

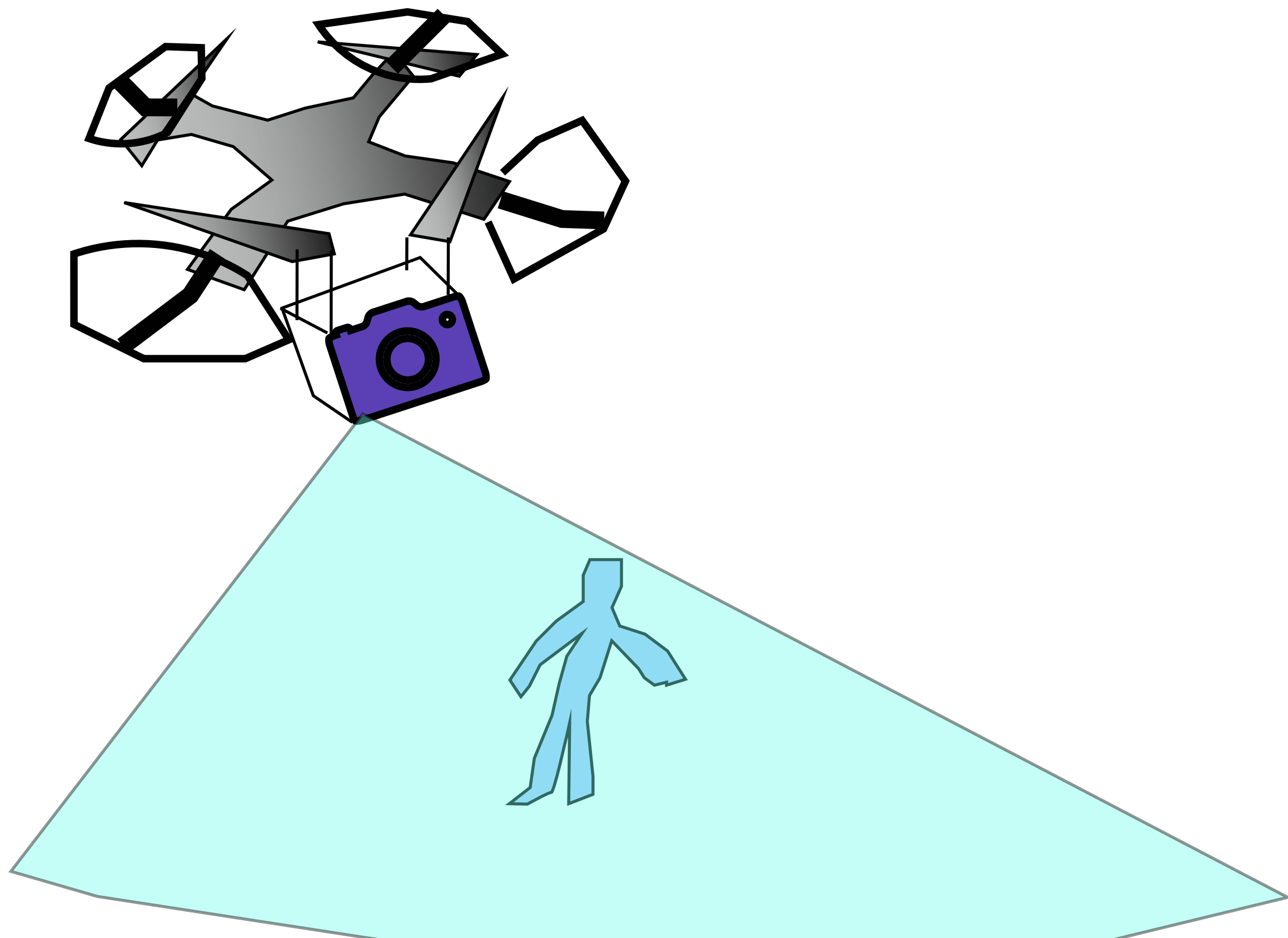
Drones, Cameras and the Constitution

4th and 1st Amendment Rights

Exchange Drone Workshop

Nov. 14, 2019

Marc Jonathan Blitz
Alan Joseph Bennett Professor
Oklahoma City University School of Law



FOURTH AMENDMENT

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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.

FIRST AMENDMENT

FIRST AMENDMENT

Congress shall make no law

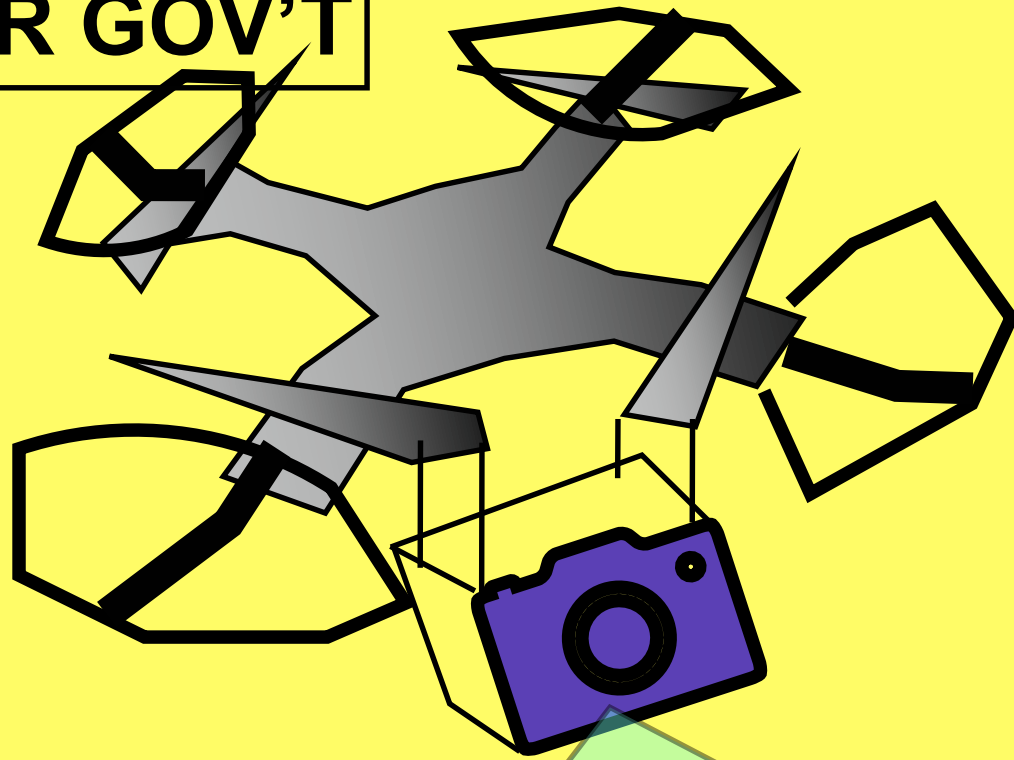
**abridging the freedom
of speech, or of the press;**

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.

Any 4th Amendment problem?

**POLICE or
OTHER GOV'T**



UNTIL RECENTLY

—NO—

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.

1. SEARCH or SEIZURE

COVERAGE Question-

Is what police or other gov't officials are doing "covered" by 4th Amendment requirements at all?

2. If so, must be REASONABLE

PROTECTION (or PROCEDURE) Question-

How much protection does 4th Amendment offer AGAINST police investigation at issue?

1. SEARCH or SEIZURE

COVERAGE Question-

Is what police or other gov't officials are doing "covered" by 4th Amendment requirements at all?

GOV'T

WHAT ACTIONS DOES
FORCE FIELD COVER?

2. If so, must be REASONABLE

PROTECTION (or PROCEDURE) Question-

How much protection does 4th Amendment offer AGAINST police investigation at issue?

WHEN FORCEFIELD IS THERE
HOW STRONG IS IT?
DOES IT KEEP GOV'T OUT?

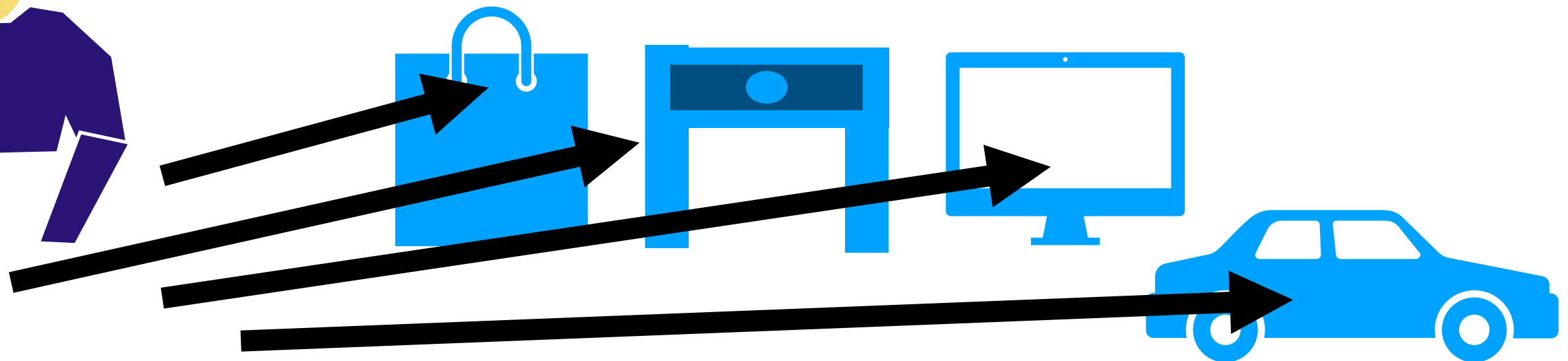
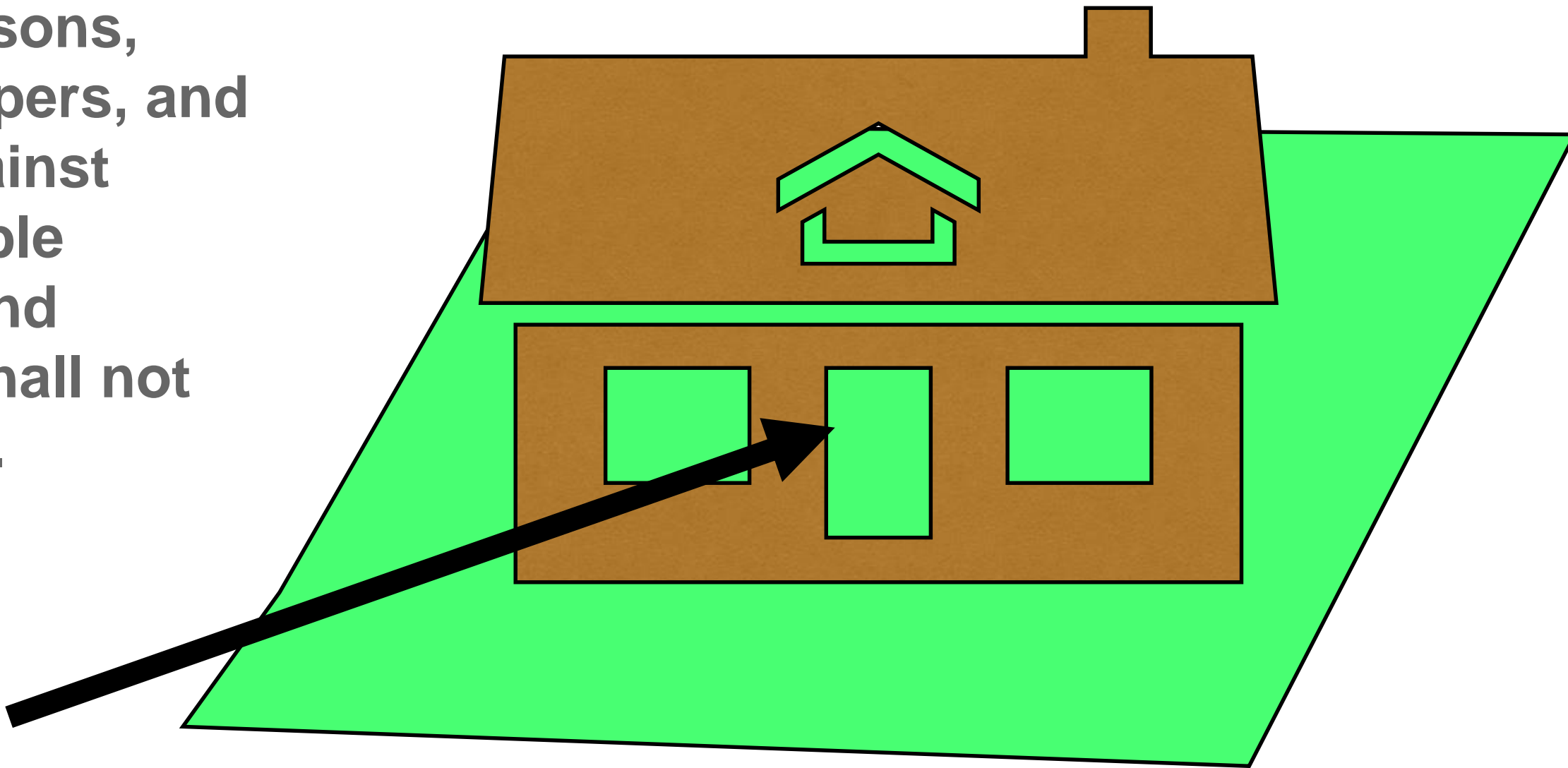
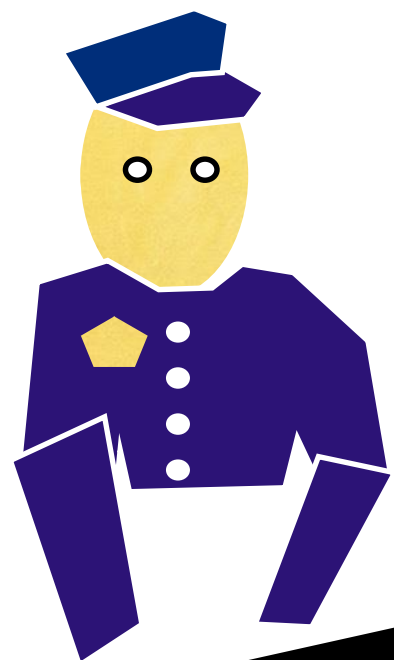


