrative search in an effort to identify health or safety hazards and problematic activities, but not to collect evidence for a criminal case.

The court ruled the search was conducted by private actors at a private institution because the resident assistant made decisions to conduct the search, it was conducted only by administrators, and involvement of special police officers were secondary to what the resident assistant searched *(Limpuangthip v. United States*, 2007).

University officials. It would be much easier for university officials to draft policy to inspect student rooms if all inspections fit neatly into the public-private distinction. In reality, this is seldom the case. Police involvement in public university dormitory cases may involve (a) police acting alone, (b) police acting in concert with university officials (*Commonwealth v. McCloskey*, 1970; *Moore v Student Affairs Committee of Troy State University*, 1968; *Morale v. Grigel*, 1976; *Smyth v. Lubbers*, 1975), (c) police being present but not participating (*Grubbs v. State*, 2005; *State v. Hunter*, 1992), or (d) police involvement after housing staff encounter criminal evidence during administrative searches (*Medlock v. Trustees*, 2013; *State v. Ellis*, 2006; *State v. Kappes*, 1976). The courts traditionally consider whether the university official or police are trying to circumvent the Fourth Amendment. If so, the search must meet Fourth Amendment requirements. This is often determined based on the motivation for the search.

Motivation for search. When a search is conducted in a public university dormitory, courts look to determine the motivation for the search to determine the involvement of the actors in determining if the Fourth Amendment is implicated. Several scenarios involving police authorities have been heard in the courts.

Piazzola v. Watkins, (1971) illustrates that a search instigated by police, but conducted by public university officials acting on behalf of the police, is subject to the warrant requirement when the purpose is not different from that of law enforcement. In this particular case, university officials at a public university met with local police to discuss "the drug problem" at

the university and were later approached by police to cooperate with a multi-room search of the dormitory for contraband. The police used the authority granted to the university by the housing contract to conduct this search, planning to make an arrest if an arrest was warranted.

The court supported the institution's need to maintain broad supervisory powers and to conduct a search by university officials to "check the room for damages, wear and unauthorized appliances" (*Piazzola v. Watkins,* 1971, p. 288). However, because the search was motivated by police for the purpose of turning any evidence found over to a judicial officer, probable cause and a search warrant were required. Because no search warrant was issued, the lower court's ruling was affirmed and the search was considered unconstitutional.

Two other state cases involved the presence of police during the search as a safety measure to protect the university official performing the search. The involvement of police was not to discover evidence, but to provide a supportive role to the university official. These were not considered state action even though police were involved.

The Texas Court of Appeals in *Grubbs v. State* (2005) found that evidence discovered during an administrative room inspection by a resident assistant and used in a criminal proceeding was admissible in court, even though police were present during the search because the student had agreed to entry by university staff for specific reasons when the housing contract was executed. A student at the University of Houston appealed the trial court's ruling to suppress the evidence resulting from a search by a resident assistant and campus police officer. The resident assistant had reasonable suspicion when he was notified of the odor of marijuana emanating from Grubb's dormitory room. After confirming the odor was indeed marijuana, campus police were called to the room for the safety of the resident assistant. A search warrant was not issued for police to enter the room to collect criminal evidence. Instead,

department policy allowed the resident assistant to use a passkey to enter the room after knocking and announcing in an effort to enforce "a legitimate health and safety rule that related to the college's function as an educational institution" (p. 987). The resident assistant knocked on Grubb's door, and upon no answer, used a passkey to enter the room. The officer remained in the hallway. After entering the room, the resident assistant discovered Grubbs and his roommate. The officer asked for consent to enter the room when the residents became visible to the officer from the doorway. Consent was provided by one of the roommates. During conversations with the officers, Grubbs turned over contraband.

On appeal, Grubbs contested the authority of the resident assistant to conduct a warrantless search for criminal evidence. The Texas Court of Appeals upheld the trial court's ruling to allow the evidence on three accounts: (a) university's authority, (b) undelegated consent by the university, and (c) ability to search for criminal evidence. The court reasoned that Grubbs' conduct while living in his dorm room was not only governed by the housing contract, but also by the provisions in the Student Handbook, which considered the use of alcohol and drugs a violation of policy. The authority of the resident assistant to inspect for violations occurring within the residence halls was provided in the Student Handbook, Residential Life and Housing Contract, and Room Inspection Procedure. The court found that the resident assistant had ample authority to enter the room.

The second question to the court was whether the resident assistant delegated this authority to campus police. Consent cannot be delegated to a third party (*Commonwealth v. McCloskey*, 1970). The court found no evidence to support that the resident assistant opened the door for police, entered the room with them by his side, or immediately turned over the investigation to them.

The third question the court considered was whether the resident assistant could lawfully search for criminal evidence, in this case marijuana. The court differentiated this from *Piazzola v. Watkins* (1971) in that this search did not involve police colluding with university officials. Instead, the resident assistant had reasonable suspicion to believe a violation was occurring, was authorized by policy that Grubbs consented to, and the resident assistant conducted a single entry into a specific room. The court held the campus police officers did not violate Grubbs' constitutional rights when they entered the room upon invitation.

Similarly, another state court found that there is a legitimate concern for campus officials at a public university to control theft and vandalism in a dormitory when they have a contractual duty to do so. *State v. Hunter* (1992) involved a search motivated by the desire to reduce vandalism, theft, and other problems in the dormitory. Vandalism and theft in a dormitory had been discussed prior to the search, and notice had been given to all residents telling of an impending room-to-room search if the vandalism and theft did not cease. When it subsequently occurred, the Director of Housing and Food Services initiated a warrantless room-to-room search with the football coach and a campus officer. The officer was present to confront any issue the director was unable to handle. The housing contract provided authority for campus administrators to search student rooms to "protect and maintain the property of the university, the health and safety of its students, or whenever necessary to aid in the basic responsibility of the university regarding discipline and maintenance of an educational atmosphere" (*State v. Hunter*, 1992, p. 1034). The contract also extended its duty to the student to maintain an educational environment. It stated:

> AGREEMENT TO STUDENTS. For those students who remain current on their financial accounts and who abide by the above stated Terms and Conditions of

> Occupancy, Utah State University Housing agrees to provide an environment which is clean, safe, well maintained, and to promote an atmosphere which is conducive to study and free of undue disturbances. (p. 1037)

The court ruled this type of search served the university's mission to protect university property and maintain the academic environment.

These two cases were differentiated from other cases involving campus police by emphasizing the lack of attempt to circumvent Fourth Amendment requirements. This was not a situation where housing officials acted on behalf or in partnership with police authorities (unlike in *Piazzola, Moore, Cohen,* and *McCloskey).* The university officials also did not try to delegate their authority to conduct a search to police unlike in *Piazzola, Moore, United States v. Kelly,* 1977*; McCloskey*). These were searches motivated by a desire to rid the dormitory of continued trouble unrelated to law enforcement.

Another type of police-involved search can occur when university officials happen upon criminal evidence during an administrative search and involve police. The point at which the police are involved is the focus of four cases discussed below. The question oftentimes before the court is whether police must establish probable cause and obtain a search warrant prior to entering a student's room, or if the police may use consent provided by the student to the university through the housing contract.

In *Medlock v. Trustees* (2013), the resident assistant of Indiana University, a state university, was authorized under the student handbook and resident contract to inspect for violations of the code of conduct for dormitory residents. Medlock had consented to this type of search by signing the housing contract. Upon announcing the inspection within the handbook guidelines, the resident assistant entered Medlock's room to inspect without his being present.

In plain view, the resident assistant discovered drug contraband on the bed and summoned a fellow resident assistant and university police officer to the room. The officer investigated the contraband and then left the room while the original search continued. Upon the resident assistant opening the closet, a large marijuana plant was discovered. The police returned, then left again to obtain a search warrant to remove the contraband. At no time was there a suggestion of collusion or bad faith on the part of either the police or university official. The resident assistant was not motivated by a desire to discover criminal evidence, nor was the officer motivated to use the disguise of the administrative search to circumvent the Fourth Amendment requirements. The resident assistant also did not delegate the consent to the officer to take charge of the search – or even participate in it. The court considered the request to have police present during the search reasonable and not state action. Mere request of police presence, as what happened in this case, does not amount to illegal state action. As a result, the Court of Appeals affirmed the search as constitutional.

In *State v. Kappes*, (1976) the Arizona Court of Appeals upheld a ruling to allow criminal evidence discovered during an administrative search by two resident assistants. Upon entering Kappes' room to conduct regularly scheduled maintenance inspections, drug paraphernalia was found in plain view. The resident assistants contacted their supervisor who summoned campus security officers to the room. The resident assistants invited the officers into the room. The purpose of the room inspection, according to the court, was not to collect evidence for use in criminal proceedings, but to insure that the rooms were used and maintained in accordance with university regulations.

It went on to consider the search as if the resident assistant's search constituted government intrusion. It reasoned there were significant differences between routine inspections

in a university dormitory for cleanliness, safety or the need for repairs and maintenance than the search in *Camara* (1967). Even when this consideration was used, the court arrived at the same conclusion and considered the administrative search reasonable government intrusion.

In an almost identical case, the Ohio Appellate Court in *State v. Ellis* (2006) involved a resident assistant search of a dormitory room that lead to the discovery of marijuana during an authorized search to protect the safety and hygiene governing the dormitories. The resident assistant requested police presence when marijuana was found in Ellis' desk drawer. The search was ruled an administrative search, not subject to the requirement of a search warrant because the resident assistant was searching the room to advance the interest of the institution. The problem arose when the police, after being called to the room, entered the student's room without consent of the residents to collect criminal evidence without a search warrant. This effectively invaded the student's right to privacy and made the search unreasonable. As a result, the Court of Appeals reversed the lower court's ruling and suppressed the evidence resulting from the search.

Jones (2007) presumes housing staff that suspect illegal activity is occurring in the dormitory can conduct a valid search within the scope of the housing contract for health and safety purposes. If criminal evidence emerges, police should be contacted and the traditional criminal procedures of first establishing probable cause and a search warrant should be followed.

Student disciplinary hearings. Colleges and universities establish college disciplinary processes to maintain order and safety and implement other interests of the institution. Discipline proceedings are treated separate from criminal proceedings in the constitutional sense. Generally, a university official's inspection motivated by a need to maintain the

discipline and maintenance of an institution will be presumed "facially reasonable despite that it may infringe to some extent on the outer bounds of the Fourth Amendment rights of students" (*Moore v. Student Affairs Comm. of Troy State University,* 1968, p. 729*).* When the purpose of a search is to send a student through this process instead of the criminal route, the universities can use reasonable cause to justify a warrantless search. This includes when the search is to collect criminal evidence. This gives campus officials more latitude to conduct warrantless searches than police authorities when the purpose is meant for student discipline, given the university's special relationship with the students.

Police authorities in *Moore* (1968) used university regulations that allowed for inspection of rooms by university officials when they deemed it necessary. In this case, two agents of the State of Alabama Health Department, Bureau of Primary Prevention and the Dean of Men conducted a warrantless search of several named students suspected of dealing drugs. Marijuana was found in Moore's room, and he was later suspended from the university through a disciplinary hearing. After exhausting his university disciplinary appeals, Moore appealed in the courts to be reinstated on the belief the university official's search was unreasonable when it involved police. The court determined the university has a broad supervising duty to enforce campus regulations and ruled the search to be constitutional because the student had agreed to inspections of his room.

The court did not address the involvement of two agents, who were actively engaged in the search, except to acknowledge their presence. Not only was the search initiated by the agents to search for drugs, but the search was intricately associated with the State so that it most likely would invoked the exclusionary rule if the student was charged in the criminal court. Instead, the court viewed the case in context of university disciplinary proceedings that imposed

penalties through a student affairs committee instead of through criminal proceedings and considered the involvement of police authorities as constitutional.

Additionally, the United States District Court in *Morale v. Grigel* (1976) involved another student disciplinary hearing where the defendant sought reinstatement to the university after being suspended for possessing marijuana seeds. Morale was the focus of a university official's search for a stolen stereo that was believed to be hidden in his room. The initial search lead to further reasonable investigations until the final search revealed marijuana seeds.

The court did not consider a search for stolen property to advance a legitimate institutional purpose. A search of student rooms by resident assistants motivated to discover stolen property was not considered promoting the educational interest and therefore, invalid unless a search warrant was first obtained. However, even though the search was considered unconstitutional, the court did not grant an injunction to reinstate the student because it found the exclusionary rule did not apply to school disciplinary proceedings. The exclusionary rule is a remedy designed to safeguard Fourth Amendment rights and deter state actors from circumventing the Fourth Amendment requirements. Had the exclusionary rule applied, all evidence obtained as a result of the unconstitutional search would be inadmissible in court.

Although the predicate for the search must be that there is a reasonable suspicion that the law, rule, or policy was violated, it must be based on facts that suggest such a violation. Thus, facts lead to suspicion that if reasonable, leads to a lawful search so long as it is reasonable in scope relative to the specific violation that may have occurred.

In summary, there is a difference in search warrant requirements depending on who conducts the search and for what purpose. An administrative search by university officials on a public college or university campus does not need a warrant so long as the housing contract or

reasonable policies and regulations provide language allowing for entry into student rooms to inspect for reasons related to the desired inspection. These are discussed next.

Exceptions

If a search warrant was required but one was not obtained, the courts look to whether any conditions qualified for an exception. A search can be considered constitutional even in the absence of a search warrant if one of only a few narrowly tailored exceptions are met. The Supreme Court has provided "searches conducted outside the judicial process, that is, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions" (*Katz v. United States*, 1967, p. 357). These exceptions include searches by consent, under exigent circumstances, plain-view searches, and searches pursuant to a valid arrest. I discuss each of these in detail next.

Consent. The first exception courts consider when a search warrant is required but not obtained is whether the state actor obtained consent. The facts of the case determine if consent came from the individual whose property was searched, from a third-party who shares possession or control over the space, or from a pre-existing contract or agreement with the individual. A student paying rent is a tenant who makes his home in the dormitory. The university cannot require a student consent to a police search as a condition of living in the dormitory (*Moore v. Student Affairs Committee of Troy State University*, 1968; *Morale v. Grigel*, 1976; *Piazzola v. Watkins*, 1971; *Smyth v. Lubbers*, 1975).

Validity of consent depends on the person's apparent or actual authority to provide it (Lemons, 2012). However, even when consent is provided, the government must be able to demonstrate it was provided knowingly, intelligently, and voluntarily without coercion

(*Schneckloth v. Bustamonte* 1973). These are measured through a review of the facts of who gave consent, focusing on understanding the individual's educational level, experience, and if the person comprehends what it means to withhold consent (*United States v. Hyson*, 1983). If the court determines these conditions are not met, even in the presence of consent, the search or seizure can be ruled unreasonable and all evidence resulting from the search excluded from the courtroom. If a person voluntarily consents to a search by police, an expectation of privacy as it relates to the area to be searched no longer exists.

Consent for a search must clearly be established prior to entering the premise. If there is uncertainty in whether an individual consented to a search, the court will exclude any evidence resulting from it. In *Commonwealth v. Carr* (2010), police appeared at a student's public university dormitory room door on reports of a gun in the room. After being allowed into the room by the residents, the police determined a mock weapon was present, and placed Carr under arrest. The officer asked for consent to search the room, but it was unclear whether this was received. The trial court initially granted suppression of all evidence resulting from the search because the Commonwealth could not establish that the defendant actually consented to the search. The Supreme Court of Massachusetts, on review, affirmed the ruling, noting the police have the burden of proving the consent was freely and voluntarily given. The evidence of unlawful activity will be suppressed where this burden is not carried.

Courts have delineated who can lawfully give consent other than the individual that is the focus of the search. Dormitory searches have involved consent from the university as a landlord, from roommates, and from the student. Only consent provided under actual or apparent authority is valid. The United States District Court in *Turner* (2014) noted the determination of actual authority relies on "mutual use of the property by persons generally

having joint access or control for most purposes" (p. 303). Apparent authority can be valid if police believe the consenting individual reasonably possessed authority but later discovered the person lacked the authority to consent (*United States v. Marshall*, 2003; *United States v. Turner,* 2014).

Landlords, acting as the lessor, are unable to constitutionally provide consent to police conducting a search for criminal evidence on behalf of a tenant. The Court of Appeals has stated the touchstone of authority lies with the use and access to the property (*United States v. Chaidez*, 1990). Landlords generally do not possess actual authority to provide consent for police to search a unit with an active lease, but a landlord can provide consent for police to search abandoned or unleased apartments (*United States v. Haynie,* 1980) or areas they share access and control over (*Chapman v. United States*, 1961; *United States v. Elliott*, 1995). These include shared garages *(Garcia v. State,* 1994), hallways (*United States v. Kelly,* 1977), and basements (*United States v. Kellerman,* 1970).

However, one state appellate court has narrowly construed the authority for landlords to consent to police entry in a public university's dormitory hallway when the purpose was to search for criminal evidence (*State v. Houvener*, 2008). The Washington State Court of Appeals broadly interpreted a student's privacy protection in a common type of dormitory known to have a "community bathroom," preventing landlords from providing consent for police entry in these areas – unlike the consent private landlords could provide in common area hallways. This case distinguished common hallways of off-campus apartments because of the floorplan of this particular dormitory.

For example, the Washington State University dormitory had a common floorplan with a bathroom shared by all residents on the floor and a shared study lounge on each floor. Further,

the dormitory itself was all but closed to the general public. Residents used a passkey to enter the building and floor. All non-residents were to be escorted by a resident once inside the building and each floor established its own policy for visitors in the main lounge and lobbies. University police were called to this building to respond to a report of a burglary at 5:45 a.m. on the 3rd floor. University officials, acting as the landlord, provided consent for police to walk through the building's hallways and conduct inspections without the consent or invitation from a resident.

