

American Bar Association
Criminal Justice Section
2017 William W. Greenhalgh Student Writing Competition Rules

DESCRIPTION: This Competition is sponsored by Criminal Justice (“Section”) of the American Bar Association (“ABA”), 321 N. Clark Street, Chicago, IL 60654 (the “Sponsor”). The goal of the Competition is to encourage law students to become involved in the Section. It is also intended to attract students to the Criminal Justice practice field, and to encourage scholarship in this field. Each entrant must follow the rules of the competition detailed herein.

ELIGIBILITY: The contest is open to students who, on the date the entry is submitted, attend and are in good standing at an ABA-accredited law school within the United States and its possessions. Membership in the Criminal Justice Section is not a requirement. Entrants must be at least 18 years of age and legal permanent residents or citizens of the United States. Employees, officers, directors of the ABA and members of their immediate families are not eligible.

TOPIC:

The Fourth Amendment to the U.S. Constitution guarantees “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” This provision has become an incredibly powerful protector of privacy since its applicability to the states and the advent of the *exclusionary rule*.

Notwithstanding, the one-sentence amendment is vague and the threshold of reasonableness has been left to the judicial branch for interpretation. This has led to a mountain of case law that may conflict from one jurisdiction to the next, penned by jurists with differing interpretive philosophies. Moreover, we are now amid a new era where the ancient text of the Fourth Amendment has intersected with emerging technology.

Technology improves at an exponential rate. With technological innovations comes the potential for law enforcement to develop new “tools” to investigate crimes and arrest those responsible. The Fourth Amendment’s vague mandates are exacerbated when courts are called upon to apply it to perpetually evolving situations and technologies unforeseeable by the original framers.

For example, in *Kyllo v. United States*, 533 U.S. 27 (2001), the Supreme Court held that police use of thermal imaging technology to detect the heat produced by an indoor marijuana grow operation, although deployed from a public street, constituted an illegal search. The Court supported its holding in part by noting that the technology was not in use by the general public—thereby making it reasonable to believe that the indoor activity was free from prying eyes. In *United States v. Jones*, 132 S. Ct. 945 (2012) the Court held that the Fourth Amendment was violated after law enforcement placed a GPS device on the undercarriage of a vehicle while it was parked in a public parking lot. The device tracked the vehicle for 28 days and gathered information about its movements. The Court looked to the common-law regarding trespass and was bothered that the government’s placement of the device required the physical

occupation of private property to obtain the information. Finally—and most recently—the Supreme Court issued its decision in *Riley v. California*, 134 S. Ct. 2473 (2014) holding it illegal for police to search a cellular phone incident to arrest. The Court was concerned with the extent of information that may now be accessed through a cellular phone given modern smartphone capabilities.

The question now seems to be, “What technology is next?”

So-called “pole cameras” are utilized by law enforcement to conduct around-the-clock surveillance of—from a public area—the exterior of a suspect’s home. Social media permits law enforcement a means of monitoring an individual’s profile, and therefore one’s activities, at any time, day or night, and from any place in the world with an internet connection. Additionally, aerial drones have become a useful military tool and private hobby alike. These drones may also be employed by law enforcement for investigative purposes. These drones may allow police to surreptitiously get a “closer view”—albeit from a legal vantage point—of activities that would otherwise expose police presence if gathered by a human agent. In light of the above, contestants should address the following questions:

1. How has the emergence of various technologies impacted the “reasonableness” of privacy expectations? Has social media, information technology, and surveillance technology available to the public reduced what one may honestly believe is private”?
2. Those answering “no” should prepare an argument supporting this position. In addition, contestants should anticipate and address foreseeable counter-arguments and attempt to persuasively argue against them.
3. Those answering “yes” should explain why. Likewise, these contestants should also anticipate the arguments that may be raised by the other side and attempt to argue persuasively against them.
4. All contestants should address the “reasonableness” standard and argue whether the advent of new technologies demands a new Fourth Amendment standard to protect citizens’ from police monitoring. If so, what should the standard be? Why?