COVERAGE Question-

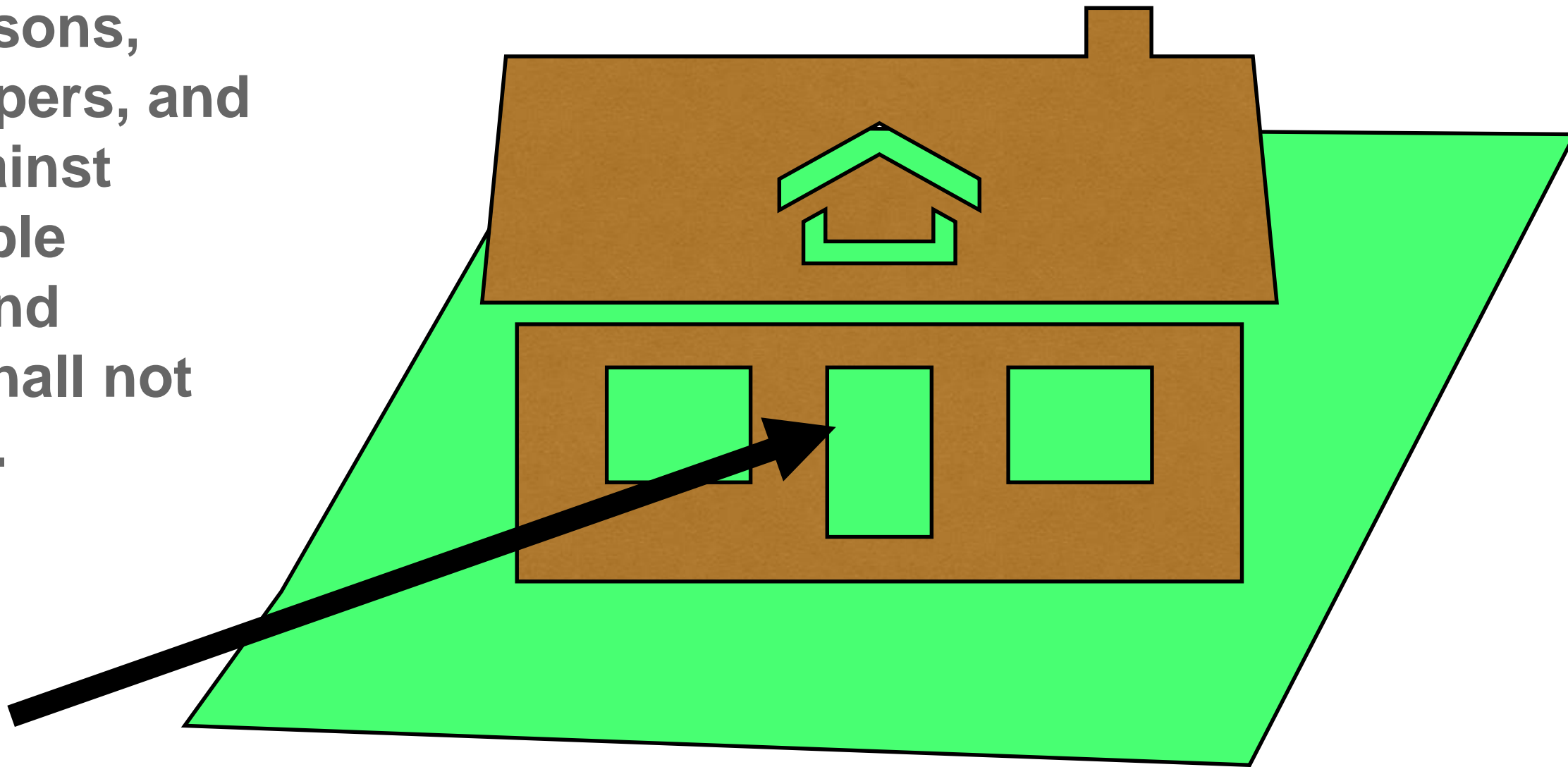
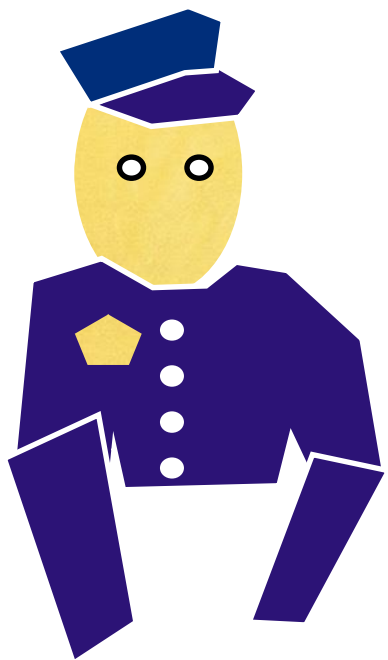
Is what police or other gov't officials are doing "covered" by 4th Amendment requirements at all?

**WHAT ACTIONS DOES
FORCE FIELD COVER?**

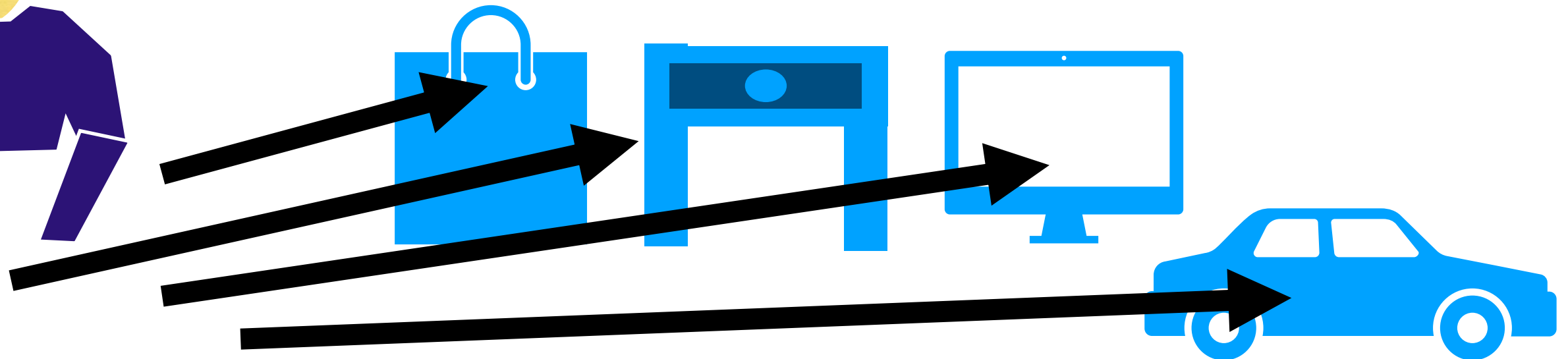
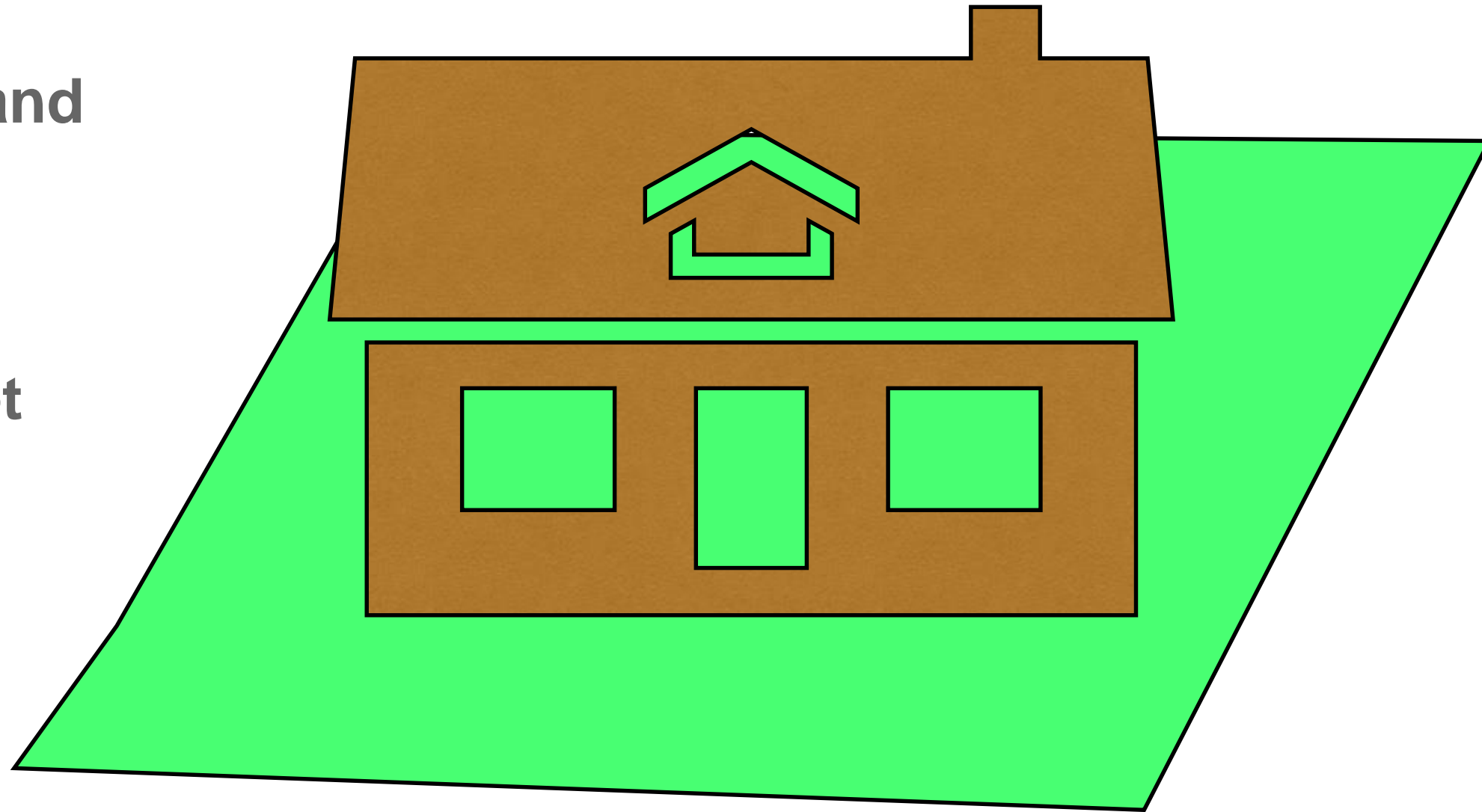
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.