After investigating the burglary report on the third floor and leaving the room, the officer started a building-wide search, using the passkey provided by housing officials, starting at the top and working down the hallways. The officer arrived on the 6th floor and overheard music and loud voices in the defendant's room saying, "I'm just paranoid we are going to get caught" while another voice responded, "I don't think he would call the cops." This led the officer to suspect the two occupants were likely responsible for the burglary. The officer questioned Houvener while staying in the common area hallway, where Houvener admitted he was in possession of the stolen property. The officer seized the property and arrested Houvener. However, the officer did not have consent from any resident of the 6th floor, including Houvener, to enter the floor and conduct the search.

The court held the student had an expectation of privacy in the corridor/hallway of his dormitory floor. Without a warrant, a campus police officer has no greater right than a private citizen to search for criminal evidence in common areas and hallways of the dormitory, whether the officer has the landlord's consent or an all-access key. As a result, the court considered the search to be unreasonable.

Another concern housing officials and police authorities must consider is if the consent to search a room is provided by a roommate. If more than one individual shares the location to be searched and both are present at the time of the search, *both* parties must consent to the search for it to be lawful (*Georgia v. Randolph*, 2006). If only one is present, that individual can provide consent.

For example, in *Matlock* (1974), the Supreme Court ruled a wife who shared a bedroom with Matlock had authority to provide consent to search the room in Matlock's absence. The Court emphasized consent can originate from the person to whom the search is focused or a third party who shares "common authority or other sufficient relationship to the premise or effect sought to be inspected" as long as the nonconsenting person is not present (*United States. v. Matlock,* 1974, p. 171).

However, if two roommates are both present and one consents to a search, but the other immediately objects, consent does not carry (*Georgia v. Randolph,* 2006*).* In *Randolph* (2006), the Supreme Court ruled a wife, who was a co-tenant, could not provide consent for police to search an apartment when the other co-tenant was present and refused consent. Instead, the Court stated the consenting party can act as a witness in front of the magistrate in order to justify a search warrant based on their knowledge.

Universities have turned to the use of housing contracts with language that provides limited consent for administrative searches as a condition of living on campus housing. These contracts contain language to capture consent from students to a university official's inspection of their rented rooms for health, safety, and/or maintenance reasons. In these narrowly tailored administrative checks, the search isn't treated as a search for criminal evidence, although the search can lead to the discovery of such evidence. Instead, the courts view these as an

acceptable intrusion on the outer boundaries of an individual's constitutional rights in order to protect campus order and discipline or to promote an environment supportive of academic success (Smith & Strope, 1995). Validity of these contracts focus not on whether the student waives his or her rights or signs a contract, but rather on if the policy is a reasonable exercise of the institution's supervisory duty (*Moore v. Student Affairs Committee of Troy State University*, 1968).

Smyth v. Lubbers (1975) is an important case to illustrate the boundaries of a housing contract authorizing a search. Grand Valley State College had a housing regulation allowing staff to utilize warrantless police searches of student dormitory rooms when officials reasonably suspected a violation. Smyth's room was searched by housing staff, campus police, and a deputy sheriff without a warrant to discover evidence of contraband under the guise of an administrative search. On appeal, the United States District Court considered the search to be unreasonable because any search that looks administrative but actually is to search for criminal evidence requires probable cause and a search warrant. The court reasoned there were other methods available to the college to enforce regulations without intruding on the protections afforded by the Fourth Amendment. As a result, the court found the search to be unconstitutional.

The Court of Appeals of Louisiana held a criminal search by police as part of a dormitory sweep, lacking individualized suspicion, is unconstitutional. *Devers v. Southern University* (1998) involved a housing policy that allowed campus officials and police access to search a student's room for any purpose. The policy was an effort to enforce drug laws and regulations on campus. The court noted the same objectives for society at large, but police

officials off campus do not have the ability to conduct blanket warrantless searches for weapons.

In summary, consent is the most common example of an exception to the search warrant requirement. However, the validity of the consent is limited based on who provides the consent, their authority to do so, and whether the consent was voluntarily given without coercion. Consent can come from the landlord, the individual who is the focus of the search, a roommate with shared access to the space, or through housing contracts. A warrantless search will be valid when consent is authorized.

Plain view. The second exception to the warrant mandate involves criminal evidence in plain view. The plain view doctrine allows for law enforcement to seize incriminating evidence when it is in plain view. In order for the plain view exception to be accepted by the court, two conditions must be met (*Minnesota v. Dickerson*, 1993). First, police must lawfully be in a position from which they can view the evidence. Second, the incriminating characteristic of the item must be immediately apparent. If further inspection of the evidence is needed to determine what it is, a warrant would be needed.

The plain view exception is not intended to be used to conduct a full search of a person's home in place of a search warrant (*Payton v. New York*, 1980). Instead, it is limited to just that which is in plain view. If an additional search is required, police can use the evidence found in plain view as probable cause to justify a search warrant.

Lawful arrest. The third exception recognized by the courts allows for a warrantless search when conducted as a result of a valid arrest. After a valid arrest, a person and his or her immediate possessions can be searched in the absence of a warrant (*United States v. Rabinowitz*, 1950). However, if an arrest is made and the parties relocate to an alternative location, a search

can be initiated based on evidence found in plain view. As a result, a warrantless search of a new location can be considered reasonable by the courts.

This is best illustrated in *Washington v. Chrisman* (1982) where a valid arrest in a parking lot transitioned into a lawful warrantless search of a student's dormitory room using the plain view exception. A campus security guard at Washington State University was patrolling an area outside a dormitory when Overdahl, a student at the university, was stopped for appearing underage, intoxicated, and carrying a bottle of gin in a campus parking lot near his residence hall. He was subsequently arrested. Overdahl was unable to produce identification and requested to retrieve his card from his dormitory room. The officer escorted Overdahl to his room where his roommate Chrisman was also present. While waiting at the threshold of the room for Overdahl to collect his identification, the officer noticed what he believed to be marijuana seeds and a pipe laying on a desk in plain view. The officer then entered the room and confirmed what he viewed was indeed marijuana seeds, seized the contraband, and placed the second roommate, Chrisman, under arrest as well. Chrisman was later convicted of possession of marijuana and LSD. He appealed to the U.S. Supreme Court seeking the evidence be excluded, claiming the police officer illegal entered his dormitory room without a search warrant or probable cause.

The United States Supreme Court upheld Chrisman's conviction on grounds that the warrantless search was valid based on plain view and valid arrest exemption qualifications. The Court ruled the security officer had a right to maintain custody of the original student, Overdahl, after his arrest and during this custody, viewed Chrisman's contraband in plain view. Therefore, his presence in the student's room was justified and once inside, the plain view exception allowed for the officer to lawfully investigate criminal evidence in plain view.

Exigent circumstances. The fourth exception to a warrantless search is classified as exigent circumstances. This exception allows for a search when *the intent is not to collect criminal evidence*, but the situation is so dire that waiting for a search warrant will endanger the health or safety of an individual or destroy evidence. This is commonly seen when public safety or health is threatened or when an emergency situation requires a search to be conducted without sufficient time to obtain a search warrant (*Camara v. Municipal Court*, 1967).

The Supreme Court has stated "the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant" (*Payton v. New York*, 1980, p. 590). When exigent circumstances are present, a government authority can lawfully search in the absence of a warrant. However, this is not an invitation for an open search for criminal evidence.

The exigent circumstances must meet narrowly tailored conditions that are determined on a case-by-case basis (*Carroll v. State,* 1994). Although a complete list of all possible exigent situations does not exist, the court has outlined conditions that must be met in order to qualify as an emergency. These include: a seriousness to the gravity of the offense, a risk to others or property, a reasonable belief evidence will be destroyed, or a reasonable belief evidence will be removed (*Minnesota v. Olson*, 1990; *United States v. Riley*, 1992; *Williams v. State*, 2002).

The burden of proving a search was conducted under an exigent exception falls to the government (*United States v. Jeffers*, 1951). The Court stated, "The police bear a heavy burden when attempting to demonstrate an urgent need that might justify warrantless searches or arrests" (*Welsh v. Wisconsin*, 1984, p. 750). In order to meet this burden, the government must prove two conditions. First, the police had probable cause to conduct a search at that location. Second, exigent circumstances excused the lack of a warrant (*United States v. Lindsey*, 1989).

In *People v. Mitchell* (1976), the Court of Appeals provided a three-prong test to delineate the parameters of emergency situations. These consisted of a reasonable belief by police that an emergency required their assistance to protect life or property. Second, the primary motive of the search must not be to gather evidence. Third, there must be some reasonable basis to associate the location of the search with the emergency. The details of the *Mitchell* (1976) case illustrate these points.

On the morning of December 30, 1972, a chambermaid went missing shortly after arriving to work at the hotel she worked at. Clothing and a partially eaten sandwich were found on the floor where she was working. In an effort to locate the employee, residents began to search for her and contacted the police to assist. Upon inspecting all vacant rooms, common spaces, restaurants, and hallways, a room-to-room search began of occupied rooms by the police using a pass key from the management. Upon entering the last room on the employee's floor, her body was found with evidence later identified as the murder weapon in Mitchell's room closet. In an effort to suppress the evidence, the defendant appealed from an order denying his motion to suppress the evidence on the grounds of a violation of his Fourth Amendment. This was denied due to the existence of exigent circumstances.

The Court of Appeals affirmed the lower court's ruling to deny the request to suppress evidence based on the three-prong test. That is to say, first, a missing person is considered an emergency. Second, the primary motive of the search was not to collect evidence or make an arrest. Third, the search of the occupied rooms was reasonable given the association with the location she went missing in. As a result, the evidence was allowed to remain.

In summary, exceptions to the warrant requirement provide state actors an opportunity to conduct a search or seizure without first obtaining a search warrant. Relevant exceptions

involving university officials include consent, plain view, lawful arrest, and exigent circumstances. Although this review of exceptions is not comprehensive, it gives a good foundation for understanding the unique conditions of warrantless searches in public college and university dormitories.

Conclusion

In summary, the legality of dormitory searches involves an analysis of student privacy and state actor interests. Although students enjoy an expectation of privacy when they choose to live in an apartment on campus, housing officials have a countervailing interest in establishing and enforcing rules and policies to maintain a safe and healthful educational environment.

There are two categories of searches on public college and university campuses. A search that is aimed to discover criminal evidence is classified as a criminal search and retains all protections afforded by the Fourth Amendment. Criminal justice officials acting as state actors must obtain a warrant prior to conducting a search unless one of the few narrowly tailored exceptions are met.

Public university officials acting as state actors seeking to protect health, safety, and maintenance of the university can conduct inspections of student dormitories without a warrant and are subject to less demanding standards than police searching for evidence of a crime.

These administrative searches are authorized by a student's consent to campus rules and policies. In order for these inspections to occur, the university must obtain consent from the student. This comes in a myriad of ways, but most typically involves consent for limited searches through the housing contract and/or implied consent derived from student's agreement to adhere to a handbook of rules and policies administered on most campuses.

However, the consent in these policies cannot waive an individual's core civil liberties, and university administrators cannot condition student housing on the waiver of these protections – especially those connected to criminal proceedings. When consent is provided to the university to conduct inspections, it cannot be delegated to the police. As a result, consent language in housing contracts must be narrowly tailored to support cleanliness, safety or the need for repairs and maintenance, and be different from that of law enforcement.

The scope of the search must be reasonable in light of the intrusion on the student and the purpose of the search. There must be individualized suspicion a violation has occurred. An overly intrusive search, or one lacking individualized suspicion like a dormitory sweep for criminal evidence is usually considered unreasonable and will be inadmissible in criminal prosecutions.

Criminal evidence in plain view is one exception to the warrant requirements of the Fourth Amendment. The plain view exception is determined when an item is visible from a state actor's vantage point, he or she is lawfully in that position, and it is immediately apparent of the objects incriminating substance. However, this is not an open invitation to inspect closer or expand the scope of the search to other areas unless a warrant is first obtained.

Finally, the purpose of the search is an important consideration for the courts to consider when determining the reasonableness of a warrantless search. Where the purpose is to gather evidence of a crime, the requirement for a warrant will apply; where the goal is enforcement of university health, safety, and maintenance policies, a warrant will not usually be required. Moreover the standard for the search will be reasonableness – not whether there was probable cause to believe a crime has been committed.

A search that starts as an administrative inspection but yields incriminating evidence can be considered unconstitutional depending on the facts. The court looks to the predicates of the Fourth Amendment to determine if state actors conducted a state action in lieu of a search warrant or exception. Searches where state action occurred without first meeting a predicate are unconstitutional.

Chapter III: Methodology

During a review of literature, no comprehensive studies were found that assessed university officials' knowledge of Fourth Amendment issues in the dormitory setting. There have been several studies that investigated the legal literacy of teachers (Gullatt & Tollett, 1997; Koch, 1997; Wheeler, 2003; Schimmel & Militello, 2007; Mirabile, 2013), principals (Burch, 2014), or both (Wagner, 2006) in PK-12 settings. The study by Fradella et.al, (2010) is the only investigation which focused on the Fourth Amendment at the collegiate level. However, Fradella et. al only examined students and faculty beliefs about the degree to which privacy should be provided in various areas and situations. It did not test the legal literacy of those individuals.

Purpose

The purpose of this study was to investigate campus housing personnel's knowledge, or "legal literacy," of Fourth Amendment search and seizure principles as applied to public university settings. This inventory will enable the investigator to (a) determine the level of legal knowledge achieved by campus housing personal, and (b) identify what background indicators are effective in predicting the knowledge, or lack thereof, possessed by those officials.

Design

Multiple linear regression was chosen as the statistical technique for the principal analyses in this study. I included in the model independent variables that the literature reveals may make an impact on college and university officials' knowledge of Fourth Amendment search and seizure law. These include: (a) the extent of post-secondary education attained by the employee; (b) the cumulative amount of time in which the employee has served in a student housing capacity; (c) the extent to which the university official employee supervises other

employees in the organization; (d) extent of prior participation in legally-related education; (e) the employees' interest in learning more about higher education law; and (f) the employees' perceived self-knowledge of student services law.

Research Questions

This study will examine the following research questions:

RQ1. What is housing officials' actual knowledge of Fourth Amendment as it relates to search and seizures in student housing?

- Do housing officials believe that they are knowledgeable?
- Are housing officials in fact knowledgeable?

RQ2. What is the relationship between predictors of legal knowledge and search and seizure legal literacy?

- What is the relationship between the extent of post-secondary education attained by the employee and search and seizure legal literacy?
- What is the relationship between the cumulative amount of time in which the employee has served in a student services capacity and search and seizure legal literacy?
- What is the relationship between the extent to which the student services employee supervises other employees in the organization and search and seizure legal literacy?
- What is the relationship between prior participation in legally-related courses and training with participant's search and seizure legal literacy?
- What is the relationship between the employees' interest in learning more about higher education law and search and seizure legal literacy?

Population

According to the Texas Higher Education Coordinating Board (THECB), there are 173 colleges and universities in the state of Texas. In 2014, 55 public universities participated in the *Student Housing Survey* administered by THECB. Of the participating public universities, 40 offered a combined 110,244 student housing beds. The remaining 15 institutions did not offer student housing. Of public university student housing beds, 98,789 (86.9%) were university owned; the rest were from private developers. The campus bed counts range from 190 beds at the University of Texas Medical Branch at Galveston, to 10,651 at Texas A&M University.

The population for this survey was the housing staff at each of these 40 public institutions with student housing. Each institution has a varying degree of housing staff associated with its program, with generally a higher number of housing staff related to a larger number of beds available. This population's contact information is not compiled by THECB like teacher or principal databases that were available in similar investigations. As a result, I utilized a sample to represent the broader population.

Sample Selection

The method of survey distribution relied on nonrandom sampling. This created a threat to external validity. To minimize this, a large sample size of 1,600 participants was drawn from 29 of the public colleges and universities in the state of Texas that offer student housing. This helped increase the representativeness of the sample.

The data sets for the analyses described below were derived from two different groups of university officials. The first sample group included contact information for full or part-time employees of the university. It was compiled from a list of publicly accessible emails based on the 40 individual university websites in Texas that offer housing. The majority of public

institutions provide contact information for employees in the event a student needs to contact a staff member regarding an issue. This information, typically name, phone number, and institutional email address is usually compiled on the university housing homepage under the section "Contact Us" or "Meet the Staff." For this sample, I compiled an email contact list for distributing the survey using publicly available information. The ability to generalize previous principal and teacher studies has been limited by a small sample size. Only one study (Burch, 2014) administered the survey to the entire population of 1,000 principals, allowing for a better generalization. To increase the percentage of responses relative to the entire population, this survey was submitted to the entire population that could be identified through publicly available data.

The second group consisted of resident assistants, or student employees. The email address of these employees was not publicly available, and institutions were not willing to give these out. As a result, I obtained a commitment from four public institutions across Texas to distribute the survey three times via email to their resident assistants on my behalf. The study received department-level approval and Institutional Review Board approval (IRB) at each institution. This group included a total of 900 resident assistants from the University of Houston, Texas A&M University, University of Texas—Arlington, and Texas State University. Each institution had a liaison to work with the principal investigator for this study. These liaisons ranged in operational duties from marketing to facilities, but all fit under the job functions related to student housing. The liaisons did not directly supervise the resident assistants but had access and local permission to use the student emails for this study. The liaison was also the local contact for their IRB, if required. During the data collection stage, the

liaison distributed the survey link three times to their resident assistants. Each liaison received a $30 Amazon gift card in exchange for their assistance at the local level.