Clear, persuasive and original analytical reasoning that is well-supported with concrete examples and references are essential and will weigh heavily in the determination of the contest winner.

JUDGING: A winning entry will contain an original discussion of the selected topic, will be substantively accurate and supported by citations, and will be grammatically correct, concise, well-reasoned, and clearly written. Entries will be judged based on the following criteria: (1) writing quality; (2) analysis and legal reasoning; (3) originality; (4) quality and use of research; and (5) compliance with these Rules. The Section reserves the right not to award a prize if, in the judgment of the *Criminal Justice* magazine editorial board’s judging panel, no entry meets these conditions. The decision of the editorial board is final.

NOTIFICATION OF WINNER: The winner will be notified by August 31, 2017, 11:59 pm CST. If a potential winner does not respond within thirty days after ABA’s first attempt to contact him or her, or if the contact is

returned as non-deliverable, the potential winner forfeits all rights to be named as winner or receive a prize, and an alternate winner may be chosen.

PRIZE: The winner will receive a \$2,500 cash prize that may be presented at an agreed-upon CJS event with approved transportation costs not to exceed \$800 to be covered by the Section. (The winner is solely responsible for taxes on both the cash prize and reimbursed travel.) The winner will be required to submit a completed W-9, affidavit of eligibility, tax acknowledgment and liability release for tax purposes as a condition to receiving the cash prize. All forms must be completed and returned via email to Michael Gradess at Michael.Gradess@americanbar.org within ten (10) business days of receipt, or prizes will be considered forfeited and another winner may be named. The decision of the Sponsor is final. In addition, the winner's law school will receive a plaque from the ABA's Criminal Justice Section. At the sole discretion of the editorial board, the winning entry may be selected for publication in *Criminal Justice* magazine, subject to editing. The Sponsor may substitute a prize of equal or greater value in its sole discretion. Prizes are non-transferable and cannot be substituted by the winner. If his or her entry is selected for publication, the winner will be required to sign the standard ABA copyright agreement warranting the entry's originality and granting the ABA first publication rights. Please note: the ABA must have the first right of publication of the selected essay.

ALL ENTRANTS: Receive one year's free full membership in the Criminal Justice Section.

CONDITIONS: Only original and unpublished papers are eligible. Papers prepared for law school credit are eligible provided they are the entrant's original work. Jointly authored papers are not eligible. Participants are encouraged, but not required, to have their work reviewed and critiqued by a faculty member or practicing lawyer, although the submission must be the student's own work product. Section officers, section staff, *Criminal Justice* magazine editorial board members, and selection committee members shall not participate in the review/critique process. A student may submit only one entry per contest year.

FORMAT: Entries cannot exceed 4,200 words, including titles, text, and citations. Entries must be submitted in Word as an e-mail attachment. Entries should reflect the style and format of *Criminal Justice* magazine, including citations that are embedded in text. **Entries with footnotes or endnotes will not be accepted.** Citations must conform to the 20th edition of *The Bluebook: A Uniform System of Citation*.

SUBMISSION – ALL ENTRIES: Two title pages are required. The **first title page** must include:

- (1) title of paper
- (2) author's name (and the name of reviewing faculty member/practicing lawyer, if applicable)
- (3) telephone number(s), mailing address(es), and e-mail address(es) where author can be reached June–August 2017
- (4) name of law school
- (5) year of expected graduation
- (6) date submitted for academic credit (if applicable)
- (7) entrant's personal certification of good standing at the law school.

The **second title page** should include only:

- (1) title of paper
- (2) last four (4) digits of the author's phone number.

DEADLINE: All entries must be received by the editor no later than **July 1, 2017, 11:59 pm CST**. Faxed entries will not be accepted. The sponsors are not responsible for late, lost, or misdirected entries, or for computer errors or technical failures.

SEND ENTRIES to Erin Remotigue, Editor, *Criminal Justice Magazine*, American Bar Association, via electronic submission by e-mail to erin.remotigue@americanbar.org.