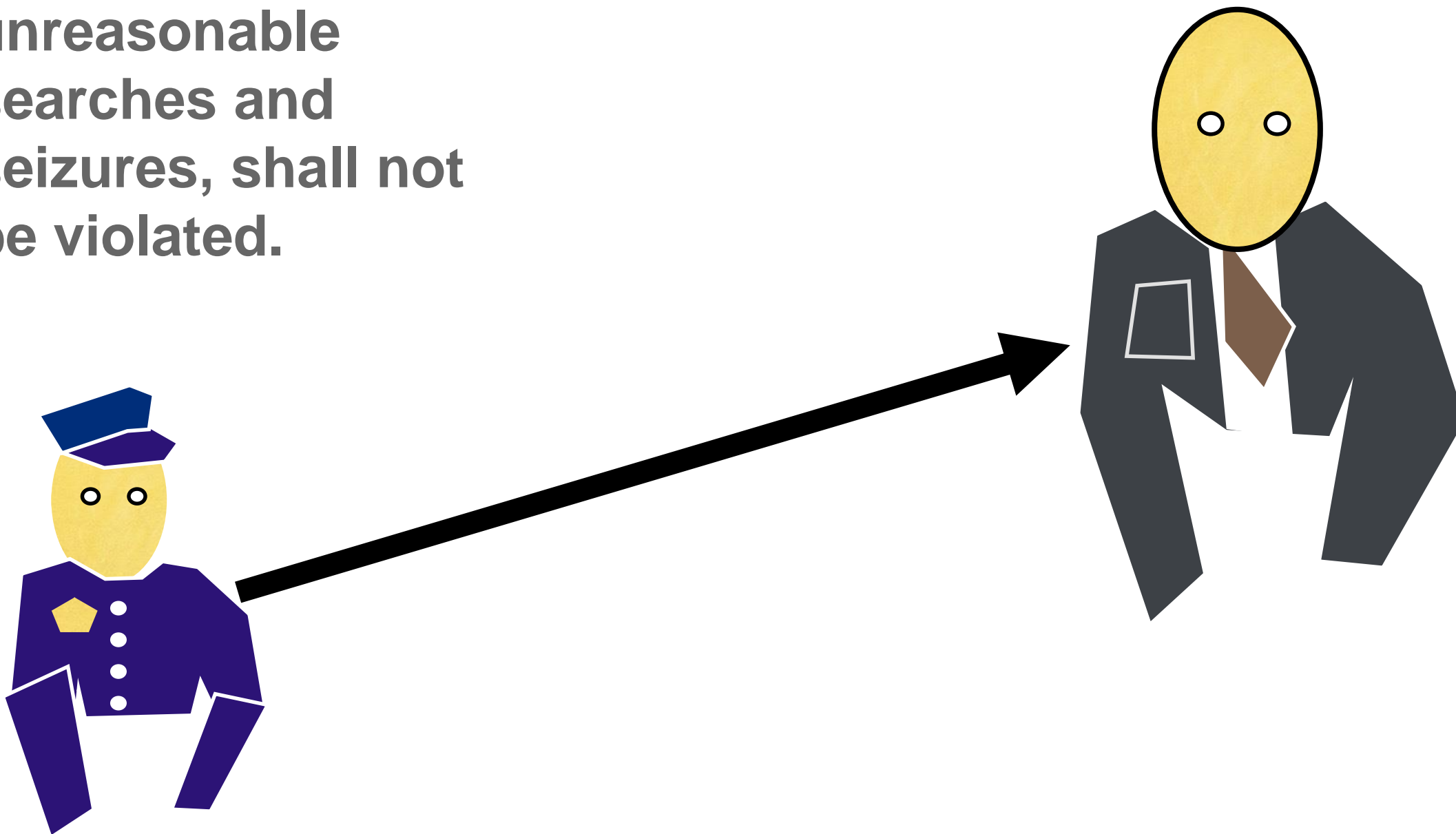
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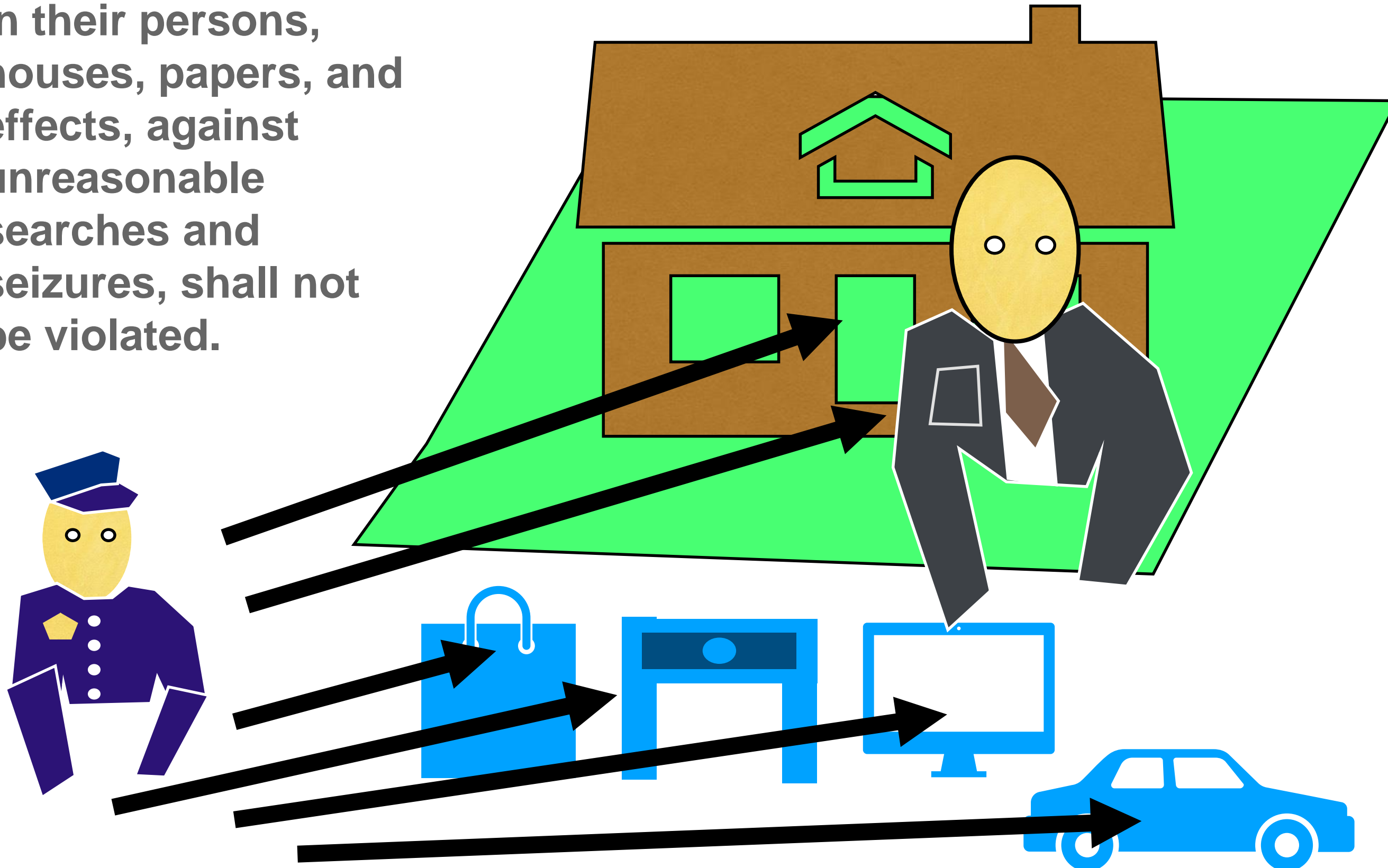
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**(1) When individuals have a
REASONABLE EXPECTATION OF PRIVACY**

(2) When gov't action would constitute a trespass

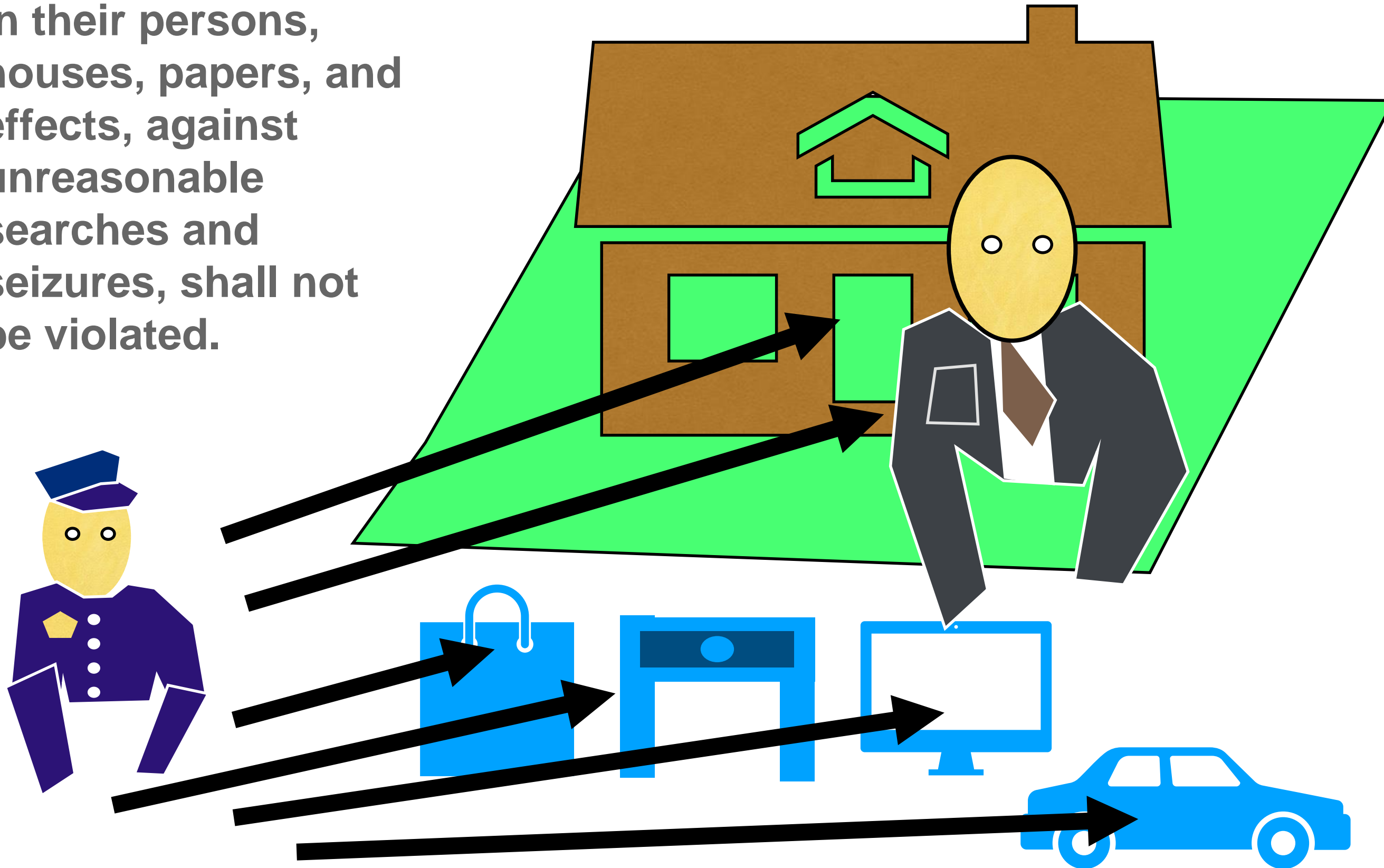
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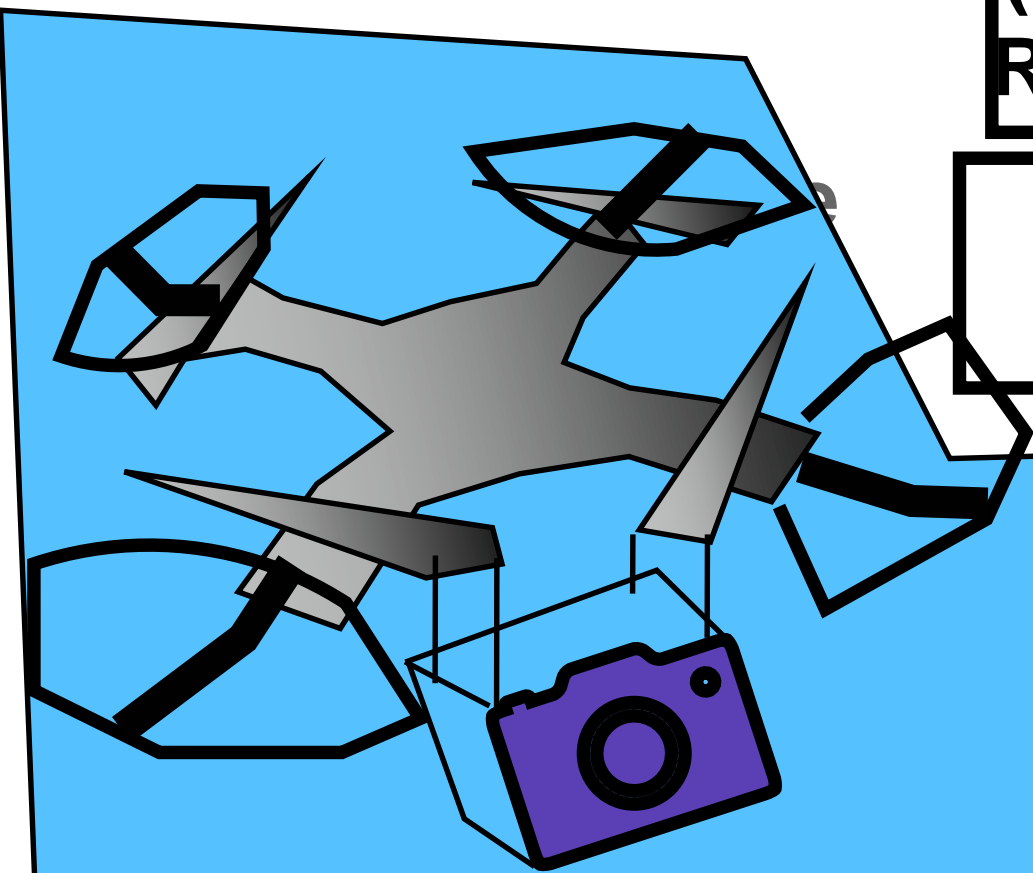
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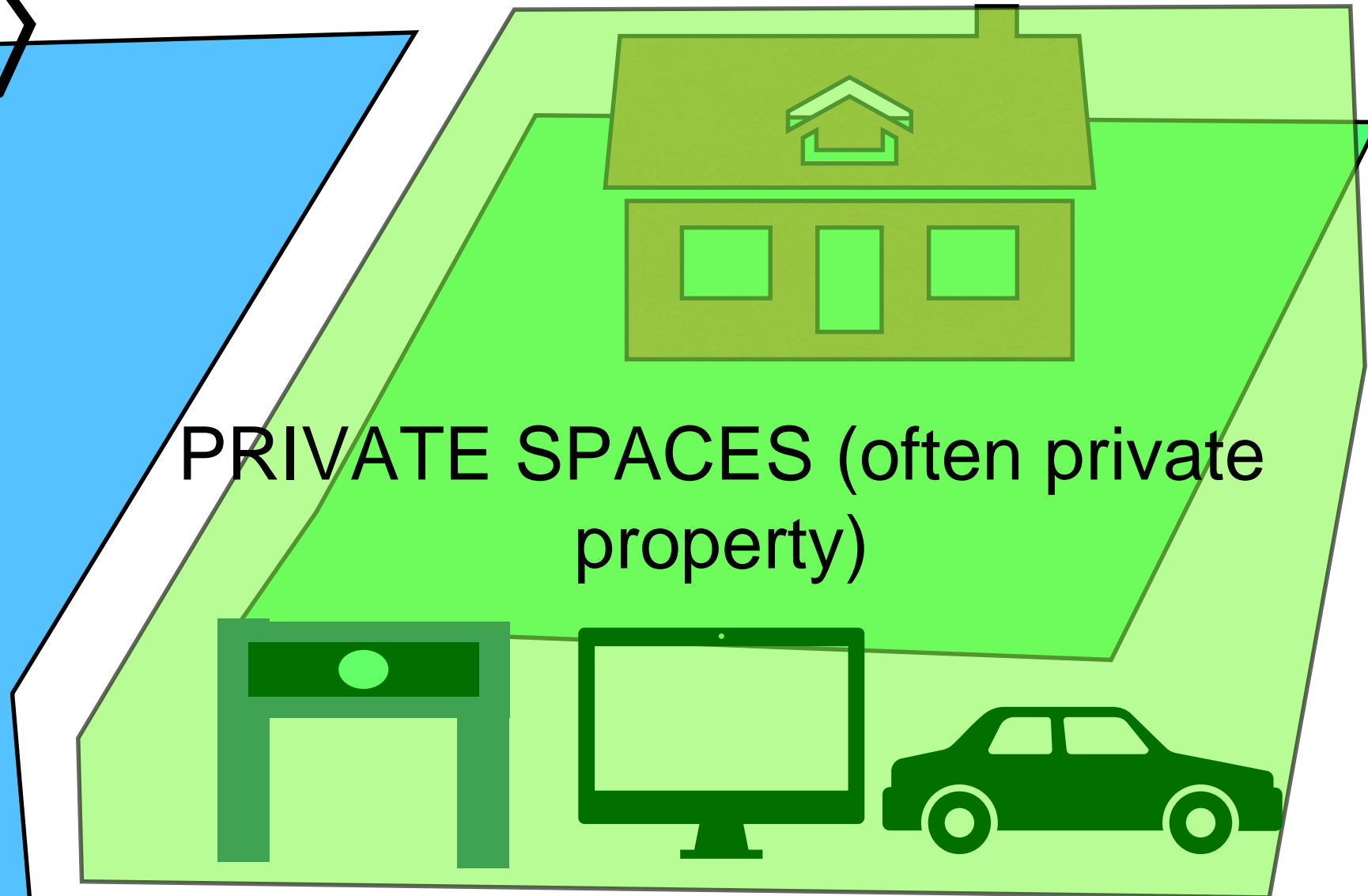