Instrument Development

The tests consisted of 20-true/false/unsure questions about search and seizure problems that have arisen in dormitories on college and university campuses, been litigated in state and/or federal courts, and decided on the merits. Definitive answers were not consistent in all cases due to a variety of fact-dependent rulings in the courts, but the weight of the decisions suggested what the best answer would be. The "unsure" option reduced the chance respondents would guess and provided an alternative for respondents who did not think the statement was completely true or false (Schimmel & Militello, 2007). Both incorrect and unsure responses were scored as incorrect. This provided a more accurate description of an employee's actual legal literacy.

The questions comprising the examination were derived from decisions reported in the Westlaw databases covering the period 1961 through 2015. A holding is defined as the legal principle derived from the majority opinion in each case tailored to the particular facts involved in the controversy. Although dissents sometimes appear in the decisions, they were not used as the basis of the questions, since they do not establish precedent; the exception to this general rule were situations where a prior precedent was overruled by subsequent case law developments that adopted the dissent as the correct interpretation of the law.

Reliability and validity. No previous study has examined the university official's legal literacy of the Fourth Amendment on college and university campuses. Previous studies have created and validated individual assessments used on unique populations, primarily K-12 public school teachers. As a result, it was necessary to establish content validity of the survey items

related to university officials. Two administrators were identified to review the content of the survey for accuracy and clarity. These two administrators were the campus attorney, specializing in educational law, and the assistant chief of university police, specializing in campus law enforcement.

In addition to the two administrator's review of the questions, the dissertation committee provided feedback on the structure and content of the questions. Committee members included an attorney-at-law and experts in quantitative research design. This committee assisted to ensure the Fourth Amendment is adequately addressed in the survey content.

Pilot survey. Prior to offering the full survey to the sample, a pilot survey was conducted. This survey was sent to four housing staff at one institution in Texas based on a convenience sample. The pilot participants were asked to make notes under each question to assist in clarifying any points prior to the full survey being distributed . The goal of the pilot survey was to verify that participants understood the survey instructions, the survey could be completed within a 10 minute time limit, and to troubleshoot any technical issues. At the end of the pilot survey, participants provided additional comments regarding their experience. This assisted in crafting an effective survey.

The independent variables. The first independent (predictor) variable was the extent of post-secondary education attained by the examinee measured in years completed.

The second independent variable was the cumulative amount of time in which the examinee has served as a student services employee. This criterion had implications for the importance of "on the job experience" in university officials' acquisition of legal literacy as it pertains to search and seizure law. For instance, even if they started out with little or no knowledge, could on-the-job experience or incidental learning have made up for lost time?

Would this render the deficiencies they possessed when they started to work in student housing (although regrettable), less damaging than it might have been? This variable was measured by years of service rendered as either a student or full-time housing worker.

Because of the diverse range of job categories performed by student housing employees, it is not possible, in a statistical sense, to create an effective predictive model using each job category as a predictor. That said, it seems important to determine whether student housing workers who serve in a managerial role possess meaningful knowledge about their latitude in implementing searches and seizures in dormitory and other student settings. It's notable because they are expected to offer advice to their subordinates about such issues and have the most responsibility in implementing such programs. In actuality, managerial staff, along with police, are typically involved in incidents when illegal activity is reported. As a result, they are more likely to be involved in regular student room entries than an employee who spends less time managing staff and more time managing the department's operations. Moreover, from the point of view of running an effective organization, it is important to know whether those who work in the "trenches" have acquired sufficient knowledge to perform their legal functions, especially since circumstances may arise, demanding immediate attention where their supervisors, even legally literate ones, may not be available.

Accordingly, an indicator was selected for this purpose. Participants were asked to state from 0 to 100% the amount of time they spent, on the job, supervising other employees. This facilitated a determination of the relationship between an employee's managerial responsibilities and actual knowledge of campus search and seizure law. These indicators were derived from self-reports of the employees. This approach had the advantage of avoiding reliance on formal job descriptions, since the interest here is mainly a practical one in trying to

ascertain what the employees actually do on the job, and determining how much they know about search and seizure in college and university settings.

The fourth predictor measured the extent of prior education completed by the participant. Participants responded by selecting *none, some college, bachelors, masters,* or *doctorate.*

The fifth predictor, employees' interest in learning more about higher education law was measured by asking participants what statement best represents their level of interest in learning more about higher education law: *no interest, little interest, some interest,* and *much interest.* The questions were presented in a 4-point Likert format.

The final category, perceived knowledge of higher education law, was measured by asking respondents which statement best represented the extent of their knowledge of higher education law. The survey asked respondents to indicate their level of perceived legal knowledge as it pertained to issues they might or have confronted related to campus search and seizure. They were given four choices. These were *none, inadequate, adequate,* and *proficient*. These alternatives were assigned values of 1, 2, 3, and 4 respectively. Thus, scores of 1-2 indicated the participants perceive their actual knowledge as deficient, while scores in the 3-4 range indicated the participants consider their knowledge at least adequate. These scores enabled a comparison between participants' perceived and actual knowledge.

The data obtained on the six predictors enabled an accurate accounting of the effects they might produce in the multiple regression analyses which will follow.

Dependent measures.

Actual knowledge of search and seizure law. The score on the knowledge of college and university search and seizure law, was selected as the principal dependent measure. The

score was derived from the 20-item search and seizure questionnaire devised for this study. To make the scaling more digestible for consumers of this research, the raw scores from one to 20 correct responses were converted to a percent so that a perfect score equaled 100%, and participants who answered no questions correctly received a zero percent score. The survey appears as Appendix A to this study.

Interest in college and university law. The survey participants were also asked two specific questions. First, how interested they are in learning more about college and university law in general. Second, how interested they are in learning more about the law of search and seizure in college or university settings in particular. Participants were asked to rate each of the question on a scale of *no interest, little interest, some interest,* or *very interested in learning more*. For each item the responses were coded 1, 2, 3, and 4 respectively.

Data Analysis Procedures

A multiple regression model was applied setting up six predictors of the employees' knowledge of Fourth Amendment law score. This enabled a determination of each predictor's independent effects as well as their ability in the aggregate to predict the employees' legal knowledge scores.

The approach chosen fell into what is usually referred to as a general linear model. The predictor and dependent variables satisfied the requirements for multiple regression in that they were measured on a ratio, interval, or ordinal scale.

Summary

This study was designed to investigate the Fourth Amendment Search and Seizure legal literacy of Texas college and university housing officials in order to determine what they know and what predictors are associated with greater or less knowledge. I used a pilot study to garner

feedback on a 20 question true/false/unsure survey prior to distributing it to individuals working in student housing at public institutions in the state of Texas. The results are discussed in the next chapter.

Chapter IV: Results

The Fourth Amendment Knowledge Assessment was sent to 1,100 total participants through Qualtrics, an online survey company that provides participants with an option to collect consent, maintain confidentiality, and provide participants with an opportunity to exit the survey at any time. Of the 1,100 surveys sent out, only 334 were started, and 7 of those 334 decided not to participate after beginning the survey.

Of the 327 remaining surveys, 247 completed the assessment portion of the survey. Additionally, two survey participants completed the survey only, but did not respond to the independent variable demographic questions. After removing these two participants, 245 useable responses remained. Due to the requirements of the institutional review board, participants were allowed to opt-out of responding to any questions they chose. As a result of this option, some of the remaining 245 participants chose not to answer every question. Question 15 (Employment Type) had the highest number of non-responses with a total of fifteen participants choosing not to answer this particular question.

It is common practice for missing data to be replaced using various methods. Upon inspecting the individual responses with incomplete data for Question 15 (Employment Type), I was able to determine the answer to missing responses by examining the combination of years of service, educational level, and percent of time spent supervising others. This enabled me to fill in missing data for this question. From the remaining missing responses, the mean of the provided responses was used to determine what to use as a replacement.

A common threshold for rejecting data sets based on missing data is 5% of the total responses. This study was well within the acceptable range since the most missing data per

question was 9 responses (3.6%). Through replacing missing data, I was able to retain the participants' responses in the model.

The 20-question True/False/Unsure survey tested the participant's knowledge related to search and seizure principles in student housing in order to establish a predictive model for determining knowledge. The assessment was scored using a 100-point scale, with each correct answer earning 5 points towards the total score. Any response marked *unsure* was considered incorrect and the participant did not receive any credit for that question. The survey then asked the participant to provide information for the six predictor questions. These questions related to:

1. Highest level of post-secondary education completed by the participant
2. The cumulative amount of time in which the examinee has served as a housing employee
3. The amount of time the participant spends supervising other employees in the organization
4. Extent of prior legal-type education and training completed
5. Participant's interest in learning more about higher education and search and seizure law
6. The participant's perceived knowledge of higher education law.

Each of these predictors was examined as it related to the score on the 20-question assessment on Fourth Amendment knowledge in student housing. The results that follow are divided into two main parts – descriptive and inferential. I first examine each research question as it relates to descriptive results, then I look to inferential tests to determine significance.

Descriptive Result

Extent of post-secondary education. The first predictor was the extent of post-secondary education completed by the examinee. The respondents were asked to select the highest level of education completed on a scale from *none*, *associate's degree*, *some college*, *bachelors*, *masters*, and *doctorate*. Upon reviewing the results, it wasn't clear to me if the participants could clearly differentiate between an *associate's degree* and *some college*. For instance, an associate's degree would imply two years of education. However, there could be other participants that completed more or less years of college without obtaining an associate's degree and still select *some college*. For this reason, it became difficult for me to differentiate a linear progression of education from least to most education. Since the count of *associate's degree* participants was 5 and the count of *some college* was 81, I merged *some college* with *associate's degree*. This made the linear progression clearer. As expected, participants with a master's degree outnumbered all other education types (n=105). *Some college* (n=86) and *bachelors* (n=38) had the second and third highest number of participants respectively.

As shown in Figure 1, there appears to be a positive relationship between Education Completed and mean score on the assessment. As education increased, so did the score on the assessment. The overall mean score ranged from 49.09% (n=11, SD=18.278) for *no post-secondary education* to 72.00% (n=5, SD=9.747) for participants with a doctorate.

Figure 1. Score on Assessment as a Function of Highest Education Obtained

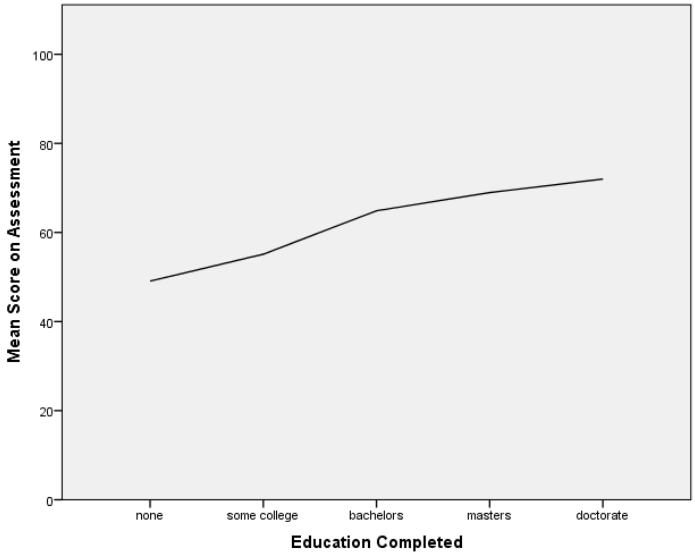

Figure 1. The relationship between mean legal knowledge scores and education completed. A positive relationship exists in both employee types.

Employment type was then included to determine if a difference existed between mean scores within employee groups: students and full or part-time staff. As shown in Figure 2, the positive relationship of higher scores with more education continued within each employee group. The inferential statistics from the multiple regression discussed in Table 10 will determine if this relationship is significant.

Figure 2. Mean Score as a Function of Employee Type and Highest Education Obtained

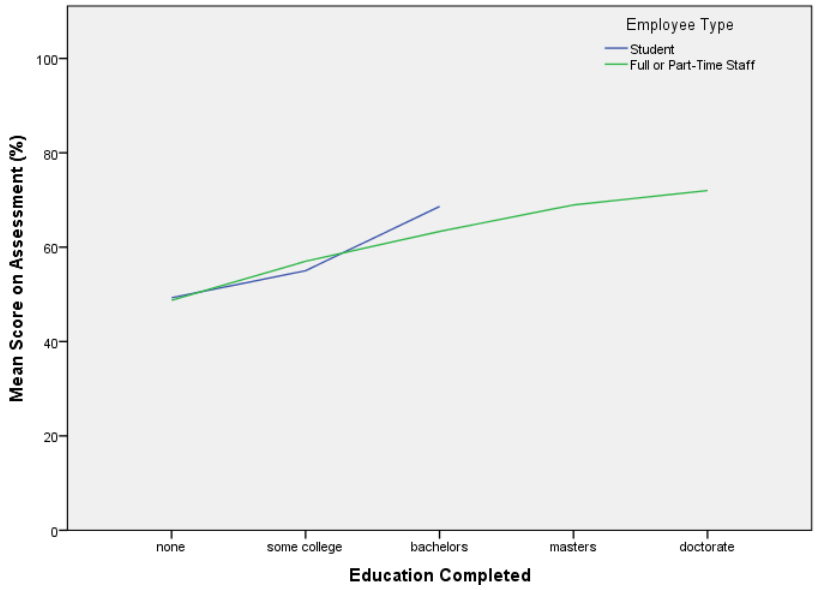

Figure 2. The relationship between mean scores and education completed within employee groups. Student employees are represented with the blue line. Full or part-time employees are represented with the green line. A positive relationship exists for both employee types.

Table 1 shows a snapshot of mean legal knowledge score as a function of education type. I have provided the overall summary data to reflect the model demographics, as well as separated the data by *employee type.* As illustrated in Table 1, the full or part-time employee's mean score is approximately 11 points higher than the student-employee score, with a general trend of higher scores for more education completed.

Table 1

Score on Assessment as a Function of Employee Type and Highest Education Completed

Employee Type	Education Completed	*M*[a]	*n*	*SD*	Minimum	Maximum
Student	None	49.29	7	15.924	25	70
	Some College	55.00	81	19.252	0	90
	Bachelors	68.64	11	15.983	35	95
	Total Student Mean	56.11	99	19.134	0	95
Full or Part-Time	None	48.75	4	24.622	20	80
Staff	Some college	57.00	5	24.900	20	90
	Bachelors	63.33	27	20.096	5	95
	Masters	68.95	105	12.779	30	95
	Doctorate	72.00	5	9.747	60	85
	Total Full or Part-Time Mean	67.05	146	15.511	5	95
Total	None	49.09	11	18.278	20	80
	Some college	55.12	86	19.448	0	90
	Bachelors	64.87	38	18.941	5	95
	Masters	68.95	105	12.779	30	95
	Doctorate	72.00	5	9.747	60	85
	Total Participant Mean	62.63	245	17.860	0	95

Note. Table 1 reflects the summary data from the first predictor of housing professional's legal knowledge: Highest Education Completed. Data reflects the separation of employee type and collectively as a group.

[a] Mean Score as measured on scale of 0-100%.

Years of experience. The second predictor measured was the years of service spent working in student housing. The respondents were asked to provide the number of years they have spent working in student housing. Responses ranged from 0 to 35 years.

As shown in Figure 3, there appears to be a positive relationship between *years of service* and mean score on the assessment. As the service time increased, so too did the score on the assessment. The overall mean score ranged from 55% (n=1) at 17 years of service to 95% (n=1) for participants with 28 years of service. As expected, the number of participants that have served for more than 5 years decreased as years of service increased. This caused the mean to be less meaningful and more sporadic when plotted. To better visualize the data, the participants were grouped in 5-year means due to the small number of participants in years 10-35. Grouping this way created a more clearly descriptive overview of trends in the result (see Figure 3).

Figure 3. Mean Score as a Function of Years of Service

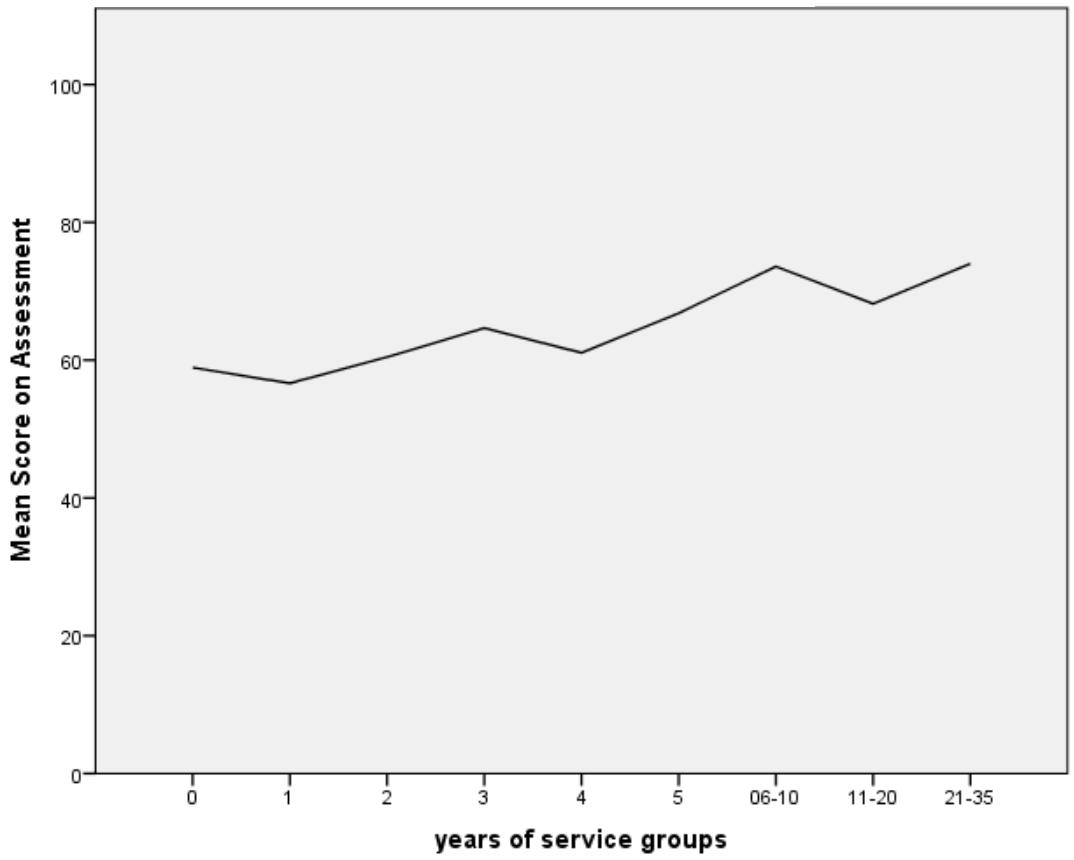

Figure 3. A positive relationship exists between Years of Service working in student housing and mean score on assessment.