RELEASE: By participating, each entrant agrees to these Official Rules and the decisions of the Sponsor, and releases and discharges the ABA, subsidiary and affiliated entities, and each of their respective officers, directors, members, employees, independent contractors, agents, representatives, successors and assigns (collectively "Sponsor") from any and all liability whatsoever in connection with this promotion, including without limitation legal claims, costs, injuries, losses or damages, demands or actions of any kind (including without limitation personal injuries, death, damage to, loss or destruction of property, rights of publicity or privacy, defamation, or portrayal in a false light) (collectively "Claims"). Except where prohibited, acceptance of a prize constitutes a release by any winner of the Sponsor of any and all Claims in connection with the administration of this promotion and the use, misuse or possession of any prize. All entries become the property of Sponsor and will not be acknowledged or returned. Sponsor is not responsible for errors or for lost, late, or misdirected mail or email, or telecommunication or hardware or software failures, including by reason of any bug or computer virus or other failure. Sponsor may cancel, modify or terminate the promotion if it is not capable of completion as planned, including by reason of infection by computer virus, tampering, unauthorized intervention, force majeure or technical difficulties of any kind.

WARRANTY AND REPRESENTATION: By submitting an entry to the ABA CJS Magazine, the author warrants and represents that the work is original, that he or she has included no material in violation of any rights of any other person or entity, and that the work does not represent another's language, thoughts, ideas, or expressions without appropriate credit or attribution. A finding of plagiarism in an entry will automatically disqualify the entry

LICENSE/GRANT OF RIGHTS: By entering, the winning entrant consents to the publication of her/his entry by the ABA, understands that such publication is not guaranteed, and grants the ABA the following rights: (1) the exclusive worldwide right of first publication of their entry in any and all ABA media or form of communication; (2) the non-exclusive worldwide right, in ABA's sole discretion, to use, transcribe, publish reproduce, distribute, sell (as part of an ABA publication) or display the entry, alone or in conjunction with other materials; (3) the right to edit the essay to conform to the publication's standards of style, technological requirements, language, grammar and punctuation, provided the meaning of the essay is not materially altered; and (4) the non-exclusive worldwide right to use the winner's name and likeness in connection with the essay or this Competition, in each case, without further compensation. Additionally, the winning entrant must execute a separate publication agreement giving the ABA the publication rights enumerated above and the right to use the article for any other purpose related to the ABA mission. If the winner fails to sign the agreement within ten (10) business days of receipt, the prize will be considered forfeited and another winner may be named.

ANNOUNCEMENT OF WINNERS: For a list of prize winners, send a self-addressed stamped envelope by December 1, 2017 to the Section of Criminal Justice, American Bar Association, 321 N. Clark St., Chicago, IL 60654.

ODDS OF WINNING: Chances of winning may vary depending on the number of entries. However, Sponsor reserves the right not to award any prize if the judges determine that no entries are of sufficient quality to merit selection that year.

LAWS AND REGULATIONS: This contest is governed by U.S. law and all relevant federal, state, and local laws and regulations apply. By entering, all participants agree that the competition shall be governed by the laws of the State of Illinois, that the courts of Illinois shall have exclusive jurisdiction, and that Cook County, Illinois shall be the venue for any dispute or litigation relating to or arising from the competition. Void where prohibited by law.

OPT-OUT OPTION: Any individual may elect to opt out of receiving future contest mailings by calling the ABA Service Center at 800-285-2221.

PRIVACY POLICY/DATA COLLECTION: Information provided by entrants in connection with this sweepstakes is subject to Sponsor's privacy policy, available at <http://www.americanbar.org/utility/privacy.html>

SPONSOR: American Bar Association, Criminal Justice Section, 321 N. Clark St., Chicago, IL 60654

Questions? E-mail or call the editor at (312) 988-6089. For more information about the Section, programs for law students, and *Criminal Justice* magazine, visit americanbar.org/crimjust.

Entries will not be returned, though authors retain their rights to their work.