**(1) When individuals have a
REASONABLE EXPECTATION OF PRIVACY**

**(2) When gov't action would constitute a
trespass**



**PUBLIC
SPACE**



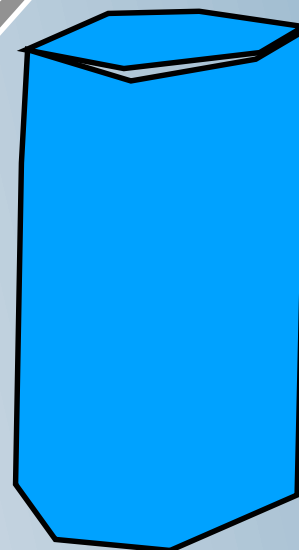
**PRIVATE SPACES (often private
property)**

**NO REASONABLE EXPECTATION
OF PRIVACY**

In PUBLIC SPACE

where one is open to observation

US v. Knotts



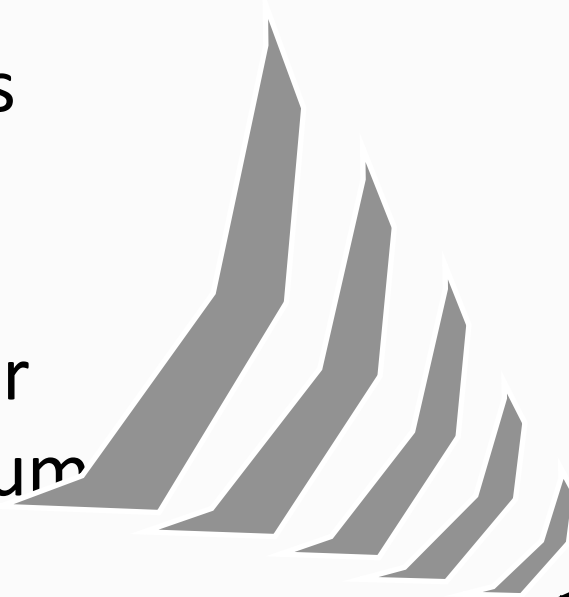
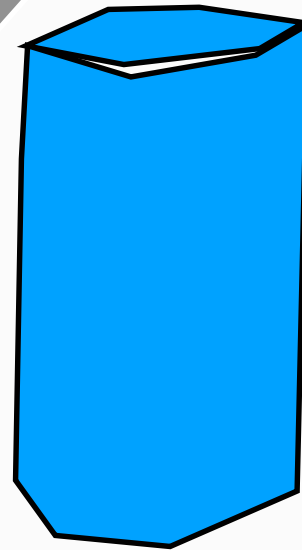
Drug
Precursor

Radio
Transmitter



US v. Knotts

Suspecting that Armstrong is involved in manufacturing illegal drugs, police recruit a store owner to hide a beeper (radio transmitter) inside drum of chloroform purchased by Armstrong.



They then follow Armstrong to see where his trail leads.

They use a combination of

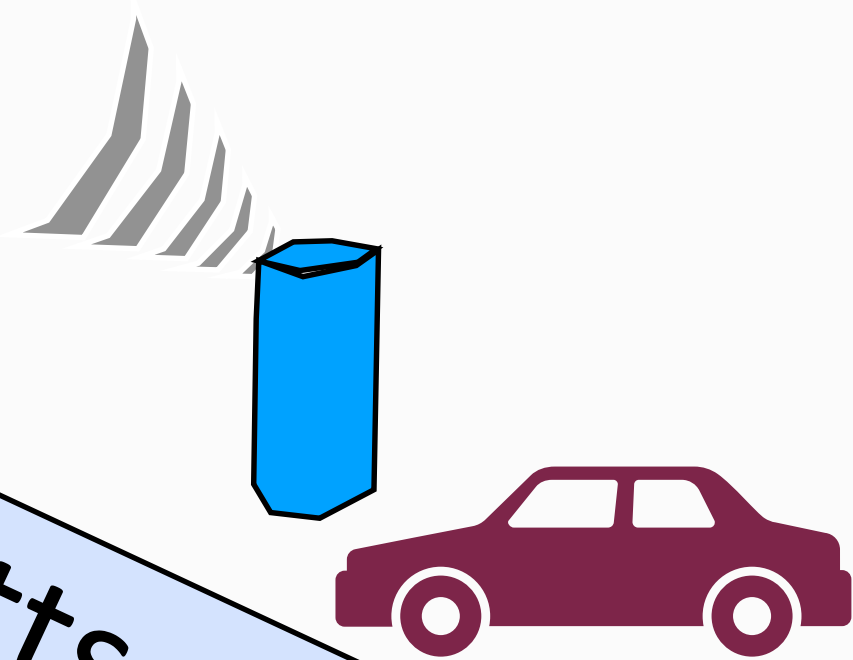
(1) visual surveillance (while driving behind Armstrong -- and Petschen, an associate, to whom he transfer the drum)

(2) radio transmissions from the beeper, primarily when they lose sight of the vehicle

SEARCH?

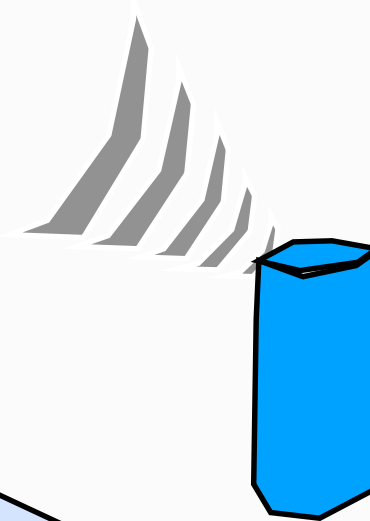
NO

US v. Knotts



**“A PERSON TRAVELLING ON
PUBLIC THOROUGHFARES
HAS NO REASONABLE
EXPECTATION OF PRIVACY
IN HIS MOVEMENTS.”**

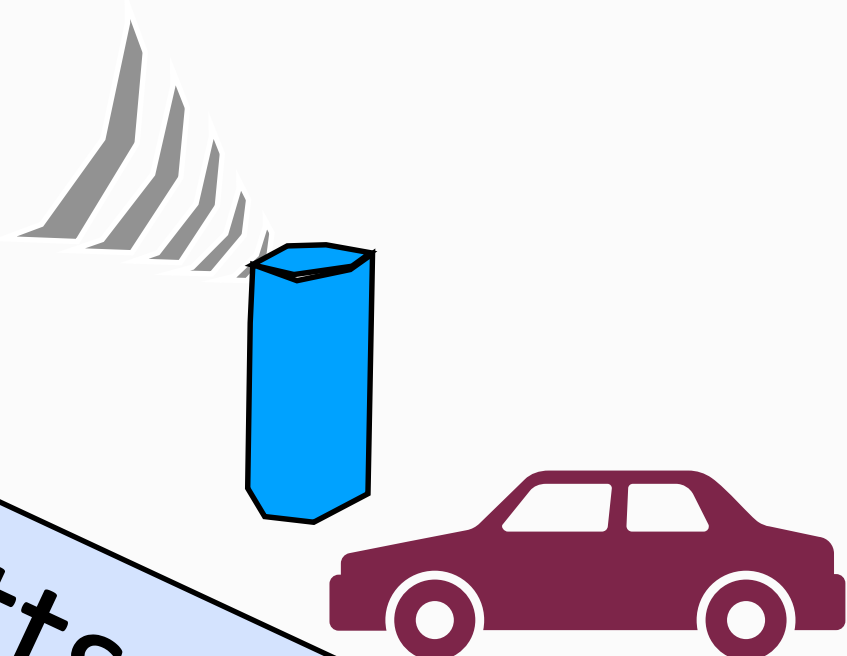
US v. Knotts



NO SEARCH TO

VISUALLY
SURVEILL

KNOTT'S MOVEMENTS ON
PUBLIC HIGHWAY
"OPEN FIELDS"