As employment type was plotted, a difference was established between what appeared to be a positive relationship with full or part-time staff experience and mean knowledge scores. However, student employees did not experience the same type of relationship. Student employees started with a mean score of 41.67% *(n*=9, *SD=20.156*), which increased to 60.56% *(n*=51, *SD=18.913*), and then decreased to 45.00% *(n*=2, *SD=35.355*) over a 1 year period. The relatively low number of student employees in the year 3 and year 4 categories made the results difficult to interpret in a meaningful fashion. The inferential statistics in Table 10 will determine if the results are significant.

Figure 4. Mean Score as a Function of Years of Service and Employee Type

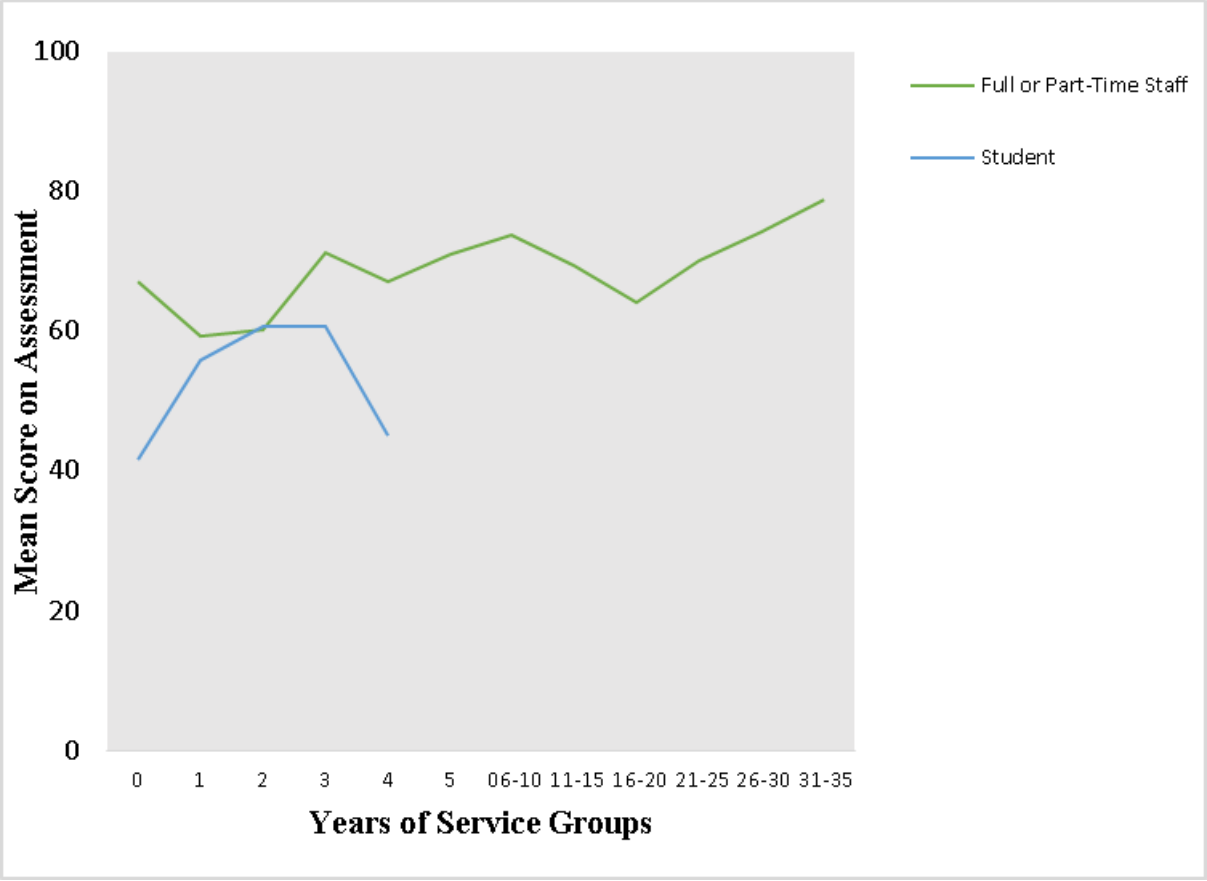

Figure 4. A positive relationship exists between full or part-time employee years of service working in student housing and mean score on assessment. Student scores, as depicted by the blue line, does not appear to have a linear relationship with years of service.

Table 2 shows a snapshot of mean score as a function of *years of service* and *employee type*. I have provided the overall summary data to reflect the model demographics, as well as separated the data by *employee type.* As illustrated in Table 2, there was a general positive relationship between mean score and years of service for full or part-time participants. The relationship was not as certain for student participants.

Table 2

Score on Assessment as a Function of Employee Type and Years of Service

Employee Type	Years of Service	*M*	*n*	*SD*	Minimum	Maximum
Student	0	41.67	9	20.156	0	70
	1	55.88	51	18.913	0	80
	2	60.54	28	14.990	25	90
	3	60.56	9	23.907	25	95
	4	45.00	2	35.355	20	70
	Total Student Mean	56.11	99	19.134	0	95
Full or Part-Time	0 Years	67.11	19	17.426	20	90
Staff	1-5 Years	62.54	65	16.959	5	90
	6-10 Years	73.60	25	12.871	40	95
	11-15 Years	69.41	17	10.441	45	85
	16-20 Years	64.00	5	8.944	55	75
	21-25 Years	70.00	5	10.000	55	80
	26-30 Years	74.17	6	14.634	60	95
	31-35 Years	78.75	4	4.787	75	85
	Total Full or Part-Time Mean	67.05	146	15.511	5	95
Combined Total	0 Years	58.93	28	21.661	0	90
	1-5 Years	59.65	155	18.002	0	95
	6-10 Years	73.60	25	12.871	40	95
	11-15 Years	69.41	17	10.441	45	85
	16-20 Years	64.00	5	8.944	55	75
	21-25 Years	70.00	5	10.000	55	80
	26-30 Years	74.17	6	14.634	60	95
	31-35 Years	78.75	4	4.787	75	85
	Total Participant Mean	62.63	245	17.860	0	95

Note. Table 2 reflects the summary data from the second predictor of housing professional's legal knowledge: Years of Service. Data reflects the separation of employee type and collectively as a group.

Percent of time supervising other employees. The third predictor measured was the employee position as determined by percent of time supervising other employees directly. The respondents were asked to provide the percent of their time from 0 to 100% that they spent supervising other employees. For simplicity, the results were clustered into 10 groups at 10% intervals. The mean score on the assessment was then calculated for each group and plotted

(see Figure 5). The overall mean score ranged from 55.56% (*n*=18) at 20% of time spent supervising to 68.89% (*n*=36) for participants who spent 80% of their time supervising. From a practical stance, employees that are "in the trenches" interacting with student residents should have a higher knowledge of Fourth Amendment principles because they are the ones actually conducting room searches and should therefore better understand their legal boundaries. Alternatively, we would also assume that those in leadership positions are drafting the policy based on a combination of experiential experience, conferences with campus attorneys, and/or familiarity with search and seizure jurisprudence. If this assumption is true, there would be a positive relationship between scores and time spent supervising. Interestingly, the results appear to not show a large difference between individuals that are spending more and individuals that are spending less of their time supervising (see Figure 5).

Figure 5. Mean Score as a Function of Time Spent Supervising

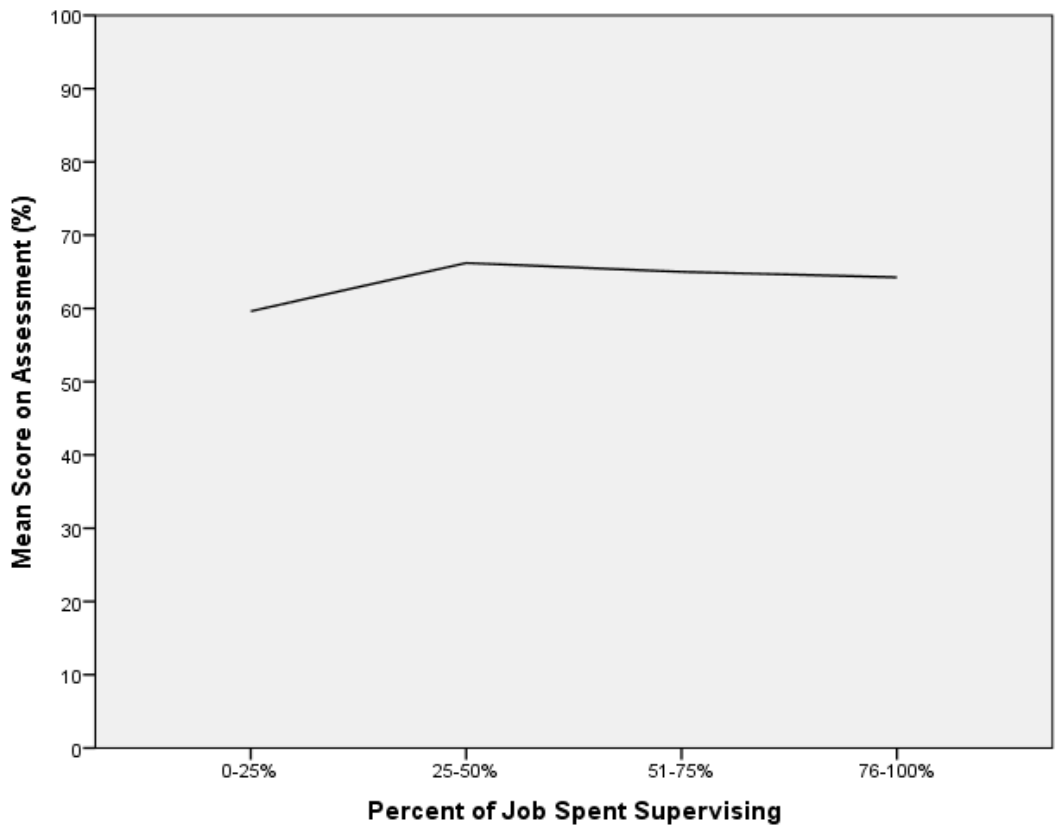

Figure 5: There does not appear to be a positive relationship between percent of job spent supervising and mean score on assessment.

As employment type by knowledge score was plotted, a difference became apparent between student scores *(M=57.08 N=96)* and employee scores *(M=67.00 N=145)* with full or part time staff consistently performing at higher levels. However, there did not appear to be a meaningful relationship between supervisory time and knowledge scores for either group. The inferential statistics will determine if the results are significant (see Table 10).

Figure 6. Mean Score as a Function of Time Spent Supervising and Employee Type

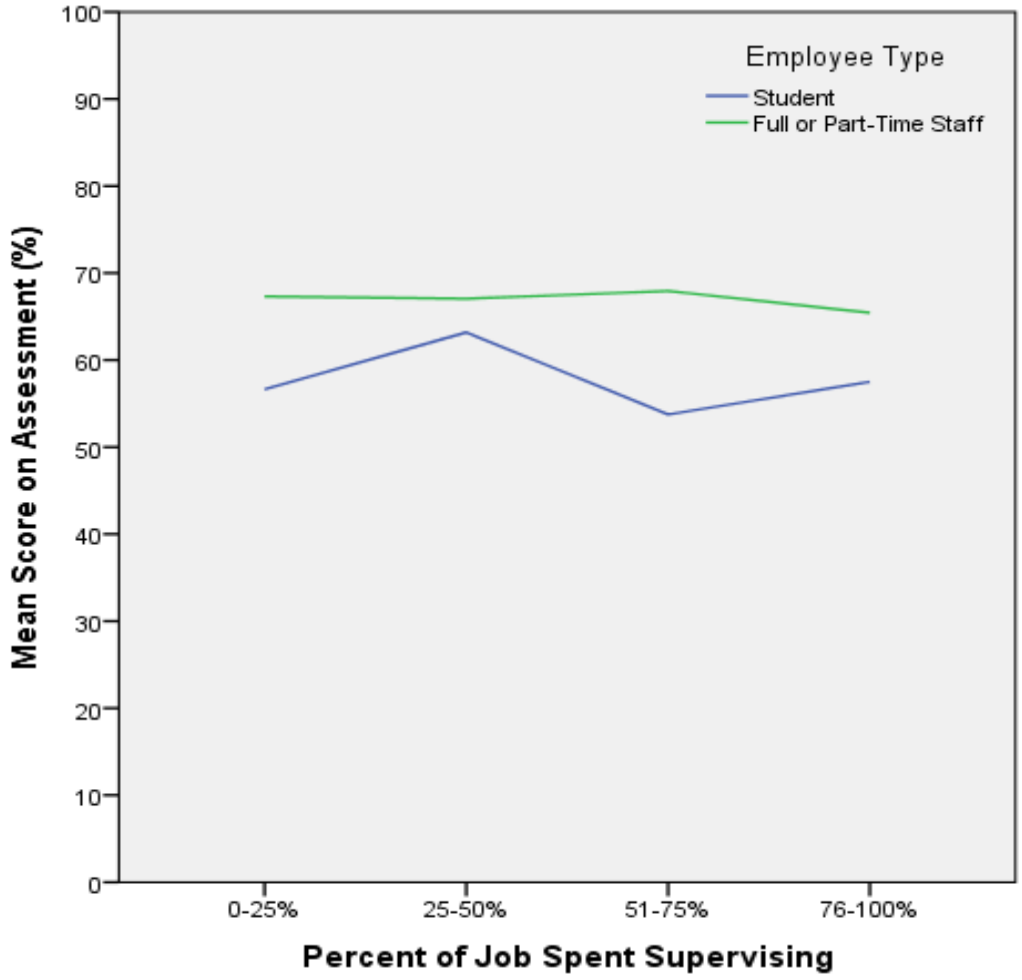

Figure 6. There does not appear to be a relationship between employee type, time spent supervising, and score on the assessment.

Table 3 shows a snapshot of mean score as a function of *time spent supervising* and *employee type*. I have provided the overall summary data to reflect the model demographics, as well as separated the data by *employee type.* As illustrated in the table, there does not appear to be a strong relationship between mean score and *time spent supervising* for full or part-time participants.

Table 3

Score on Assessment as a Function of Employee Type and Time Spent Supervising

Employee Type	% Time Spent Supervising	*M*	*n*	*SD*	Minimum	Maximum
Student	0%	56.49	37	21.176	0	85
	10%	60.00	11	12.042	45	80
	20%	51.25	12	24.783	0	95
	30%	65.00	9	13.463	45	90
	40%	58.33	3	17.559	40	75
	50%	60.83	6	17.151	35	80
	60%	48.33	6	12.111	30	65
	70%	57.50	2	3.536	55	60
	80%	60.00	4	13.540	40	70
	90%	58.33	3	20.817	35	75
	100%	56.67	3	10.408	45	65
	Mean Total	57.08	96	18.334	0	95
Full or Part-Time Staff	0%	67.50	8	23.452	20	95
	10%	76.67	6	6.055	70	85
	20%	64.17	6	17.151	35	80
	30%	62.50	12	15.300	30	80
	40%	70.00	6	18.166	40	85
	50%	67.04	27	14.227	35	95
	60%	71.67	15	21.520	5	95
	70%	59.33	15	18.407	20	85
	80%	70.00	32	10.318	50	85
	90%	66.00	5	4.183	60	70
	100%	62.69	13	14.665	25	80
	Mean Total	67.00	145	15.550	5	95
Total	0%	58.44	45	21.738	0	95
	10%	65.88	17	13.019	45	85
	20%	55.56	18	22.874	0	95
	30%	63.57	21	14.243	30	90
	40%	66.11	9	17.815	40	85
	50%	65.91	33	14.708	35	95
	60%	65.00	21	21.852	5	95
	70%	59.12	17	17.251	20	85
	80%	68.89	36	10.962	40	85
	90%	63.13	8	12.229	35	75
	100%	61.56	16	13.871	25	80
	Mean Total	63.05	241	17.373	0	95

Note. Table 3 reflects the summary data from the third predictor of housing professional's legal knowledge: Percent of time spent supervising. Data reflects the separation of employee type and collectively as a group.

Prior legal-type training/education. The fourth predictor measured was the extent of prior legal-type education completed by the examinee. The respondents were asked to enter how many educational course-related higher education law trainings they had completed. The intent was to convert these courses to total hours and combine with the participants' total on-the-job professional law training hours to yield a total number of hours the participant had completed. Upon reviewing the results, it wasn't clear if the respondents fully understood each question. Some participants responded with unrealistic numbers of law-related courses taken (i.e. 21 courses). I felt the results were most likely the total hours they completed instead of courses. However, due to the inconsistencies, the results could not be used as such.

