

High Tech Crime Seizure

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Individuals are considered to possess certain inalienable rights; rights that governments may not take away or compromise. These rights are considered part of a higher law of universal principles of right and justice that is superior to laws created by governments. We, as representatives of the criminal justice community, are strictly bound by constraints established through the United States Constitution and the Bill of Rights. This article provides the reader with a micro-focus on a single aspect of the Fourth Amendment: *particularly describing the things to be seized*. Quoted directly from the Bill of Rights for clarity, one cannot mistake the need to particularly describe the things to be seized.

Fourth Amendment

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*.

This is not to suggest our forefathers reasonably expected an Affiant to list make, model, or serial numbers of property sought in search warrants; yet the document does require an expected attention to detail in describing the property sought. Overly broad and vague descriptions often lead to unnecessary legal challenges. With this firmly established, you will find below a thorough (yet not all encompassing) listing of property sought that will likely be found in computer crime investigations. Items 1 and 2 particularly describe property that would be subject to seizure in the majority of computer crime investigations. Items 3 through 9 list evidence specific to child exploitation investigations.

The example provided below is the culmination of several years of federal and state prosecutorial input and support in computer crime investigations of child exploitation. Feel free to incorporate any applicable sections in your search warrants. It is encouraged that investigators include prosecutors from the onset of each investigation. This investigator-prosecuting agent relationship strengthens the prosecutorial effort through a mutual understanding of procedural and investigative expectations.

PROPERTY SOUGHT:

1) Computers, including any electronic magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions; data storage facilities such as magnetic tape, hard disk, floppy disk or drum, or cd-rom; communications facilities directly relating to or operating in conjunction with such device; devices for printing records of data; and such records or data produced in various forms; manuals, documents, or instructional material relating to such devices.

2) Computers, personal computers, computer peripherals, modems, computer printers, floppy disk drives, hard disk drives, diskettes, tapes, computer printouts, computer software, computer programs and applications, computer manuals, system documentation.

- 3) Correspondence, diaries, and any other writing, tape recordings, or letters relating to any juvenile which would tend to show the identity of the juvenile, and sexual contact between juveniles with juveniles, and juveniles with adults.
- 4) Magazines, drawings, books, movies, video tapes, and photographs depicting nudity and or sexual activities of juveniles, as well as collections of newspapers, magazines, publications, and clippings of juveniles.
- 5) Telephone books, telephone registers, correspondence or papers, with the names, addresses, or phone numbers which would tend to identify any child victims.
- (6) Any cameras and video equipment intended for the taking, producing and reproducing of photographic still and moving images, including but not limited to, digital, instant and otherwise, video cassette recorders or cameras, and video recording tapes depicting juveniles engaged in sexual conduct or lewd exhibition of the genitals and sexually explicit materials including VHS tapes, 8mm tapes, 8mm compact tapes, beta tapes, view finder, films, negatives, and photographs, developed or undeveloped.
- 7) Sexual paraphernalia or other erotica used by the suspect or victim in the course of seducing the child victim or others of which the Affiant gains knowledge.
- 8) Telephones, telephone equipment, telephone test equipment, telephone proprietary information, or any other telephone type equipment for scanning telephone circuits, telephone bills and statements.
- 9) Safe deposit keys, bank statements, billings and checks, to identify safe deposit boxes and storage facilities for any person involved in the sexual exploitation of children through child molestation or pornography, for the purpose of documenting travel expenses and purchases relating to sexual performance by a child.

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Detective DeYoung is an adjunct professor at Lynn University in Boca Raton, Florida, facilitating the instruction of undergraduate management courses for the College of Professional and Continuing Studies. He is a post-graduate student at Lynn University, seeking his Ph.D. in Educational Leadership.