US v. Knotts

NO SEARCH TO
AUGMENT VISUAL SURVEILL
WITH RADIO
TRANSMISSION

“NOTHING IN THE 4th
AMENDMENT
PROHIBITED THE
POLICE FROM
AUGMENTING THE
SENSORY FACULTIES
BESTOWED ON THEM
AT BIRTH

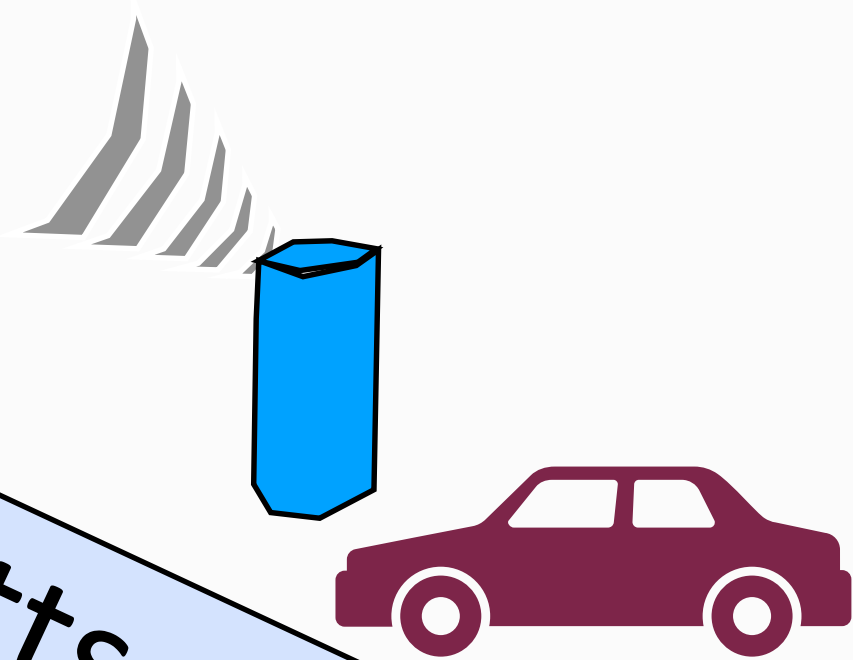
NO SEARCH TO

AUGMENT VISUAL SURVEILL

WITH RADIO

TRANSMISSION

US v. Knotts



**“ALTHOUGH THE AUGMENTATION
IN THIS CASE WAS
UNOBJECTIONABLE
IT BY NO MEANS FOLLOWS THAT
THE USE OF ELECTRONIC
DETECTION TECHNIQUES DOES NOT
IMPLICATE ESPECIALLY SENSITIVE
CONCERNS”**

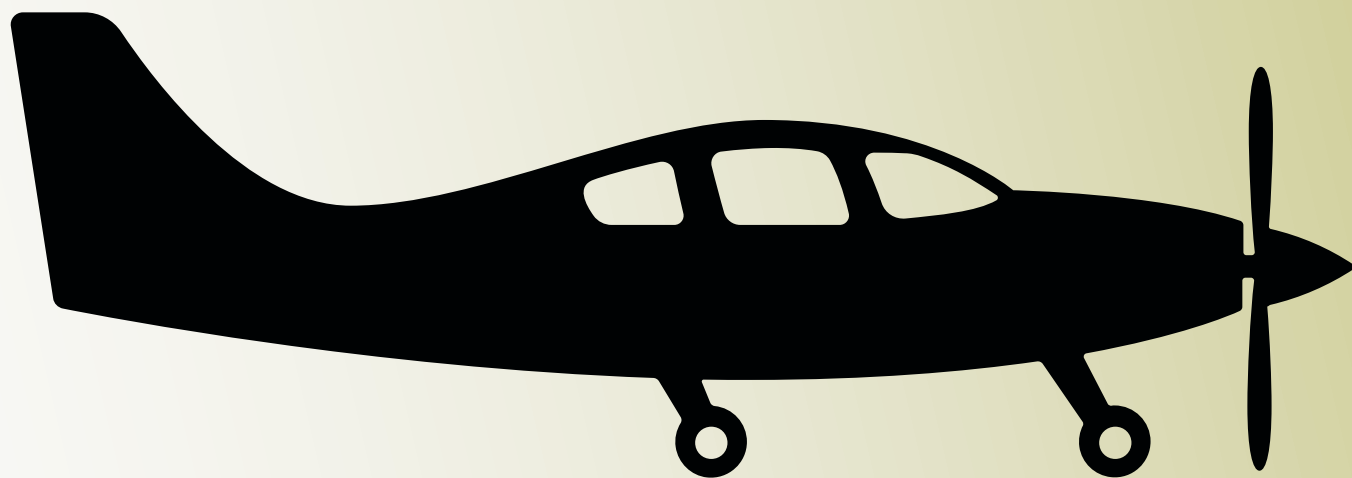
**NO REASONABLE EXPECTATION
OF PRIVACY**

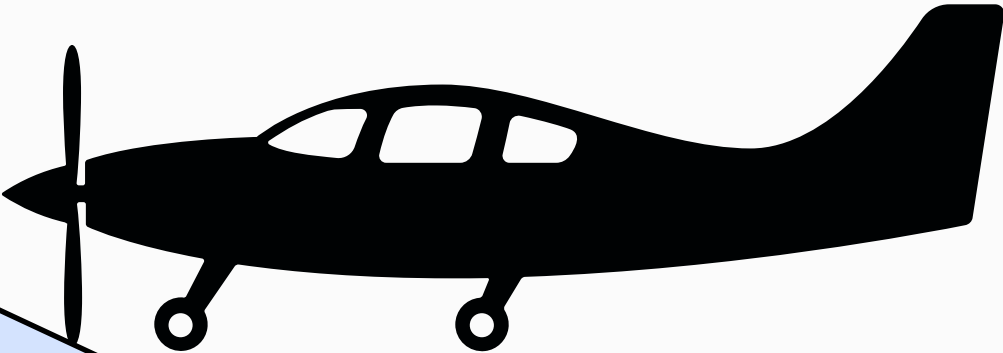
**Even in CURTILAGE that is
observable**

From PUBLIC VANTAGE POINT

AERIAL SURVEILLANCE

California v. Ciraolo





California v. Ciraolo

Police get a tip that defendant is growing marijuana in his backyard (behind a 6' outer- and 10' inner fence).

To see if he is, two officers fly a plane 1000 ft. above the property and see plants they recognize as marijuana

SEARCH?

NO

**YARD IS
CURTILAGE**

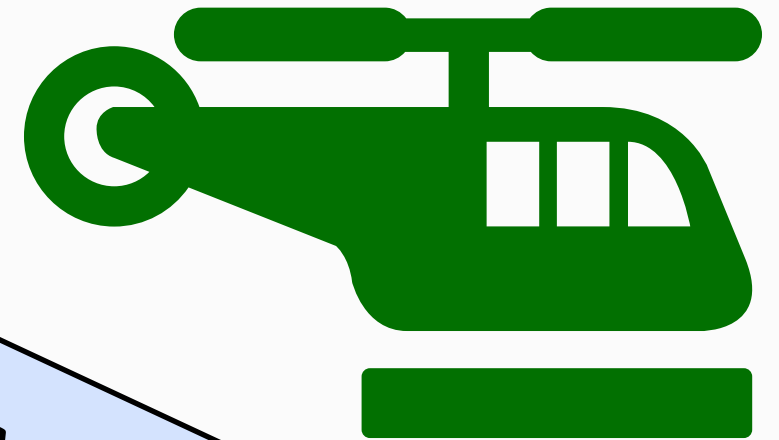
**BUT SEARCH IS FROM A
PUBLIC VANTAGE POINT --**

(FROM WHERE YARD CAN ALREADY SEEN BY
MEMBERS OF GENERAL PUBLIC IN COMMERCIAL OR
PRIVATE PLANES)

Florida v. Riley



Florida v. Riley



Police get a tip that defendant is growing marijuana in his greenhouse (which is missing some roof panels).

Officers fly a helicopter 400 ft. above the greenhouse and see plants they recognize as marijuana

SEARCH?

NO

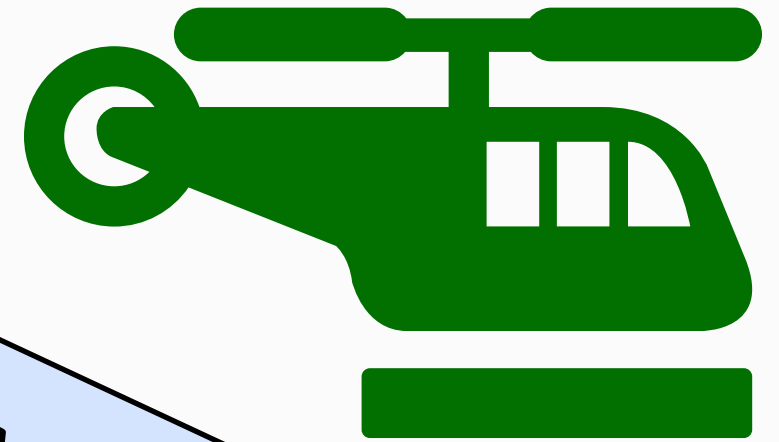
**GREENHOUSE IS
CURTILAGE**

**BUT SEARCH IS FROM A
PUBLIC VANTAGE POINT --**

**(FROM WHERE YARD CAN ALREADY BE SEEN BY
MEMBERS OF GENERAL PUBLIC IN COMMERCIAL OR
PRIVATE HELICOPTERS)**

SEARCH?

NO



Florida v. Riley

PLURALITY (White)

BUT SEARCH IS FROM A PUBLIC VANTAGE POINT -- (FROM WHERE YARD
ALREADY SEEN BY MEMBERS OF GENERAL PUBLIC IN COMMERCIAL OR PRIVATE HELICOPTERS)

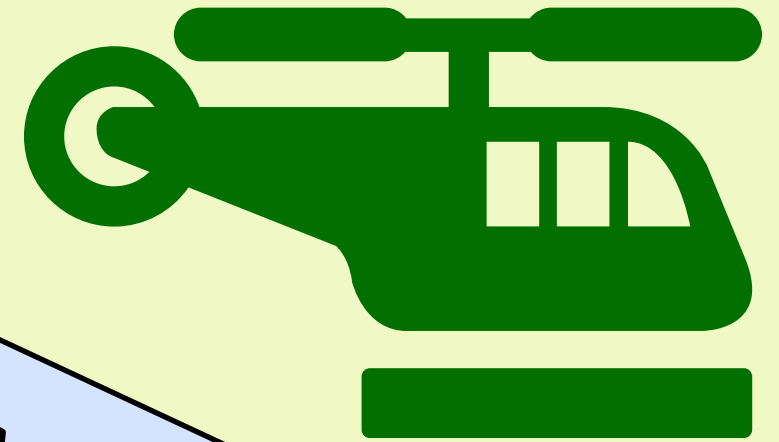
1. 400 ft. height is not “contrary to law or regulation.” While the FAA would bar a plane from being that low, no such bar applies to helicopters
2. What police did could have been done by “any member of the public.” No indication that such use of helicopters is so rare that Riley could not have expected it.
3. No indication that use of helicopter “interfered with normal use” of greenhouse or other parts of curtilage
4. No observation of “intimate details connected with use of the home or the curtilage”

SEARCH?

NO

**CONCURRENCE
(O'Connor)**

Florida v. Riley



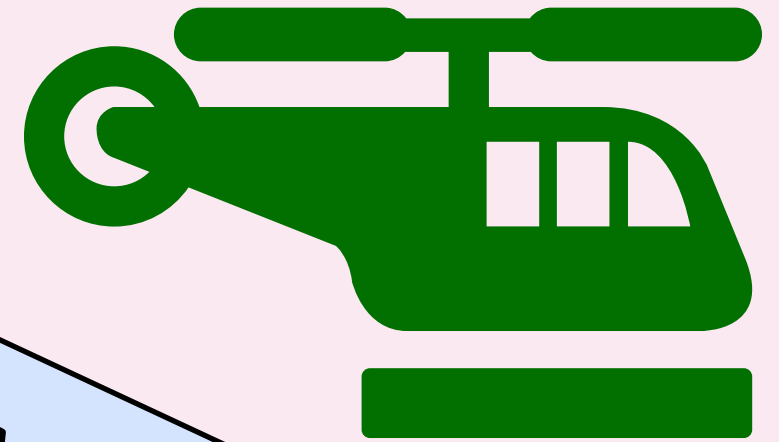
BUT SEARCH IS FROM A PUBLIC VANTAGE POINT -- (FROM WHERE YARD CAN
ALREADY SEEN BY MEMBERS OF GENERAL PUBLIC IN COMMERCIAL OR PRIVATE HELICOPTERS)

FAA regulations aren't decisive -- or important factor. Aerial observation can be a search even if it doesn't violate FAA regs.