To save the data and answer the research question, the responses were converted to ordinal variables under the assumption that those with more training would have higher scores. Three categories were used for this variable: 0 = *no training*, 1 = *training or courses*, 2 = *training and courses*. Participants who noted having at least some hours of *training or courses* were recoded as 1, while those indicating *no training* were scored as 0. Using the null hypothesis of "there is no difference in scores between participants with law-related training and those without," it could then be determined if there was any significance between those that had *no training*, those that had *training or courses*, and those that had *training and courses*.

There appears to be a positive relationship between having prior legal-type training and performance on the assessment. The results indicate a difference between those with *no training or courses* completed (M=58.81%, n=97, SD=20.901), *training or courses* (M=65.00%, n=89, SD=15.094), and *training and courses* (M=65.34%, n=59, SD=15.253). Results indicated almost identical mean scores between *training or courses* and *training and courses*, which were both nearly 7 points higher than those with no training (see Figure 7).

Figure 7. Mean Score as a Function of Total Training

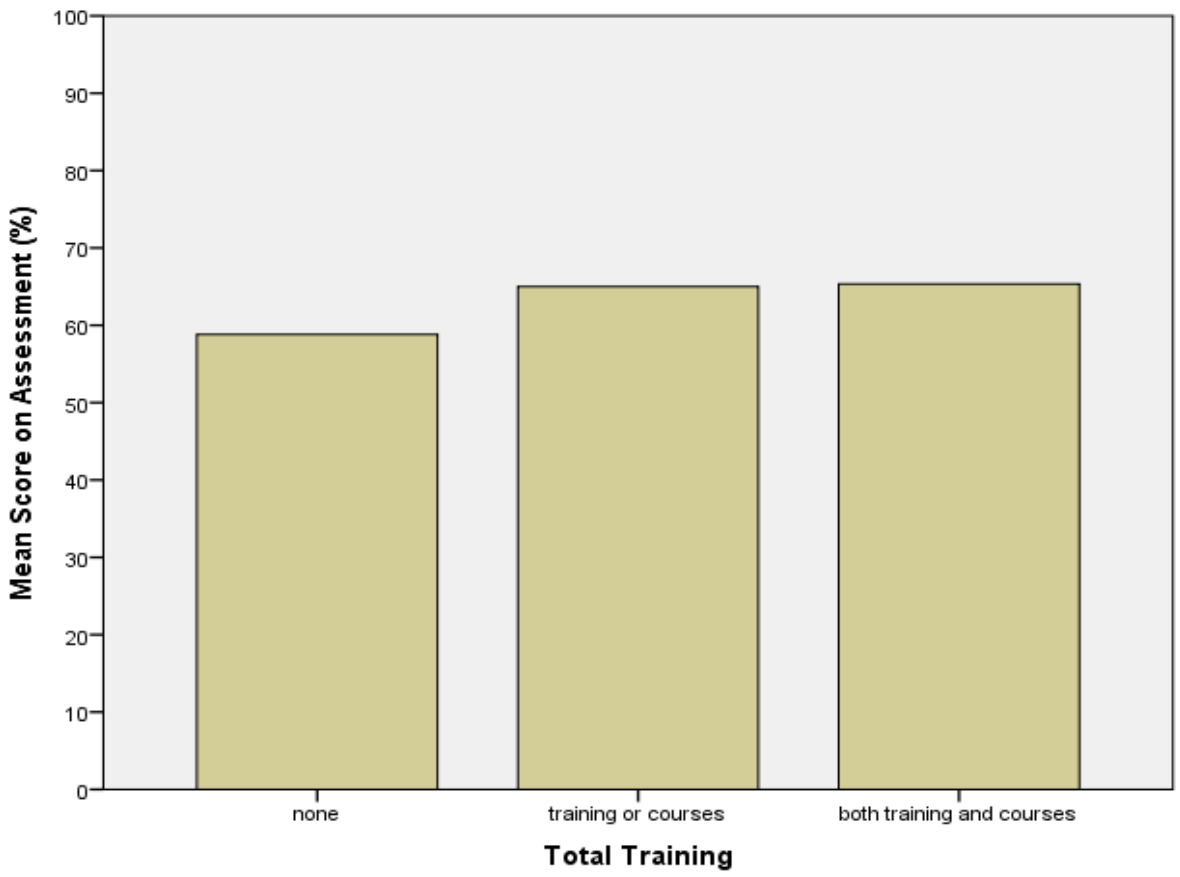

Figure 7. Participants that have had any combination of higher education law-related training or courses performed better than participants without training.

As shown in Figure 8, when employee type was considered, full or part-time employees performed better on the assessment with the more legal training they received (*M*=68.98%, *n*=44, *SD*=13.363) for *training and courses*, (*M*=68.79%, *n*=58, *SD*=12.818), for *training or courses*, and (*M*=62.84%, *n*=44, *SD*=19.719) for *no training*. However, student staff performed highest when they had *training or courses* (*M*=57.90%, *n*=31, *SD*=16.622), followed by those with *no training* (*M*=55.47%, *n*=53, *SD*=21.445), and those with both *training and courses* (*M*=54.67%, *n*=15, *SD*=15.864). This might be indicative of uncertainty or confusion with the

subject matter and will be further addressed in the discussion chapter that follows. The inferential statistics Table 10 will determine if the results are significant.

Figure 8. Mean Score as a Function of Total Training

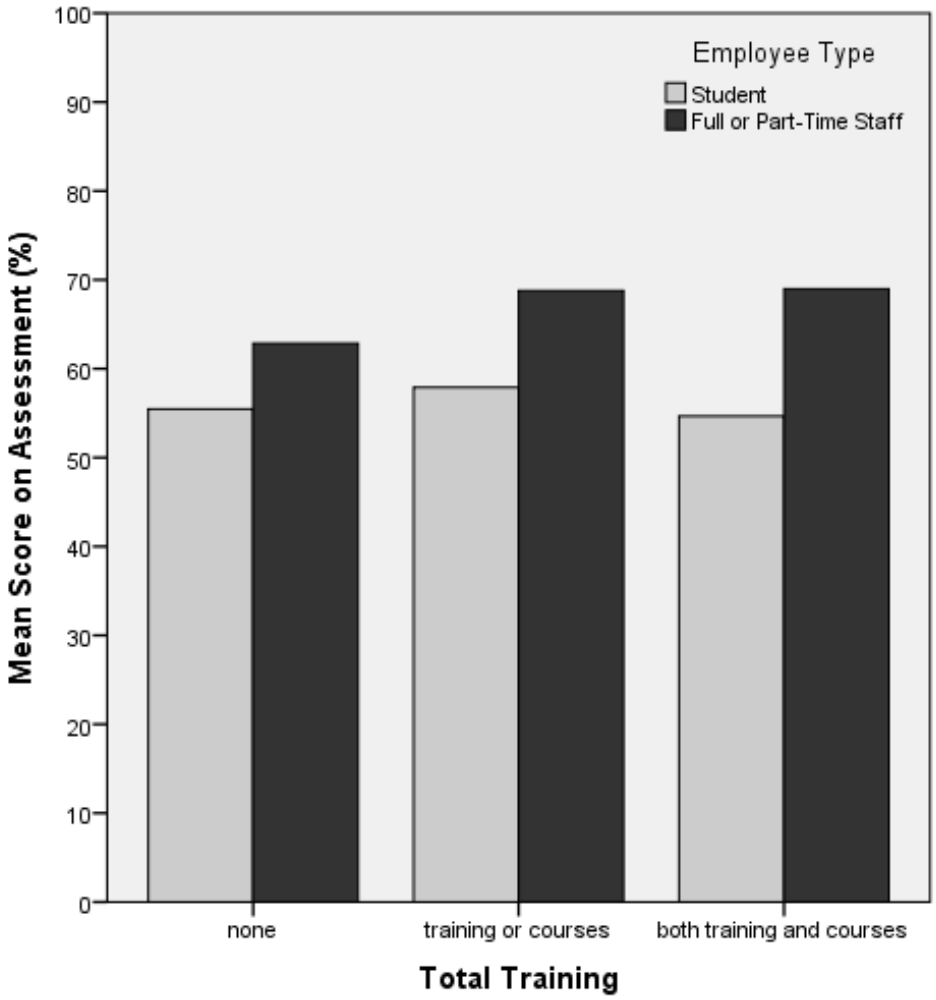

Figure 8. There is a difference in the employee type as it relates to performance on the assessment depending upon the amount of training or course related training they have received. Full or part-time employees performed better with the addition of one or both training types. Students performed nearly the same whether they had no training or both types of training.

Table 4 shows a snapshot of mean score as a function of *additional legal-related training* and *employee type*. I have provided the overall summary data to reflect the model demographics, as well as separated the data by *employee type.* As illustrated in the table, there

appears to be a positive relationship between mean score and full or part-time participants that received at least 1 type of training.

Table 4

Score on Assessment as a Function of Employee Type and Additional Legal-Related Training

Employee Type	Total Training	*M*	*n*	*SD*	Minimum	Maximum
Student	None	55.47	53	21.445	0	95
	Training or courses	57.90	31	16.622	0	80
	Both training and courses	54.67	15	15.864	30	80
	Mean Total	56.11	99	19.134	0	95
Full or Part-Time Staff	None	62.84	44	19.719	5	95
	Training or courses	68.79	58	12.818	25	95
	Both training and courses	68.98	44	13.363	35	85
	Mean Total	67.05	146	15.511	5	95
Total	None	58.81	97	20.901	0	95
	Training or courses	65.00	89	15.094	0	95
	Both training and courses	65.34	59	15.253	30	85
	Mean Total	62.63	245	17.860	0	95

Note. Table 4 reflects the summary data from the fourth predictor of housing professional's legal knowledge: Additional legal-related training. Data reflects the separation of employee type and collectively as a group.

Interest in higher education law or search and seizure. The fifth predictor was used to investigate whether there was a difference in mean scores based on an individual's interest in learning more about higher education law or search and seizure law. A scale of *no interest*, *little interest*, *some interest*, and *very interested* were examined. Of the 238 respondents that answered these questions, those with *some interest* and *very interested* appear to perform better on the assessment than those with *little interest* and *no interest*.

The overall mean score of all participants ranged from 50.45% (*n*=11, *SD*=27.061) for those with *no interest* in search and seizure law to 66.73% (*n*=78, *SD*=14.523) for participants *very interested* in learning more about higher education law. When employment type was considered, full or part-time employees performed higher (*M=6*7.05%, *n*=143, *SD*=15.511) than

student staff (*M*=57.08%, *n*=96, *SD*=18.334). The results shown in Figure 9 generally appeared to show a positive relationship between those that have a higher interest in higher education related law and their score on the assessment. The inferential statistics below will determine if this relationship is statistically significant (see Table 10).

Figure 9. Interest in Learning more about Higher Education Law and the Law of Search & Seizure

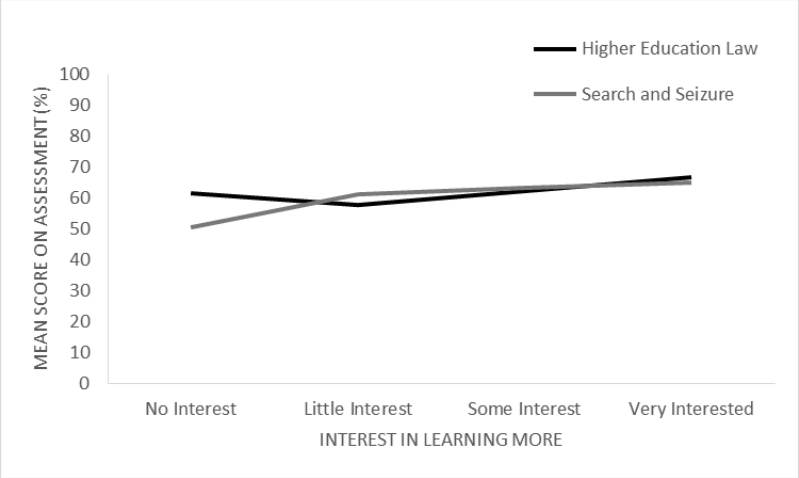

Figure 9. As interest increases to learn more about higher education law and the specifics of search and seizure, so too does mean scores on the assessment.

Table 5 shows a snapshot of mean score as a function of *interest in learning more about higher education law* and *employee type*. I have provided the overall summary data to reflect the model demographics, as well as separated the data by *employee type.* As illustrated in the table, there appears to be a positive relationship between mean score and desire to learn more.

Table 5

Score on Assessment as a Function of Employee Type and Interest in Higher Education Law

		Higher Education Law			Search and Seizure		
Employee Type	Interest Level	*M*	*n*	*SD*	*M*	*n*	*SD*
Student	No Interest	60.00	17	23.783	54.44	9	27.889
	Little Interest	57.34	32	18.836	59.80	25	19.868
	Some Interest	55.31	32	15.757	55.41	37	16.388
	Very Interested	57.00	15	16.776	57.80	25	16.078
	Mean Total	57.08	96	18.334	57.08	96	18.334
Full or Part-Time Staff	No Interest	70.00	3	22.913	32.50	2	17.678
	Little Interest	59.17	12	25.121	63.50	20	17.852
	Some Interest	65.69	65	14.892	67.36	70	15.269
	Very Interested	69.05	63	13.040	68.50	50	13.296
	Mean Total	66.71	143	15.441	66.73	142	15.495
Total	No Interest	61.50	20	23.345	50.45	11	27.061
	Little Interest	57.84	44	20.443	61.44	45	18.878
	Some Interest	62.27	97	15.877	63.22	107	16.601
	Very Interested	66.73	78	14.523	64.93	75	15.056
	Mean Total	62.85	239	17.286	62.84	238	17.322

Note. Table 5 reflects the summary data from the fifth predictor of housing professional's legal knowledge: Interest in Higher Education Law and the law of Search and Seizure. Data includes the separation of employee type and collectively as a combined group.

Perceived knowledge. The sixth predictor that was measured was the examinee's perceived knowledge of higher education law. The respondents were asked to assess their level of knowledge of higher education law prior to starting the exam using a scale of *some*, *inadequate*, *adequate*, and *proficient*.

As shown in Figure 10, there appears to be a positive relationship between perceived knowledge and mean score on the assessment. As the perceived knowledge increased, so too did the score on the assessment. The overall mean score of all participants ranged from 57.78% (*n*=9, *SD*=16.791) for those who felt their knowledge was *inadequate* to 67.00% (*n*=15, *SD*=21.280) for participants who rated their perceived knowledge as *proficient*. As expected,

participants who felt they had a higher perceived knowledge outperformed those who felt their knowledge was inadequate.

Figure 10. Score on Assessment as a Function of Perceived Knowledge of Higher Education Law

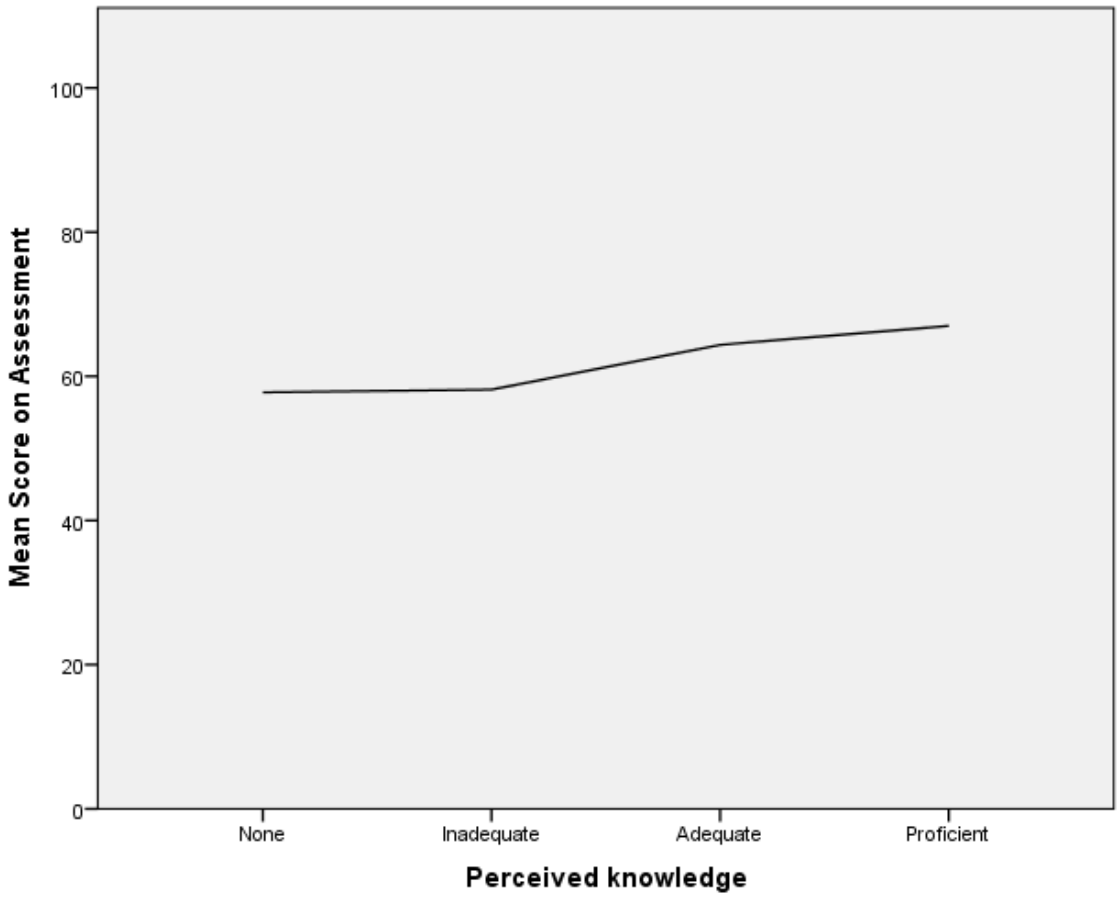

Figure 10 reflects the summary data from the sixth predictor of housing professional's legal knowledge: Perceived knowledge. Data shows a positive relationship between the perceived knowledge of higher education law and performance on the assessment.