“Rather, consistent with Katz, we must ask whether the helicopter was in public airways at an altitude at which members of the public travel with sufficient regularity” to make Riley's expectation of privacy unreasonable.

SEARCH?

NO



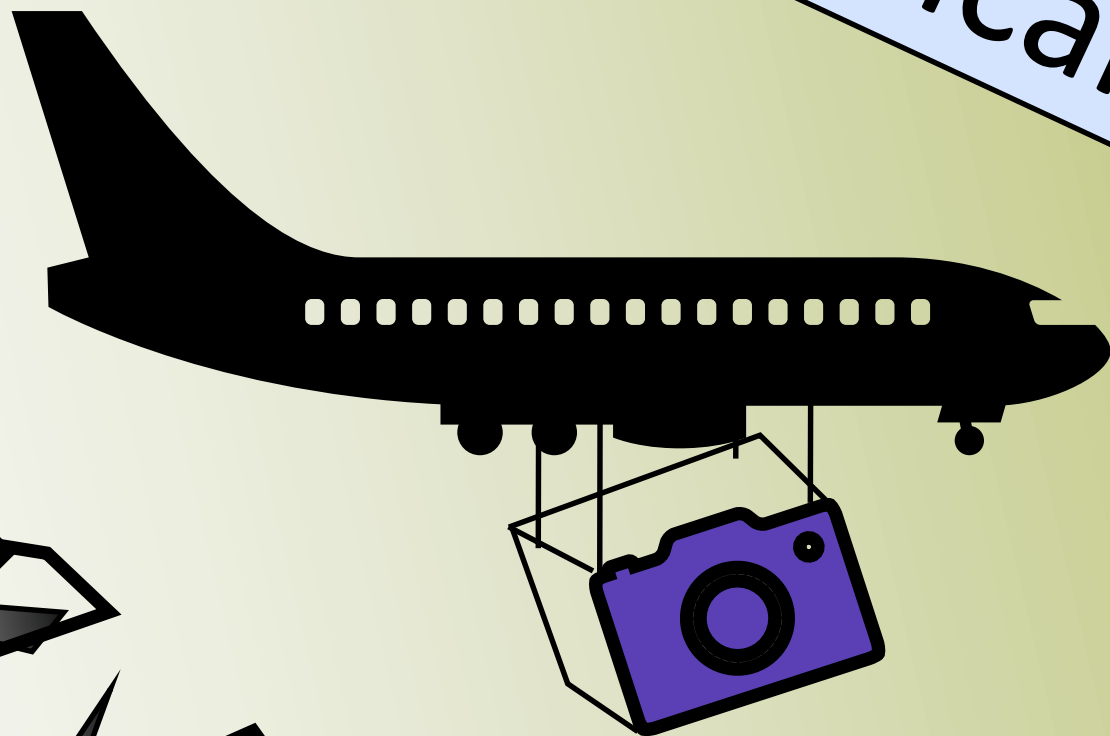
Florida v. Riley

DISSENT (Brennan)

**SEARCH MAY BE FROM A PUBLIC VANTAGE POINT, BUT
INVESTIGATION MUST BE A “SEARCH” UNDER KATZ**

1. Fact that it is possible for a someone to get a helicopter and observe the inside of Riley’s Greenhouse doesn’t make it sufficient common or likely to eliminate Riley’s expectation of privacy
2. What matters is how much “privacy and freedom” will there be “remaining to citizens” if there is no constitutional barrier to this kind of a search?

Dow Chemical v. US

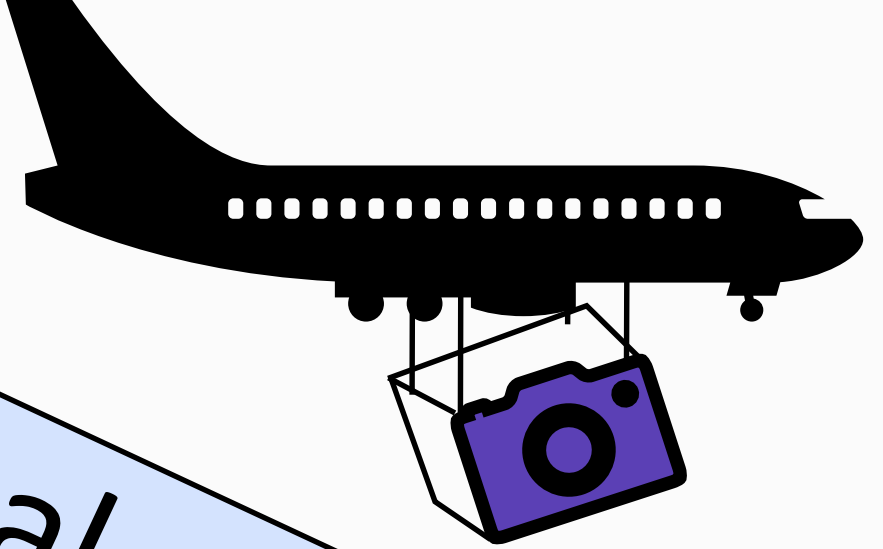


After Dow Chemical refuses an EPA request to do a follow-up inspection of its chemical plant, the EPA flies an airplane over the plant -- taking pictures with an aerial mapping camera that “permits identification of objects such as wires as small as 1/2-inch in diameter.”

SEARCH?

NO

Dow Chemical v. US



**PLANT IS HYBRID OF
CURTILAGE AND OPEN
FIELDS**

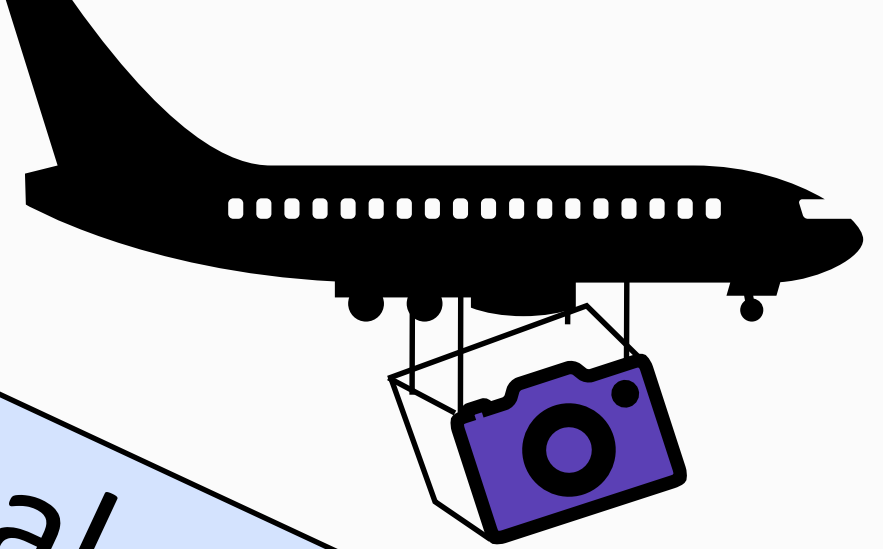
**IN ANY CASE, PHOTOS ARE
FROM A PUBLIC VANTAGE
POINT**

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SEARCH?

NO

Dow Chemical v. US



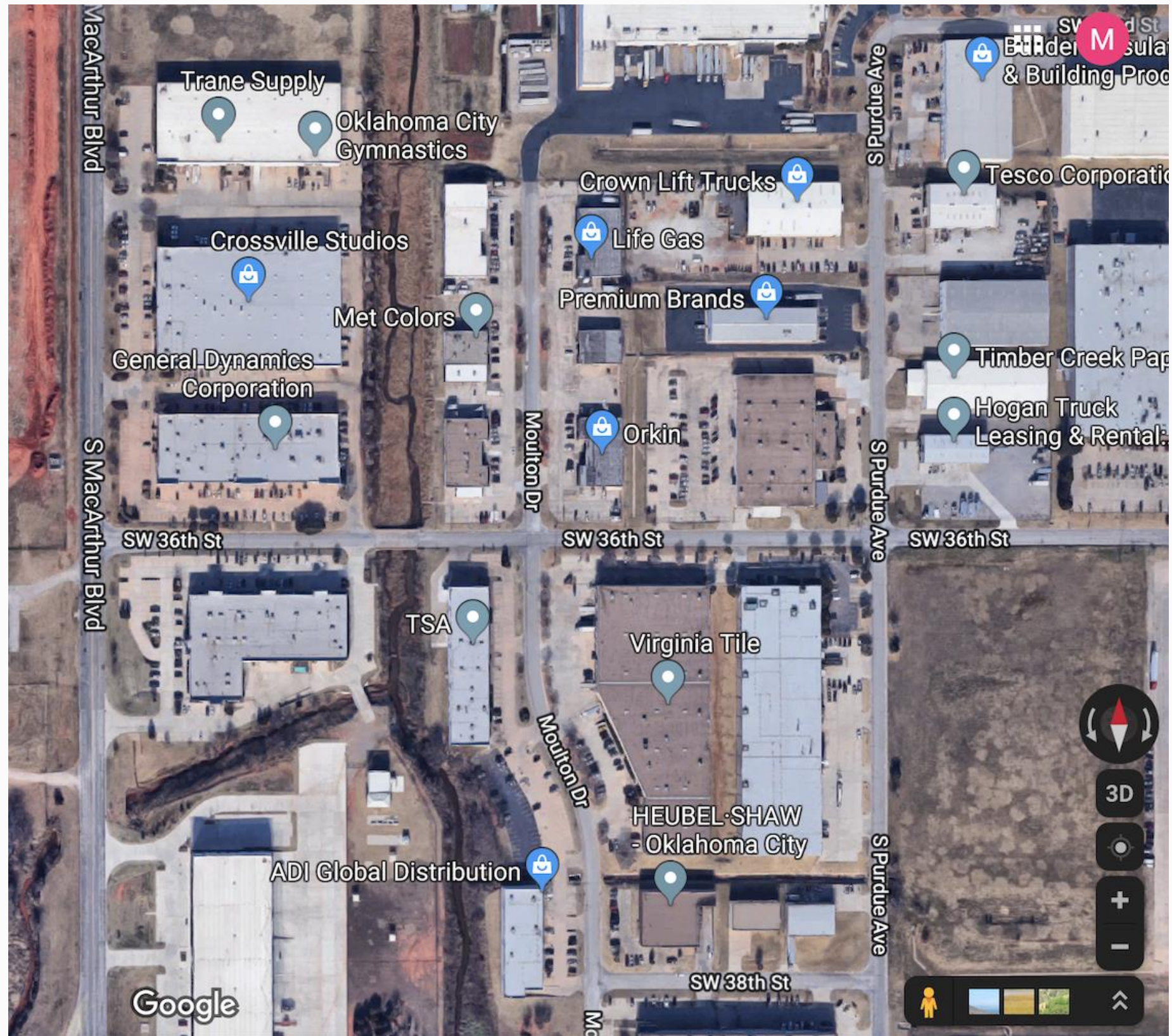
**PLANT IS HYBRID OF
CURTILAGE AND OPEN
FIELDS**

**IN ANY CASE, PHOTOS ARE
FROM A PUBLIC VANTAGE
POINT**

**“POSITIVE LAW” model - if it isn’t
illegal for private citizens to look,
why for government**

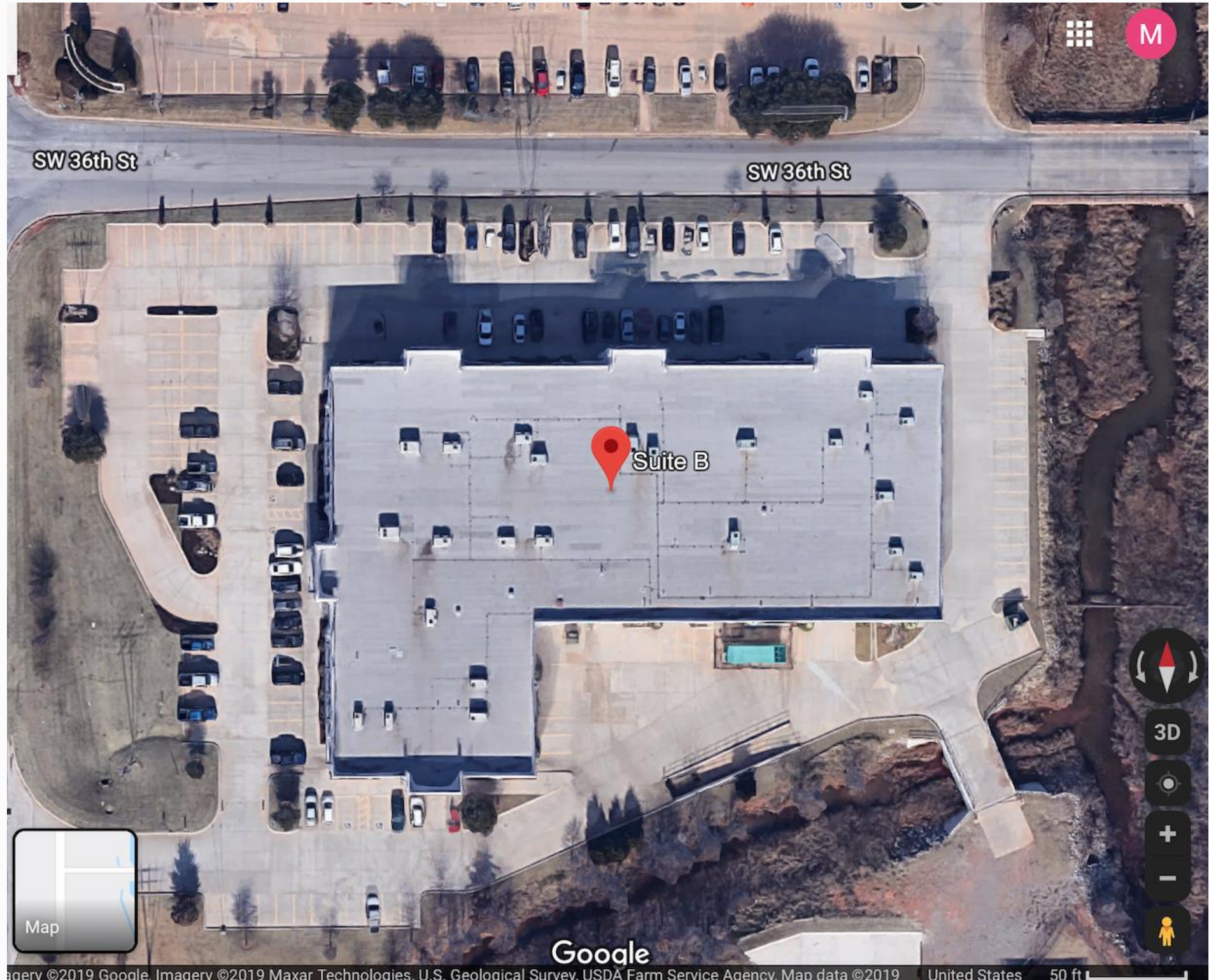
If it is legal for
Individuals to
gain view
from above

Why not for
gov't officials?



If it is legal for
Individuals to
gain view
from above

Why not for
gov't officials?



**If it is legal for
Individuals to
use drones to
capture
photographs**



**Why not for
gov't officials?**



RECENT CASES THAT MIGHT MAKE A DIFFERENCE

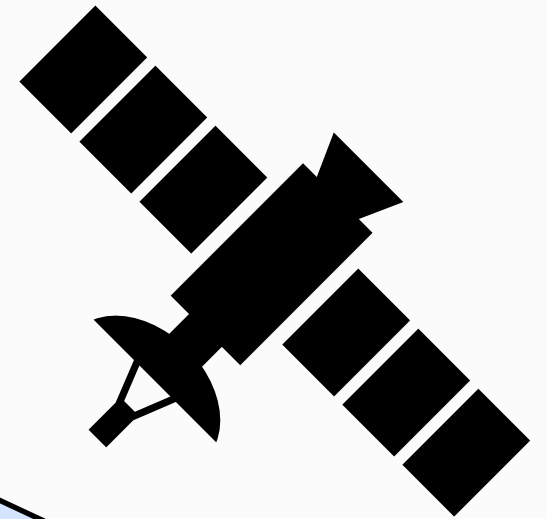
US v. Jones (2012)

GPS used to track Jones's vehicle: Police get a warrant to install GPS in Jones's car within 10 days -- do so on the 11th -- and in Maryland rather than DC (where the warrant was for)

SEARCH?

YES

US v. Jones



PLURALITY (SCALIA)

TRESPASS:

Search when they installed a GPS device on Jones's property (his car)

"the *Katz* reasonable-expectation-of-privacy test has been *added to*, not *substituted for*, the common-law trespassory test"

GPS used to track Jones's vehicle: Police get a warrant to install GPS in Jones's car within 10 days -- do so on the 11th -- and in Maryland rather than DC (where the warrant was for)

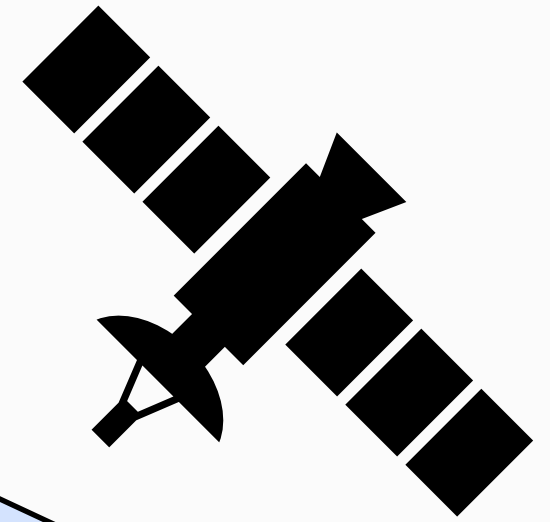
SEARCH?
YES

PLURALITY (SCALIA)

TRESPASS:

This Court has to date not deviated from the understanding that mere visual observation does not constitute a search

US v. Jones



CONCURRENCE (ALITO)

GPS used to track Jones's vehicle: Police get a warrant to install GPS in Jones's car within 10 days -- do so on the 11th -- and in Maryland rather than DC (where the warrant was for)

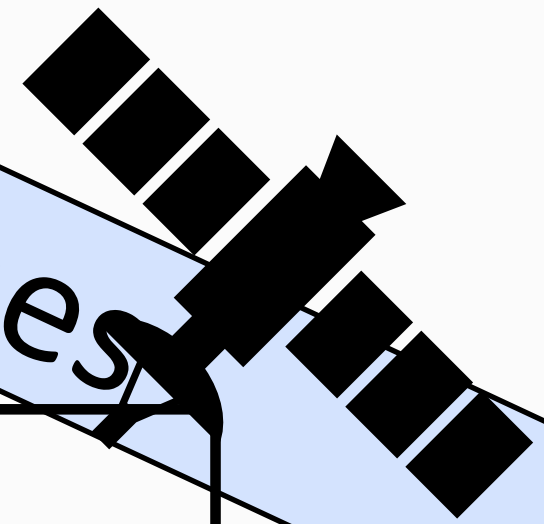
SEARCH?

YES

KATZ, EXP OF PRIVACY:

the Court's reasoning largely disregards what is really important (the *use* of a GPS for the purpose of long-term tracking) and instead attaches great significance to something that most would view as relatively minor (attaching to the bottom of a car a small, light object that does not interfere in any way with the car's operation). Attaching such an object is generally regarded as so trivial that it does not provide a basis for recovery under modern tort law. But under the Court's reasoning, this conduct may violate the Fourth Amendment. By contrast, if long-term monitoring can be accomplished without committing a technical trespass—suppose, for example, that the Federal Government required or persuaded auto manufacturers to include a GPS tracking device in every car—the Court's theory would provide no protection

US v. Jones



CONCURRENCE (ALITO)

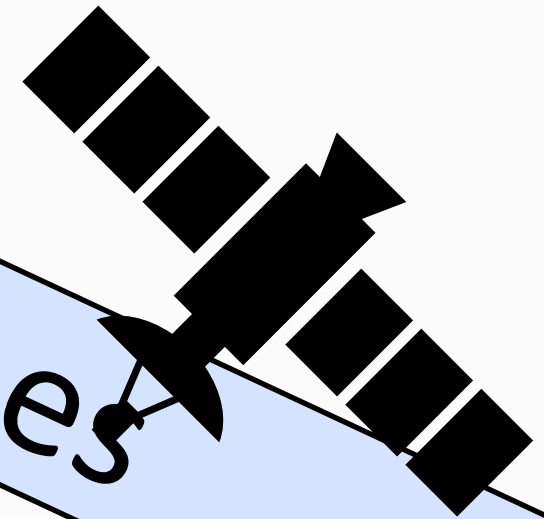
GPS used to track Jones's vehicle: Police get a warrant to install GPS in Jones's car within 10 days -- do so on the 11th -- and in Maryland rather than DC (where the warrant was for)

SEARCH?
YES

KATZ, EXP OF PRIVACY:

Under this approach, relatively short-term monitoring of a person's movements on public streets accords with expectations of privacy that our society has recognized as reasonable. See But the use of longer term GPS monitoring in investigations of most offenses impinges on expectations of privacy . . . We need not identify with precision the point at which the tracking of this vehicle became a search, for the line was surely crossed before the 4-week mark

US v. Jones



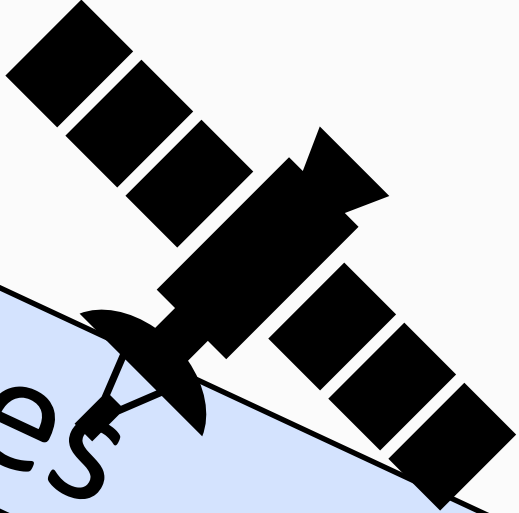
CONCURRENCE (SOTOMAYOR)

GPS used to track Jones's vehicle: Police get a warrant to install GPS in Jones's car within 10 days -- do so on the 11th -- and in Maryland rather than DC (where the warrant was for)

SEARCH?

YES

US v. Jones



TRESPASS + KATZ, EXP OF PRIVACY:

the trespassory test applied in the majority's opinion reflects an irreducible constitutional minimum: When the Government physically invades personal property to gather information, a search occurs. The reaffirmation of that principle suffices to decide this case.

CONCURRENCE (SOTOMAYOR)

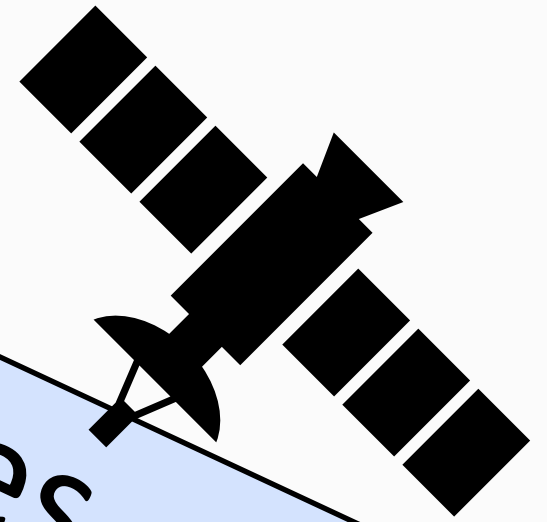
GPS used to track Jones's vehicle: Police get a warrant to install GPS in Jones's car within 10 days -- do so on the 11th -- and in Maryland rather than DC (where the warrant was for)

SEARCH?
YES

TRESPASS + KATZ, EXP OF PRIVACY:

I would also consider the appropriateness of entrusting to the Executive, in the absence of any oversight from a coordinate branch, a tool so amenable to misuse, especially in light of the Fourth Amendment's goal to curb arbitrary exercises of police power to and prevent "a too permeating police surveillance,"

US v. Jones



Carpenter v. United States (2018)

Carpenter v. United States (2018)

THE COURT (Chief Justice Roberts)

Investigation is not a “search”

IF SHARED WITH 3rd PARTY

Their license plate trace leads the police to Michael Lee Smith.

They ask phone company to install a PEN REGISTER to Smith's line (in the phone co's officers) -- to trace calls made from his home phone. It records evidence of a call to robbery victim's home.



Smith v. MARYLAND

SEARCH?

NO



Smith v. MARYLAND

SEARCH?