The results were then broken down by employment type. As shown in Figure 11, the positive relationship continues for full or part-time staff but unexpectedly drops for students that rate themselves as having a high proficiency, implying a certain level of overconfidence. The

inferential statistics from the multiple regression in Figure 11 will determine if this relationship is significant.

Figure 11. Score on Assessment as a Function of Perceived Knowledge of Higher Education Law and Employee Type

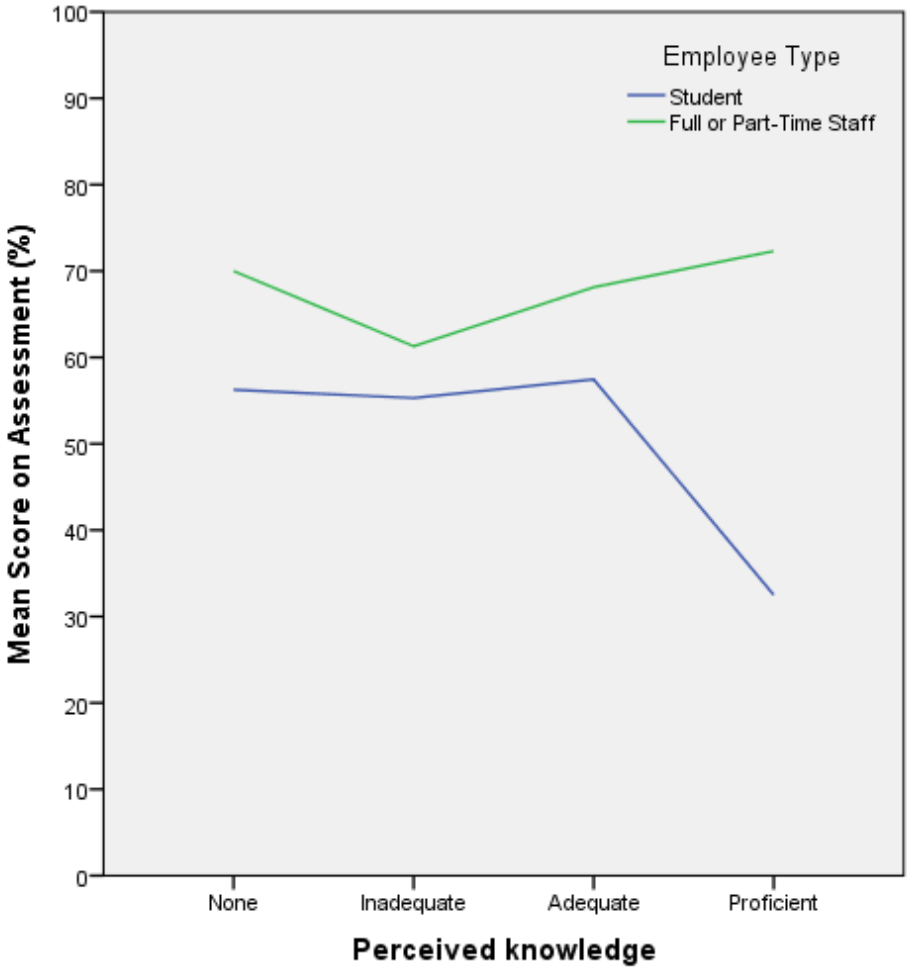

Figure 11 reflects the summary data from the sixth predictor of housing professional's legal knowledge: Perceived knowledge. Data shows a positive relationship between the perceived knowledge of higher education law and performance on the assessment for full or part-time staff but negative relationship for students.

Table 6 shows a snapshot of mean score as a function of *perceived knowledge* and *employee type*. I have provided the overall summary data to reflect the model demographics, as

well as separated the data by *employee type.* When grouped into two groups, those who perceive their knowledge as *adequate* or *proficient* outperformed those that rated their proficiency as *inadequate* or *none*. As illustrated in the Table 6, those that have more confidence in their knowledge performed better on the assessment. This trend is consistent for both employee types individually and collectively.

Table 6

Score on Assessment as a Function of Employee Type and Perceived Knowledge of Higher Education Law

Employee Type	Perceived Knowledge	*M*	*n*	*SD*	Minimum	Maximum
Student		58.1	103	16.6	15.0	95.0
	None or Inadequate	56.5	50	15.9	15.0	90.0
	Adequate or Proficient	59.3	53	17.2	20.0	95.0
Full or Part-Time Staff		67.2	135	14.8	20.0	95.0
	None or Inadequate	62.9	32	16.1	20.0	95.0
	Adequate or Proficient	68.3	103	14.2	20.0	95.0
Total		63.9	14	15.5	40.0	90.0
	None or Inadequate	59.7	72	16.1	15.0	95.0
	Adequate or Proficient	65.1	166	15.8	20.0	95.0

Note. Table 6 reflects the summary data from the sixth predictor of housing professional's legal knowledge: Perceived knowledge. Data reflects the separation of employee type and collectively as a group.

Inferential Statistics

The statistical method used to answer the research questions was multiple regression. This is a common method used to determine variation between independent and dependent variables and to test a hypothesis using a regression equation. An important part of the analysis of multiple regression is to ensure the data collected meets certain assumptions of the model. These assumptions are discussed next.

Assumptions. The first assumption of multiple regression involves the independence of observations. The study's design satisfies the requirement.

The second assumption is that the criterion variable is continuous. The dependent variable used is the score on the 20-question assessment on Fourth Amendment knowledge in student housing as calculated on a scale of 0 to 100%. This satisfies the assumption.

The third assumption is that the predictor variables be measured on a ratio, interval or nominal scale. This assumption was met with each of the 6 predictors: *years of post-secondary education, employee type, percent of work time spent supervising other housing employees, participation in legally-related coursework/training, perceived knowledge of education law*, and *education completed*.

Finally, multiple regression required a large number of observations as determined by the number of predictor variables selected. The number of observations exceeds by many times the minimum number required for the six predictors. This requirement is satisfied as well.

Data entry approach. Since an express theory does not undergird our research model, most experts suggest that in using SPSS software I employ the so-called "simultaneous method" of data entry. I have selected the simultaneous approach in light of the absence of a preexisting theoretical model and for the relative ease of interpreting the results.

Multicollinearity diagnostics. A difficulty in the selection of six predictor variables is the possibility of multi-collinearity. This is used to describe the situation when a high correlation is detected between two or more predictor variables that sometimes arise when running a multiple regression. These high correlations may cause problems when trying to draw inferences about the relative contribution of each predictor variable to the success of the model as measured by R Squared, even as adjusted.

In the best of all worlds, our six predictors should be correlated with the score on the assessment, but not highly correlated with each other; however, such conditions rarely exist in the real world. The software selected, SPSS, enabled me to check on this problem and make additional calculations to minimize collinearity effects.

Table 7 shows the correlations between each pair of variables. The correlations between the independent variables are not a problem in this case. I considered the potential risk associated with high collinearity and determined through the tolerance and VIF coefficients results from SPSS that that it did not pose a risk to the validity of the results since the software will not include a predictor in a model if it has a tolerance of less than 0.0001.

Table 7

Correlations between Each Pair of Variables

		Score on Assessment	Employee Type	Perceived knowledge	Education Completed	Years of Service	Time Supervising	Total Training
Pearson Correlation	Score on Assessment	1.000	.301	.161	.382	.262	.120	.155
	Employee Type	.301	1.000	.271	.798	.416	.498	.241
	Perceived knowledge	.161	.271	1.000	.311	.206	.218	.352
	Education Completed	.382	.798	.311	1.000	.439	.453	.338
	Years of Service	.262	.416	.206	.439	1.000	.126	.053
	Time Supervising	.120	.498	.218	.453	.126	1.000	.176
	Total Training	.155	.241	.352	.338	.053	.176	1.000
Sig. (1-tailed)	Score on Assessment	-	.000	.006	.000	.000	.031	.008
	Employee Type	.000	-	.000	.000	.000	.000	.000
	Perceived knowledge	.006	.000	-	.000	.001	.000	.000
	Education Completed	.000	.000	.000	-	.000	.000	.000
	Years of Service	.000	.000	.001	.000	-	.025	.204
	Time Supervising	.031	.000	.000	.000	.025	-	.003
	Total Training	.008	.000	.000	.000	.204	.003	-

		Score on Assessment	Employee Type	Perceived knowledge	Education Completed	Years of Service	Time Supervising	Total Training
N	Score on Assessment	245	245	245	245	245	241	245
	Employee Type	245	245	245	245	245	241	245
	Perceived knowledge	245	245	245	245	245	241	245
	Education Completed	245	245	245	245	245	241	245
	Years of Service	245	245	245	245	245	241	245
	Time Supervising	241	241	241	241	241	241	241
	Total Training	245	245	245	245	245	241	245

Model summary. The Model Summary results are contained in Table 8. This is a measure of how effective the independent variables collectively are in predicting the participant's score on the assessment. Multiple regression produces what are called *R Square* and Adjusted R Square statistics. The R Square statistics were computed by determining the square of the correlation; it indicated the proportion of the variance in the dependent variable which was accounted for by the model as a whole.

Because of a statistical anomaly which results in the R Square statistic tending to overestimate the success of the model when applied in the real world, a recalculation is required. This additional calculation produced what is known as an Adjusted R Square. Its calculation takes into account the number of variables in the model and the number of observations, that is, participants used in our particular study. This calculation reduced the error contained in the more simplistic R Square model. This adjusted R Square value gives the most useful measure of the effectiveness of the model.

The R Square and Adjusted R Square in Table 8 indicated that 16.9% and 13.9% of the variance in the score on the assessment on Fourth Amendment knowledge in student housing is explained by the independent variables ($F(8, 229) = 5.795$, adj. $R^2 = .139$).

Table 8

Model Summary

Model	*R*	R^2	Adjusted R^2	*SE*
1	.410[a]	.168	.139	16.569

Note. a. Predictors: (Constant), Search and Seizure Law Interest, Perceived knowledge, Time Supervising, Years of Service, Total Training, Employee Type, Higher Ed Law Interest, Education Completed

The next test used to determine the overall significance of the model was via the analysis of variance (ANOVA) procedure. The results of the ANOVA are shown in Table 9 and indicate the full model is significant at the $p < .001$ level.

Table 9

ANOVA[a]

Model		*SS*	*df*	*MS*	*F*	Sig.
1	Regression	12421.586	6	2070.264	7.554	.000[b]
	Residual	64129.501	234	274.058		
	Total	76551.087	240			

[a]Dependent Variable: Score on Assessment
[b]Predictors: (Constant), Total Training, Years of Service, Time Supervising, Perceived knowledge, Employee Type, Education Completed

The multiple correlation coefficients. The choice of multiple regression statistic produced a beta value (B), aka standardized regression coefficient, for each predictor. Beta is a measure of how strongly each predictor variable influenced the dependent variable, which in this study is the score on the 20-question assessment on Fourth Amendment knowledge in student housing. Significantly, unlike single predictor models, the contribution of each predictor variable in this study cannot be determined simply by comparing the correlation coefficients obtained for each predictor. The advantage of obtaining the beta regression coefficient is that it is computed to allow me to make comparisons among the efficacy of the predictors and to

assess the strength of the relationship between each predictor variable and the score on the assessment.

The *standardized beta coefficients* are shown in Table 10. This statistic is a measure of the contribution of each variable to the model. The beta is measured in units of standard deviation. A large *B* value indicates the change one standard deviation in the predictor produces in the criterion measure, here, the score on the legal knowledge test. In essence beta is a measure of a predictor variable's contribution to the model.

For example, Education Completed had the largest standardized beta value among the predictors. Its value of approximately 0.343 means that a change of one standard deviation in Education Completed will result in a change of about 0.343 standard deviations in the criterion variable, here score on the legal knowledge test. The unstandardized value of 6.002 associated with the Education Completed variable means that each unit change in this predictor resulted in an increase in the test score by just over 6 points. In the same vein Years of Service had the next most powerful influence on the test scores. Its value of .114 means that a change in one standard deviation in the Years of Service predictor resulted in a change of 0.114 standard deviations in the test scores. Its unstandardized value of .277 means the each unit change in years of service was associated with an increase of .277 points on the knowledge test.

The *"t"* and "sig" values which appear in Table 10 give a rough indication of the impact of each predictor variable. A big absolute *t* value and a small sig value suggest that a predictor variable is having a large impact on the dependent variable. The result reported in Table 10 particularly shows two variables, Education Completed ($p<.001$) and Years of Service ($p<0.1$), having a large impact on the score obtained by the participant. I will discuss this relationship later in the discussion section.

Table 10

Standardized Beta Coefficients[a]

Model		Unstandardized Coefficients		Standardized Coefficients			95.0% Confidence Interval for B	
		B	*SE*	Beta	*t*	Sig.	Lower Bound	Upper Bound
1	(Constant)	48.324	3.506		13.784	.000	41.417	55.231
	Employee Type	-.285	3.775	-.008	-.075	.940	-7.722	7.152
	Perceived knowledge	.980	1.876	.035	.522	.602	-2.717	4.677
	Education Completed	6.002	1.850	.343	3.244	.001	2.357	9.648
	Years of Service	.277	.167	.114	1.657	.099	-.052	.606
	Time Supervising	-.033	.039	-.059	-.843	.400	-.110	.044
	Total Training	.756	1.523	.033	.496	.620	-2.245	3.756

[a]Dependent Variable: Score on Assessment

Interactive model. The final post hoc analysis conducted was to consider an interactive model. While the multiple regression results contained in Table 10 considered how each predictor impacts the dependent variable separately, the interaction model examined whether the effect of education depended on years of service or conversely, whether the effect of years of service depended on level of education. Another way of framing this issue is asking to what extent does the effect of Education Completed depend on Years of Service?

The regression estimates with the interaction between Education Completed and Years of Service is contained in Table 11. When considering the interaction of Years of Service and Education Completed, the R Square increased from .168 to .191, an increase of .023 as reflected in Table 11 ($F(9, 228) = 5.998$, $p < .001$, adj. $R^2 = .191$).

Table 11

Summary for Regression Estimates for Knowledge Scores in Interactive Model

					Change Statistics				
Model	*r*	r^2	Adjusted r^2	*SE* of the Estimate	r^2 Change	*F* Change	*df*1	*df*2	Sig. F Change
1	.438[a]	.191	.160	16.373	.191	5.998	9	228	.000

Note. a. Predictors: (Constant), Education Time On Job, Search and Seizure Law Interest, Perceived knowledge, Time Supervising, Years of Service, Total Training, Employee Type, Higher Ed Law Interest, Education Completed

By adding the interaction, the power of the model increased from 16.8% to 19.1% in all variances accounted for. Table 12 contains the results for the Regression Estimates for the model, which includes the Education Completed x Years of Service interaction added in. Inclusion of the interaction predictors substantially increased the explanatory value of the model.

Table 12 also reveals an unstandardized B coefficient of -0.557 and a standardized beta of -.726 [*t*=-2.551, *p*=011]. The negative coefficients make clear that the effect of Education Completed depends on *Years of Service*. Thus, the data suggests a suppression effect revealed only by including the interaction between Education Completed and Years of Service. *As years of service increase the effect of education declines.* Specifically, as revealed by the unstandardized coefficients the effect of education on search and seizure knowledge scores declined by 0.557 points for each year of service rendered by the respondents. As revealed by the standardized B scores, for each one standard deviation increase in Years of Service the effect of Education on search and seizure knowledge scores declined by 0.726 standard deviations.

Table 12

Regression Estimates for Knowledge Test Scores in Interaction Model

Model		Unstandardized Coefficients		Standardized Coefficients			Collinearity Statistics	
		B	*SE*	Beta	*t*	Sig.	Tolerance	VIF
1	(Constant)	42.251	4.553		9.280	.000		
	Employee Type	-3.998	4.167	-.110	-0.960	.338	.269	3.711
	Perceived knowledge	.846	1.869	.030	.452	.651	.813	1.230
	Education Completed	9.499	2.269	.544	4.187	.000	.210	4.753
	Years of Service	1.884	.659	.772	2.857	.005	.049	20.600
	Time Supervising	-.029	.039	-.052	-.735	.463	.719	1.391
	Total Training	1.237	1.552	.054	.798	.426	.764	1.309
	Higher Ed Law Interest	-2.125	1.682	-.110	-1.263	.208	.471	2.122
	Search & Seizure Interest	2.164	1.678	.101	1.289	.199	.581	1.721
	Education xYOS	-.557	.218	-.726	-2.551	.011	.044	22.866

[a]Dependent Variable: Score on Assessment

Summary

Results indicated that housing professionals attained a mean score of 62.3% on the 20-question assessment on Fourth Amendment knowledge in student housing. This suggests that there are substantial gaps in the knowledge of this employee group.

The multiple regression model as a whole that included the employee type, perceived knowledge, education completed, years of service, time supervising and legal training accounted for approximately 16% of the variance in legal knowledge scores. The only predictor among the six to attain significance was the Education Completed. The beta coefficient for Education Completed was 0.343 (t=3.244, p<.01). The years of service predictor approached significance having attained a valued of 0.144 (t=1.657, p<.1).

When the regression model was re-run to study interaction effects between Education Completed and Years of Service, a classic suppressor effect was disclosed. The results showed

an unstandardized B coefficient of -0.557 and a standardized beta of -0.726 [*t*=-2.551, *p*=011]. The negative coefficients when interacting the variables make clear that the effect of Education Completed depends on Years of Service. *As years of service increase the effect of education declines.* Specifically, the effect of education on search and seizure knowledge scores declined by 0.557 points for each year of service rendered by the respondents. As revealed by the standardized B scores, the effect of education on search and seizure knowledge scores declined by 0.726 standard deviations for each one standard deviation increase in Years of Service. The meaning of the results reported in this chapter in connection with the research questions raised and their implications for student services practice in colleges and universities will be discussed in the next chapter. The results suggest actions which might be taken to address what appears to be an important deficiency in the way housing official are trained.

Chapter V: Discussion

Purpose of Study

The purpose of this study was to investigate campus housing personnel's knowledge, or "legal literacy," of Fourth Amendment search and seizure principles as applied to public university settings. This inventory enabled me to (a) determine the level of legal knowledge achieved, and (b) identify what indicators are more likely to predict their knowledge, or lack thereof.

There are an unknown number of searches conducted in campus housing each year, but anecdotal evidence shows resident assistants are frequently involved in incidents involving underage drinking and minor drug use throughout the semester that require entering into rented resident rooms to enforce policy. One would assume all student housing personnel should have a general awareness of the law as they either create policy outlining procedures to conduct a search or seizure or are the ones conducting the search themselves.

Research Question 1

The first research question asked what the actual Fourth Amendment knowledge of housing officials was as it relates to search and seizure in student housing. I investigated this question through two inquiries:

- Do housing officials believe that they are knowledgeable?
- Are housing officials in fact knowledgeable?

The assessment was given to participants during the last month of the academic year. By administering the assessment at this time of year, I could take advantage of experiential knowledge acquired over the course of the current academic term. Results indicate that 51.4% of students and 76.3% of full or part-time employees (a clear majority of each group) felt their

knowledge of search and seizure principles were adequate or proficient. This confidence does not necessarily correspond to the actual knowledge they demonstrated on the knowledge test they took. The employees' beliefs in this regard may reflect the fact that training for university housing officials is extensive. It covers a broad area of incidents that could occur in the university setting. Because of this, training traditionally focuses on the practical application, with not as much emphasis placed on the theoretical, or in this case constitutional, applications of their knowledge. Consequentially, they might have concluded they knew more than they actually did about this important subject.

The mean score on the assessment was 62.3% across all groups. By comparison, Schimmel & Militello's comparable 2007 study of teacher's knowledge, although not the same questions or focused on search and seizure exclusively, resulted in a teacher mean legal knowledge score of 41.18% correct. With 3 possible answers (true, false, unsure), simply guessing true or false would result in a score of about 50% correct. The mean score of 62.3% is not a dramatic improvement from what I would expect if simply guessing. This suggests that housing officials as a whole are not sufficiently knowledgeable about Fourth Amendment search and seizure in student housing. Upon closer inspection, students had a mean score of 56%, which is not much better than guessing. Full and part-time employees fared slightly better at 67% correct, but lower than anticipated based on the additional training and coursework one would expect them to have completed.

However, this number might also be misleading. One reason for a lower than expected mean score might be due to the 85% of the participants that were in a lower position of leadership. These employees would typically follow instructions or policies, not act on their own. For example, student employees are trained to follow step-by-step instructions when

entering to search a student's room. The room search policy is typically created by the upper administration to ensure compliance with legal requirements. The lower level employees conducting the search do not always have to know the reason *why* they must conduct a search in a specific way, but they must know the proper steps procedurally. In effect, they do what they were trained to do. If not, they may face disciplinary action or termination.

The assessment on Fourth Amendment knowledge in student housing focused on the case law behind policy decisions, not necessarily on the procedural step-by-step process. We might have obtained a higher mean score if the questions were focused on the employer's mandated procedures in conducting such searches rather than the principles derived from the case law. In any case, the test results indicated a serious knowledge gap in Fourth Amendment search and seizure law that should be addressed.

Research Question 2

The second research question investigated the relationship between employee type, perceived knowledge, education completed, years of service, time supervising, and total training with search and seizure legal literacy as measured by the 20-question inventory using multiple regression analyses. Initially, these relationships were examined without considering interactions among the predictor variables. Thereafter, a second multiple regression analyses was conducted by adding an interaction between variables to the regression equation.

Main effects. When the first model was set up with the six independent variables and knowledge score on Fourth Amendment search and seizure as the criterion variable, the results from an analysis of variance indicated the model as a whole was significant in predicting legal knowledge [F=7.554, p<.01]. In this model the independent variables accounted for 16.9% and 13.9% of the variance in the knowledge scores as reflected in the R Square and Adjusted R

Square results [$F(8, 229)=5.795$]. Education Completed was the only predictor to attain significance at the .05 alpha level in this model although Years of Service attained significance in this model at the 0.1 alpha level.

Education Completed had the largest standardized beta value among the predictors. Its value of 0.343 means that a change of one standard deviation in Education Completed resulted in a change of about 0.343 standard deviations in the criterion variable, here score on the legal knowledge test. The unstandardized Beta value of 6.002 associated with the Education Completed variable [no college, some college, bachelor's degree, master's degree, doctorate] means that each unit change in this predictor resulted in an increase in the test score by just over 6 points.

In the same vein Years of Service had the next most powerful influence on the test scores. Its value of .114 means that a change in one standard deviation in the Years of Service predictor resulted in a change of 0.114 standard deviations in the test scores. Its unstandardized value of .277 means the each unit change in years of service was associated with an increase of .277 points on the knowledge test. None of the other predictors of employee type, perceived knowledge, time supervision, or total training attained statistical significance. Clearly then both Education Completed and Years of Service were associated with greater knowledge on the search and seizure test. But these relationships did not reveal how the Education Completed variable affected the knowledge score as years of service increased. In other words, the model using main effects only raised the question of whether the effect of Education Completed was uniform across Years of Service, or whether its impact varied over time on the job. This question was examined in the interaction analysis discussed in the next section.

The interaction model. The overall model summary with the interaction between Education Completed and Years of Services was a significant predictor of test scores and resulted in an increase in the variance of test scores accounted for. The R Square rose from 16.8% with the simple main effects model to 19.1% with the interaction model.

Here the standardized regression coefficient increased from 0.343 and 0.544 between the main effects-only model and the interaction model. This meant that in the interaction model, one standard deviation change in Education Completed resulted in a 0.544 standard deviation change in test scores. Using the unstandardized Beta, the results indicated that for each unit change in Educational Completed, the test scores rose by about 9.5 points.

The results for the Years of Service variable in the interaction model indicated that the standardized Beta coefficient rose from 0.114 to 0.772. This meant that for each one standard deviation increase in Years of Experience, there was a 0.772 standard deviation increase in test scores. The unstandardized Beta results for this measure indicated that the test scores rose by 1.88 points for each unit increase in Years of Experience.

Despite these results, including the increased ability of the interaction model to account for the variance in the test of knowledge, the most important findings relate to the results from the interaction between Education Completed and Years of Experience. The negative coefficients when interacting the variables make clear that the effect of Education Completed depends on Years of Service. *As years of service increase, the effect of education declines.* Specifically, the effect of education on search and seizure knowledge scores declined by 0.557 points for each year of service rendered by the respondents. As revealed by the standardized B scores, the effect of Education on search and seizure knowledge scores declined by 0.726 standard deviations for each one standard deviation increase in Years of Service.

These results suggest the following conclusion for college and university administrators in the housing field: (a) Better educated employees measured by Highest Education Completed will be significantly more likely to have a better grasp of Fourth Amendment search and seizure law as it applies to college dormitories, in the early years of service, independent of generalized legal training they may have received; (b) The importance of Years of Education Completed diminishes over time as housing officials obtain more "on the ground experience" working in that capacity; (c) The overall level of knowledge of college and university housing officials, whether professional full or part time staff, or those currently enrolled as students, is generally poor relative to the responsibilities they have assumed; and (d) There is little evidence that administrators supervising housing operations have more knowledge of search and seizure law than other housing employees.

Implications

The policy and practice implications for these principal finding are as follows:

1. Establish minimum education and/or years of service equivalents for positions tasked with enforcing the campus search and seizure policy.
2. Provide continual training and professional development centered on Fourth Amendment principles in higher education.
3. Incorporate Fourth Amendment law-related courses in master's and doctoral higher education curriculums.
4. Establish and train on a permission-based procedure for conducting room searches.

Results from this study revealed four important implications for housing professionals. First, Years of Service and Education Completed are the best predictors of Fourth Amendment knowledge. The interactive model revealed that for every increase in level of education

completed (i.e. bachelors, masters, doctorate), mean score on the assessment increased by 9.5 points. For every additional year of service, mean score increased by almost 2 points. Put simply, participants that obtained both a high level of education and have worked in the field for a long time were the most knowledgeable about search and seizure in campus housing. As a result, housing professionals should establish minimum education or years of service requirements for employment positions that have the responsibility to authorize a room search.

Second, full or part-time employees should have performed better on the assessment than student employees. Results revealed there was a difference in mean scores, 56% for students and 67% for full or part-time employees, but the difference was not statistically significant. This is an indication that the students and full or part-time employees receive similar training or education related to search and seizure law and therefore performed similarly. The lack of a significant difference in legal knowledge between professionals and student employees suggest the need for additional legal-type training for both groups, but especially the career housing officials. This training should be continual, focused, multi-faceted, and provided after administering the assessment used in this study. After all, they will repeatedly face decisions involving Fourth Amendment predicates.

Third, there was no significant difference between those that had not received any training or law-related education and those that had both training and courses. This is concerning in that one would expect to see those with more training be better versed, resulting in significantly higher scores compared to those that have not received any additional training or education. This implies a reliance on university counsel to craft policies that align with the law. However, university officials should incorporate focused curriculum in masters or doctoral programs to ensure proper academic training for those seeking employment in student housing.

Fourth, housing officials generally lack a certain level of expertise in search and seizure law as it relates to their core job function. The lack of expertise is concerning since these officials create and enforce campus policies, oftentimes without direct oversight, to control certain behaviors of students living in university housing. Universities can quickly get into situations involving violations of students' constitutional protections, resulting in unwanted media attention, civil and possibly criminal prosecution, and costly litigation.

As a result, universities should structure their campus search policy to be permission based. *Smyth v. Lubbers* (1975) suggested a separate search warrant process within the university to ensure there is reasonable belief a violation has occurred prior to a search by campus officials. The Constitution requires a search warrant to be issued by a neutral or independent magistrate. If universities can identify individuals that meet these conditions – perhaps a conduct board panel or dean of students – courts might reason this to be acceptable. This process was in place at the university involved in *State v. Kappes* (1976) when the dean of students issued a search authorization form to have a student's room searched for drugs for school disciplinary proceedings, not to justify the search for court purposes. The court upheld the discipline-related search as constitutional.

The policies that institutions put into place are vital to keeping the university out of costly litigation and to protect the privacy interest of students. As a result, it is important for those that craft the campus search policy to establish protocols that are permission based, give full consideration to Supreme Court decisions, establish training programs based on needs of employees, incorporate focused higher education law studies in masters and doctoral curriculum, and create an internal university magistrate to verify reasonable suspicion prior to entering a student's room.

Limitations

Although the knowledge of search and seizure assessment included some of the most important Fourth Amendment search and seizure principles germane to student housing professionals today, it did not assess how they might handle real-life problems as they might arise. Such assessments might be undertaken with a give and take question and answer format using both quantitative and qualitative approaches. The respondents in this study created limits on the ability to generalize results since it only involved housing professionals who are employed at a public college or university in the state of Texas and work in student housing. Finally, since this study only asked about generalized legal training and not specific search and seizure instruction, the legal education predictor might increase in its predictive power if such an inquiry were part of the questionnaire.

Future Research

This exploratory study focused solely on one sliver of a university housing official's role as it relates to search and seizure principles in student housing. The predictive model tested here accounted for 19.1% of variations on a specific test of legal knowledge, which is not substantial. Future research should explore 7 additional areas. First, future research should explore what other variables exist that might create a stronger predictive model by building off of this study's findings that Highest Education Completed and Years of Service are significantly linked to score on the assessment. Second, this was the first test of housing professionals' knowledge of search and seizure conducted. As a result, there was not a direct benchmark to compare the scores to, although Schimmel & Militello's (2007) study of teacher's knowledge resulted in a lower mean legal knowledge score of 41.18% correct. Future application of this assessment on additional housing groups can provide comparable data to this study. Third,

future research should include participants from multiple states, as well as both housing and non-housing participants. This will allow for comparison between states and those working in student housing and those who do not.

Fourth, public-private housing partnerships, or a blend of private business with the university's housing program creates a unique dilemma in determining where the state actor's boundary is, and should be further clarified with future research. Fifth, as technology continues to change, a student's expectation of privacy on electronic devices as it relates to institutional monitoring is uncertain and should be explored.

Sixth, future research should manipulate training programs to determine the most effective knowledge acquisition. For example, the training delivery should be provided not only in principle, but also case scenarios and joint decision making practice so that employees go step-by-step through the analytic process and become comfortable with using and applying the legal principles.

Finally, this study created a framework to test legal knowledge in higher education. This can be applied to other core functions across campus and should explore other topics, such as measuring individual's knowledge of free speech, fair housing, solicitation in student housing, live-on requirements, parking and transportation, and student discipline.

Conclusion

In conclusion, Years of Service and Education Complete were significant predictors of test scores, accounting for 19.1% of all variations. However, overall knowledge of Fourth Amendment principals was low across all housing employee types. The effect of Education Completed depended on Years of Service. As Years of Service increased, the effect of education decreased.

This created four implications for housing officials. First, housing professionals should establish minimum requirements for employment to include a combination of years of service and education achieved. Second, there should be a focus on continual training and professional development centered on Fourth Amendment principals. Third, administrators offering masters or doctoral programs in higher education should offer law-related courses that include Fourth Amendment principals in higher education. Fourth, poor performance on this assessment by all employee types reveals the need for administration to establish clear permission-based procedures for conducting room searches.

Appendix A- Survey Questions

University Official's Fourth Amendment Rights Survey

This survey will gather information regarding your background, academic experience, and knowledge and confidence in dealing with student's Fourth Amendment rights in student housing. Please select the response that best fits your personal and professional thoughts and practices.

Section 1: Demographics

1) What is your highest level of post-secondary education achieved?

- ☐ No college
- ☐ Some college [1-29 credits]
- ☐ 1 Year complete [30-59 credits]
- ☐ 2 Years complete [60-89 credits]
- ☐ 3 Years complete [90-119 credits]
- ☐ 4+ Years complete but no degree [120 credits or more]
- ☐ Bachelor's degree conferred by college or university
- ☐ Some master's [post bachelors credits earned toward degree]
- ☐ Master's degree conferred by college or university
- ☐ Some doctoral [enrolled and credits earned in doctoral program]
- ☐ Doctorate degree conferred

2) I am a

- ☐ Student employee
- ☐ Full-time employee

3) If #2 is “Student Employee”, then: In what year of service working in student housing are you?

- ☐ 1st year of service
- ☐ 2nd year of service
- ☐ 3rd year of service
- ☐ 4th year of service

4) If #2 is “Full-time employee”, then: In what year of service working in student housing are you?

- ☐ 1-4 years of service
- ☐ 5-9 years of service
- ☐ 10-14 years of service
- ☐ 15-19 years of service
- ☐ 20-24 years of service
- ☐ 25-29 years of service
- ☐ 30 or more years of service

5) If #2 is “Full-time employee”, then: What percentage of time do you spend, on the job, supervising other employees?

- ☐ 0-9%
- ☐ 10-19%
- ☐ 20-29%
- ☐ 30-39%
- ☐ 40-49%
- ☐ 50-59%

- ☐ 60-69%
- ☐ 70-79%
- ☐ 80-89%
- ☐ 90-100%

6) How interested are you in learning more about higher education law?

- ☐ No interest
- ☐ Little interest
- ☐ Some interest
- ☐ Very interested

7) How interested are you in learning more about the law of search and seizure in college or university settings?

- ☐ No interest
- ☐ Little interest
- ☐ Some interest
- ☐ Very interested

8) 7) Which best describes your knowledge of higher education law:

- ☐ None
- ☐ Inadequate
- ☐ Adequate
- ☐ Proficient

Section 2: Search and Seizure Questionnaire

Please respond to the following questions regarding the application of the Fourth Amendment Search and Seizure law as applied to students residing in university housing**.**

Select the answer that is more likely than not correct.

The use of "may" in a question means "legally may."

The term "dormitory" refers to all student housing varieties on a college or university campus, such as student apartments, residence halls, and houses owned and operated by the college or university.

The term "university official" refers to any employee of the university's housing program, such as resident assistants, building directors, program directors, or campus executives and administrators, *but excludes campus police or security officers*.

The term "university police" refers to fully sanctioned police officers with arresting powers. It does not include security officers or guards who do not possess arresting powers.

1) The Fourth Amendment right to be free from unreasonable government search and seizures applies to searches conducted in public college and university dormitories.

   ✓ True

   ☐ False

   ☐ Unsure

   Multiple courts have upheld the Fourth Amendment protections to students living in college dormitories (*Morale v. G*rigel, 1976; *Piazzola v. Watkins*, 1971; *Smyth v. Lubbers*, 1975).

2) A university official does not need to first obtain a search warrant in order to conduct a search of a student's rooms for drugs.

- ☐ True
- ✓ False
- ☐ Unsure

Several, but not all conditions require a search warrant prior to a university official's entrance into a student's room, such as when the search is motivated by or on behalf of police (*People v. Edwards*, 1969), or when the search is to discover evidence intended to turn over to a criminal justice officer (*Commonwealth v. Neilson*, 1996).

3) A student living in university housing at a public university and a student living in a private house or apartment located off campus each enjoy the same Fourth Amendment protection from unreasonable searches and seizures?

- ✓ True
- ☐ False
- ☐ Unsure

Privacy interests protected by the Fourth Amendment extend to students living in the dormitory just as it would if the individual lived in a home off campus. The United States District Court in *Smyth v. Lubbers (1975)* ruled "The [student's] dormitory room is his house and home for all practical purposes, and he has the same interest in the privacy of his room as any adult has in the privacy of his home, dwelling, or lodging."

4) A search or seizure conducted by a university official at a *private university* without the involvement of police, whether for disciplinary proceedings or for referral to a criminal justice official is not unconstitutional.

- ✓ True
- ☐ False
- ☐ Unsure

United States v. Jacobson, 1984. The United States Supreme Court ruled that the Fourth Amendment protection against unreasonable searches and seizures is wholly inapplicable to private parties as long as government officials did not participate or have knowledge of the search or seizure.

5) A public college or university official may be personally liable if s/he knew or reasonably should have known that the job-related action s/he took would violate the constitutional rights of a student.

- ✓ True
- ☐ False
- ☐ Unsure

Wood v. Strickland, 1975. The United States Supreme Court ruled a school official is liable, under 42 U.S.C. § 1983, to a wronged student only if he knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the student affected, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury to the student.

6) At a public college or university, there is no constitutional difference between a university official's search for criminal evidence and a search to enforce student housing rules.

- ☐ True

- ✓ False
- ☐ Unsure

Piazzola v. Watkins, 1971. The United States Court of Appeals for the Fifth Circuit ruled a housing policy giving campus administrators permission to search student rooms is reasonable when it was limited in its application to further the university's function as an educational institution. A search may become "unreasonable" when the policy is applied to authorize a warrantless search for criminal evidence.

7) University officials at a public university were asked to check all rooms in the building as part of regular health and safety inspections previously agreed-to by the students. Upon entering a room, the resident assistant finds contraband in plain view and alerts police. This violates the student's constitutional rights.

- ☐ True
- ✓ False
- ☐ Unsure

Medlock v. Trustees of Indiana University, 2013. The United States Court of Appeals found a warrantless resident assistant inspection for, and documentation of university violations occurring in a student's dormitory room did not violate student's Fourth Amendment rights. However, actions of the police can still make the search unreasonable.

8) Campus police may lawfully request that university officials at a public university conduct a search of a student's room for drugs on behalf of police so that a search warrant won't need to be obtained.

- ☐ True
- ✓ False
- ☐ Unsure

People v. Edwards, 1969. The Court of Appeals of California ruled if law enforcement initiate or cooperate with a school official to enter and search a room, evidence seized would be barred under the fourth amendment.

9) Municipal Police may conduct a search of a public university student's room without a search warrant to confiscate drugs without violating the parameters of the Fourth Amendment.

- ☐ True
- ✓ False
- ☐ Unsure

Piazzola v. Watkins, 1971. The United States Court of Appeals for the Fifth Circuit ruled if a law enforcement official initiated the investigation and then gained entry to a student's room without a warrant, evidence seized thereby would be barred under the fourth amendment.

10) University officials at a public university can inspect a student housing room without a warrant when the inspection is reasonable and for the purpose of enforcing rule or policy violations outlined in the housing contract.

- ✓ True
- ☐ False
- ☐ Unsure

Kappes v. United States, 1976. The Court of Appeals of Arizona ruled the right of privacy protected by the fourth amendment does not include freedom from reasonable inspection of a school-operated dormitory room by school officials.

11) University officials at a public university can constitutionally conduct a routine "dorm sweep" of the entire wing and enter rooms to conduct a search for drugs for the purpose of enforcing criminal laws?

- ☐ True
- ✓ False
- ☐ Unsure

Devers v. Southern University, 1998. The Court of Appeals of Louisiana ruled a dorm sweep for drugs by the college violated students' Fourth Amendment rights.

12) University officials at a public university may legally search the room of a student suspected of storing stolen property without first obtaining a search warrant.

- ☐ True
- ✓ False
- ☐ Unsure

Morale v. Grigel, 1976. United States District Court found a search by university officials at a public university to discover stolen property thought to be hidden in a dormitory room is not a reasonable exercise of university's supervisory authority.

13) A common exception to the search warrant requirement is to first obtain consent of the individual to whom the search is directed.

- ✓ True

☐ False

☐ Unsure

Schneckloth v. Bustamonte, 1973. The United States Supreme Court ruled a search conducted based on consent is a well-established exception to the Fourth Amendment requirements of probable cause and a search warrant.

14) When police see incriminating evidence in plain view inside a public university dormitory room, they can conduct a warrantless search and seizure as long as the officer has a right to be in that location.

✓ True

☐ False

☐ Unsure

Washington v. Chrisman, 1982. The United States Supreme Court ruled the discovery of marijuana in plain view by a police officer accompanying a student to his room to obtain his ID after being arrested was a constitutional search.

15) The police must first obtain a search warrant before conducting a search if two roommates are present and one consents to the search while the other objects.

✓ True

☐ False

☐ Unsure

Georgia v. Randolph, 2006. The Supreme Court of the United States held that the warrantless search of a home based upon the consent of one co-occupant (the defendant's estranged wife) was invalid as to the defendant, where the defendant (the other co-occupant) was present and expressly refused to allow police entry.

16) University officials may legally delegate their search authority to police.

- ☐ True
- ✓ False
- ☐ Unsure

People v. Cohen, 1968. The New York District Court determined the university cannot fragment, share, or delegate consent to police. This includes when the purpose of police involvement is to make an arrest if one is warranted.

17) Police may legally enter and conduct a search of a student's room without a search warrant in an event of an emergency where delaying entrance would gravely endanger the lives of others.

- ✓ True
- ☐ False
- ☐ Unsure

Warden v. Hayden, 1967. The United States Supreme Court ruled "the Fourth Amendment does not require police officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others".

18) A public university's housing contract may not require students to provide consent to an inspection of rooms with university officials and police as a condition of attending the university.

- ✓ True
- ☐ False
- ☐ Unsure

Devers v. Southern University, 1998. The Court of Appeals of Louisiana ruled a housing contract providing university officials with consent to conduct dorm sweeps with police violated students' Fourth Amendment rights. The State, in operating a public school system of higher education, cannot condition attendance at one of its schools on the student's renunciation of his constitutional rights.

19) University officials at a public university may legally provide 3rd-party consent for police to search a student's occupied room for evidence of criminal activity.

- ☐ True
- ✓ False
- ☐ Unsure

Chapman v. United States, 1961. The Supreme Court of the United States ruled a landlord does not have the authority to waive the Fourth Amendment warrant requirements by consenting to a search of an occupied room.

20) University officials at a public university may legally provide consent for police to search unoccupied rooms.

- ✓ True
- ☐ False
- ☐ Unsure

United States v. Elliott, 1995. The United States Court of Appeals ruled a landlord has authority to consent to a police search of vacant units in his building.

Appendix B- Survey Instrument Expert Review Form

Please respond to the following questions regarding the application of the Fourth Amendment Search and Seizure law as applied to students residing in university housing**. Select the answer that is more likely than not correct.**

The use of "may" in a question means "legally may."

The term "dormitory" refers to all student housing varieties on a college or university campus, such as student apartments, residence halls, and houses owned and operated by the college or university.

The term "university official" refers to any employee of the university's housing program, such as resident assistants, building directors, program directors, or campus executives and administrators, *but excludes campus police or security officers*.

The term "university police" refers to fully sanctioned police officers with arresting powers. It does not include security officers or guards who do not possess arresting powers.

1) The Fourth Amendment right to be free from government search and seizures, applies to searches conducted in public college and university dormitories.

   ✓ True

   ☐ False

   ☐ Unsure

Survey Review Questions

Please answer the following questions about Fourth Amendment search and seizure as it relates to college and university dormitories. For each question, respond with an "X" next to *Agree* or *Do Not Agree*. Provide reasoning for any *Do not Agree* responses on the last page.

Question 1

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Multiple courts have upheld the Fourth Amendment protections to students living in college dormitories (*Morale v. G*rigel, 1976; *Piazzola v. Watkins*, 1971; Smyth v. Lubbers, 1975).

2) A university official would never need to first obtain a search warrant in order to conduct a search of a student's rooms for drugs.

- ☐ True
- ✓ False
- ☐ Unsure

Several, but not all conditions require a search warrant prior to a university official's entrance into a student's room such as when the search is motivated by or on behalf of police (*People v. Edwards*, 1969), or when the search is to discover evidence intended to turn over to a criminal justice officer (*Commonwealth v. Neilson*, 1996).

3) A student living in university housing at a public university and a student living in a private house or apartment located off campus each enjoy Fourth Amendment protection from unreasonable searches and seizures?

- ✓ True
- ☐ False

Question 2

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 3

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 4

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

☐ Unsure

Privacy interests protected by the Fourth Amendment extend to students living in the dormitory just as it would if the individual lived in a home off campus. The United States District Court in *Smyth v. Lubbers (1975)* ruled "The [student's] dormitory room is his house and home for all practical purposes, and he has the same interest in the privacy of his room as any adult has in the privacy of his home, dwelling, or lodging."

4) A search or seizure conducted by a university official at a *private university* without the involvement of police, whether for disciplinary proceedings or for referral to a criminal justice official is not unconstitutional.

✓ True

☐ False

☐ Unsure

United States v. Jacobson, 1984. The United States Supreme Court ruled that the Fourth Amendment protection against unreasonable searches and seizures is wholly inapplicable to private parties as long as government officials did not participate or have knowledge of the search or seizure.

5) A public college or university official may be personally liable for compensatory damages if he knew or reasonably should

Question 5

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 6

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

have known that the job-related action he took would violate the constitutional rights of a student.

- ✓ True
- ☐ False
- ☐ Unsure

Wood v. Strickland, 1975. The United States Supreme Court ruled a school official is liable, under 42 U.S.C. s 1983, to a wronged student only if he knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the student affected, or if he took the action with the malicious intention to cause a deprivation of constitutional rights or other injury to the student.

6) At a public college or university, there is no constitutional difference between a university official's search for criminal evidence and a search to enforce student housing rules.

- ☐ True
- ✓ False
- ☐ Unsure

Piazzola v. Watkins, 1971. The United States Court of Appeals for the Fifth Circuit ruled a housing policy giving campus administrators permission to search

student rooms is reasonable when it was limited in its application to further the university's function as an educational institution. A search may become "unreasonable" when the policy is applied to authorize a warrantless search for criminal evidence.

7) University officials at a public university were asked to check all rooms in the building as part of regular health and safety inspections previously agreed-to by the students. Upon entering a room, the resident assistant finds contraband in plain view and alerts police. This violates the student's constitutional rights.

   ☐ True

   ✓ False

   ☐ Unsure

   Medlock v. Trustees of Indiana University, 2013. The United States Court of Appeals found a warrantless resident assistant inspection for, and documentation of university violations occurring in a student's dormitory room did not violate student's Fourth Amendment rights. However, actions of the police can still make the search unreasonable.

8) Campus police may lawfully request university officials at a public university to search a student's room for drugs so that a search warrant won't need to be first obtained.

Question 7

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 8

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

☐ True

✓ False

☐ Unsure

People v. Edwards, 1969. The Court of Appeals of California ruled if law enforcement initiate or cooperate with a school official to enter and search a room, evidence seized would be barred under the fourth amendment.

9) Municipal Police may conduct a search of a public university student's room without a search warrant to confiscate drugs without violating the parameters of the Fourth Amendment.

☐ True

✓ False

☐ Unsure

Piazzola v. Watkins, 1971. The United States Court of Appeals for the Fifth Circuit ruled if a law enforcement official initiated the investigation and then gained entry to a student's room without a warrant, evidence seized thereby would be barred under the fourth amendment.

10) University officials at a public university can inspect a dormitory room without a warrant when the inspection is reasonable and for the purpose of enforcing rule or policy violations outlined in the housing contract.

Question 9

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 10

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 11

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

- ✓ True
- ☐ False
- ☐ Unsure

Kappes v. United States, 1976. The Court of Appeals of Arizona ruled the right of privacy protected by the fourth amendment does not include freedom from reasonable inspection of a school-operated dormitory room by school officials.

11) University officials at a public university can constitutionally conduct a routine "dorm sweep" of the entire wing and enter rooms to conduct a search for drugs for the purpose of enforcing criminal laws?

- ☐ True
- ✓ False
- ☐ Unsure

Devers v. Southern University, 1998. The Court of Appeals of Louisiana ruled a dorm sweep for drugs by the college violated students' Fourth Amendment rights

12) University officials at a public university can search a student's room suspected of storing stolen property without first obtaining a search warrant.

- ☐ True
- ✓ False

Question 12

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 13

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 14

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

☐ Unsure

Morale v. Grigel, 1976. United States District Court found a search by university officials at a public university to discover stolen property thought to be hidden in a dormitory room is not a reasonable exercise of university's supervisory authority.

13) A common exception to the search warrant requirement is to first obtain consent of the individual to whom the search is directed.

✓ True

☐ False

☐ Unsure

Schneckloth v. Bustamonte, 1973. The United States Supreme Court ruled a search conducted based on consent is a well-established exception to the Fourth Amendment requirements of probable cause and a search warrant.

14) When police see incriminating evidence in plain view inside a public university dormitory room, they can conduct a warrantless search and seizure as long as the officer has a right to be in that location.

✓ True

☐ False

☐ Unsure

Washington v. Chrisman, 1982. The United States Supreme Court ruled the discovery of marijuana in plain view by a police officer accompanying a student to his room to obtain his ID after being arrested was a constitutional search.

15) The police must first obtain a search warrant before conducting a search if two roommates are present and one consents to the search while the other objects.

✓ True

☐ False

☐ Unsure

Georgia v. Randolph, 2006. The Supreme Court of the United States held that the warrantless search of a home based upon the consent of one co-occupant (the defendant's estranged wife) was invalid as to the defendant, where the defendant (the other co-occupant) was present and expressly refused to allow police entry.

16) When a student gives consent for a university official to enter the student's room to enforce health and safety violations, the university official can delegate this consent to police to enter and search.

☐ True

Question 15

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 16

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

- ✓ False
- ☐ Unsure

People v. Cohen, 1968. The New York District Court determined consent provided to the University but not to the police cannot be fragmented, shared or delegated.

17) Police may enter and conduct a search of a student's room without a search warrant in an event of an emergency where delaying entrance would gravely endanger the lives of others.

- ✓ True
- ☐ False
- ☐ Unsure

Warden v. Hayden, 1967. The United States Supreme Court ruled "the Fourth Amendment does not require police officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others".

18) A public university's housing contract may not require students to provide consent to an inspection of rooms with university officials and police as a condition of attending the university.

- ✓ True
- ☐ False
- ☐ Unsure

Question 17

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 18

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 19

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Devers v. Southern University, 1998. The Court of Appeals of Louisiana ruled a housing contract providing university officials with consent to conduct dorm sweeps with police violated students' Fourth Amendment rights. The State, in operating a public school system of higher education, cannot condition attendance at one of its schools on the student's renunciation of his constitutional rights.

19) Absent prior consent through a housing contract, a public college or university official must obtain a student's permission to enter a student's room to conduct a health or safety inspection in order to not violate a student's Fourth Amendment rights.

- ✓ True
- ☐ False
- ☐ Unsure

Camara v. Municipal Court, 1967. The United States Supreme Court held a person cannot be prosecuted for refusing to permit city officials to conduct a warrantless code-enforcement inspection of his residence. If consent is not provided, a warrant must be issued. However, the warrant can be obtained without specific knowledge of probable cause.

Question 20

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

Question 21

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

20) A landlord or manager of a private apartment unit located off campus may legally consent to a police search of the apartment for drugs when the odor of marijuana is discovered emanating from the apartment.

- ☐ True
- ✓ False
- ☐ Unsure

Landlords generally do not possess actual authority to provide consent for police to search a unit with an active lease, but a landlord can provide consent for police to search abandoned or unleased apartments (*United States v. Haynie*, 1980). The Supreme Court of the United States found police officers' search of rented premises, without a warrant, in absence of tenant but with consent of landlord, who had noticed odor of mash, was unlawful (*Chapman v. United States*, 1961).

21) University officials at a public university, acting in their capacity as the student's landlord, may provide 3rd-party consent for police to search a student's occupied room for evidence of criminal activity.

- ☐ True
- ✓ False
- ☐ Unsure

Chapman v. United States, 1961. The Supreme Court of the United States ruled a landlord does not have the authority to waive the Fourth Amendment warrant requirements by consenting to a search of an occupied room.

22) University officials at a public university, acting in their capacity as the student's landlord, may provide consent for police to search unoccupied rooms.

- ✓ True
- ☐ False
- ☐ Unsure

United States v. Elliott, 1995. The United States Court of Appeals ruled a landlord has authority to consent to a police search of vacant units in his building.

23) Would any behavior be different as a university employee if you knew the answers to the previous questions?

- ☐ Yes
- ☐ No

Question 22

This question is clear and unambiguous.

__ Agree __ Do Not Agree

This question's response and justification are correct.

__ Agree __ Do Not Agree

If you indicated *Do Not Agree* for any question, please list the question number and describe your reasoning.

If you have other comments regarding this survey, please note them here.

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