NO

**“WHEN HE USED HIS
PHONE, PETITIONER
VOLUNTARILY CONVEYED
NUMERICAL INFORMATION
TO THE TELEPHONE
COMPANY”**

THIRD PARTY DOCTRINE

**CERTAIN THIRD PARTY RECORDS
- ARE PROTECTED BY 4th AMEND**

**Information Shared
with Third Party**

**Certain third party records
in the technological age
ARE**

**1. “time machine” -
comprehensive collection**

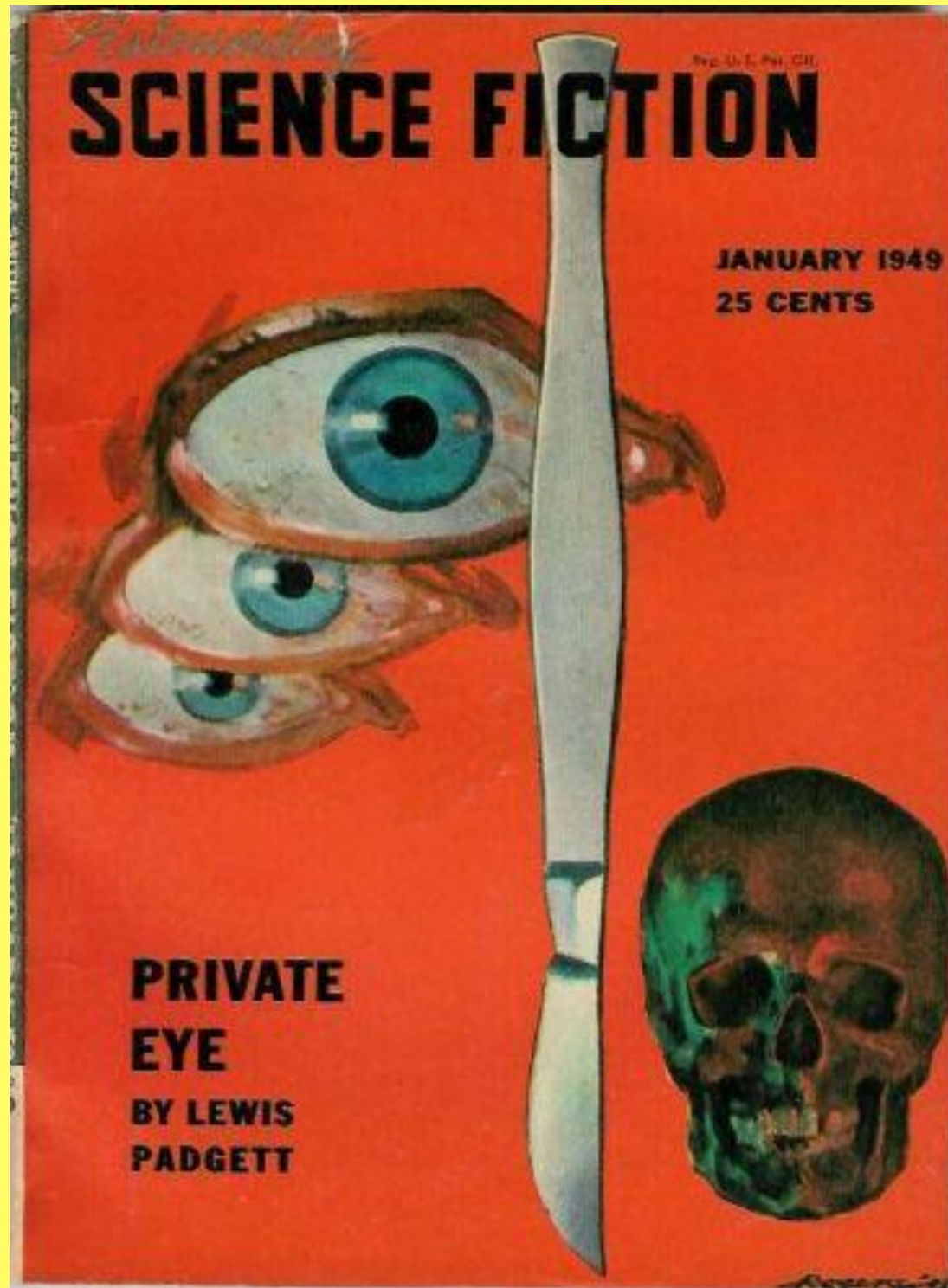
2. Sensitivity of information

**3. Lack of choice about w
whether to share**

Carpenter v. United States (2018)

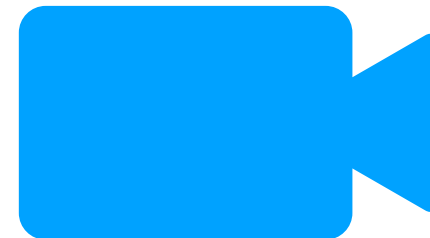
TIME MACHINES

Carpenter v. United States (2018)



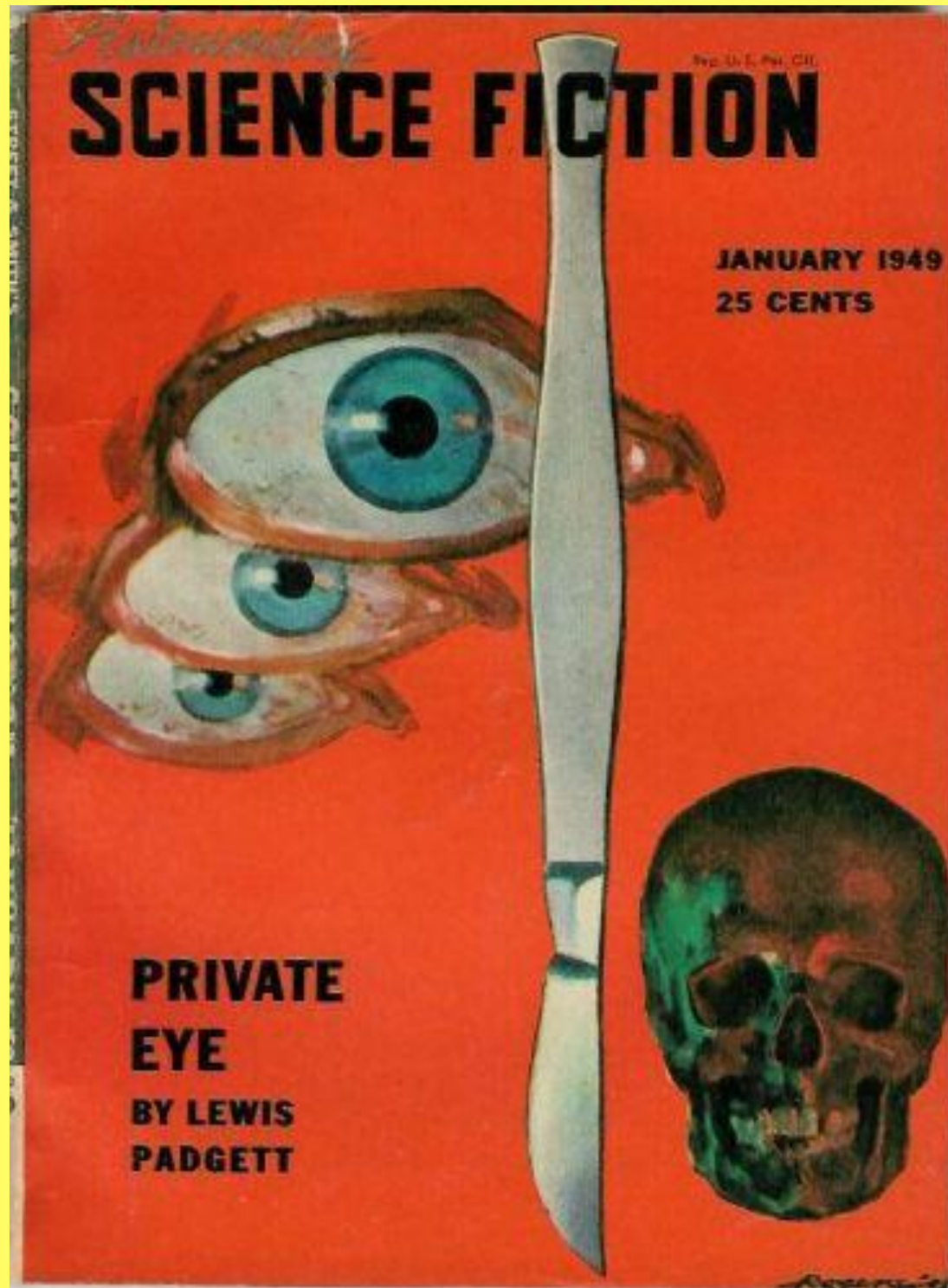
NOTICE

This area is under 24 Hour
Video Surveillance



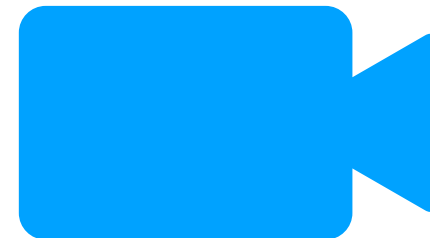
TIME MACHINES

Carpenter v. United States (2018)



NOTICE

This LIFE is under 100 YEAR
Video Surveillance



Time machines

Carpenter v. United States (2018)

“With access to CSLI, the
Government can now travel
back in time to
retrace a person’s
whereabouts,

MAJORITY - CHIEF JUSTICE ROBERTS

Time machines

Carpenter v. United States (2018)

subject only to the retention policies of the wireless carriers, which currently maintain records for up to five years. Critically, because location information is continually.”

MAJORITY - CHIEF JUSTICE ROBERTS

Time machines

Carpenter v. United States (2018)

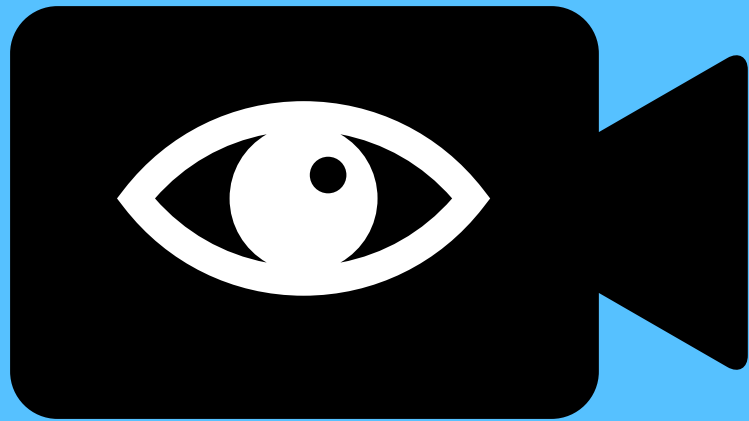
Much like GPS tracking of a vehicle, cell phone location information is detailed, encyclopedic, and effortlessly compiled.

MAJORITY - CHIEF JUSTICE ROBERTS

Technological Change

When confronting new concerns wrought by digital technology, this Court has been careful not to uncritically extend existing precedents. See *Riley*, 573 U. S., at ____ (“A search of the information on a cell phone bears little resemblance to the type of brief physical search considered [in prior precedents].”)

MAJORITY - CHIEF JUSTICE ROBERTS



VIDEO SURVEILLANCE

detailed, encyclopedic, and
effortlessly compiled.

“With access to CSLI, the Government can now travel back in time to retrace a person’s whereabouts, subject only to the retention policies of the wireless carriers, which currently maintain records for up to five years. Critically, because location information is continually.”

Court suggests . . . that “individuals have a reasonable expectation of privacy in the whole of their physical movements.”

***Knotts* held just the opposite: “A person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another.” 460 U. S., at 281.**

unhinges Fourth Amendment doctrine from the property-based concepts that have long grounded the analytic framework that pertains in these cases. In doing so it draws an unprincipled and unworkable line between cell-site records on the one hand and financial and telephonic records on the other.

Court suggests . . . that “individuals have a reasonable expectation of privacy in the whole of their physical movements.”

***Knotts* held just the opposite: “A person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another.” 460 U. S., at 281.**

should turn on whose property was searched. The Fourth Amendment guarantees individuals the right to be secure from unreasonable searches of “their persons, houses, papers, and effects.” In other words, “each person has the right to be secure against unreasonable searches . . . in his own person, house, papers, and effects.”

1. SEARCH or SEIZURE

COVERAGE Question-

Is what police or other gov't officials are doing "covered" by 4th Amendment requirements at all?

GOV'T

WHAT ACTIONS DOES
FORCE FIELD COVER?

2. If so, must be REASONABLE

PROTECTION (or PROCEDURE) Question-

How much protection does 4th Amendment offer AGAINST police investigation at issue?

WHEN FORCEFIELD IS THERE
HOW STRONG IS IT?
DOES IT KEEP GOV'T OUT?



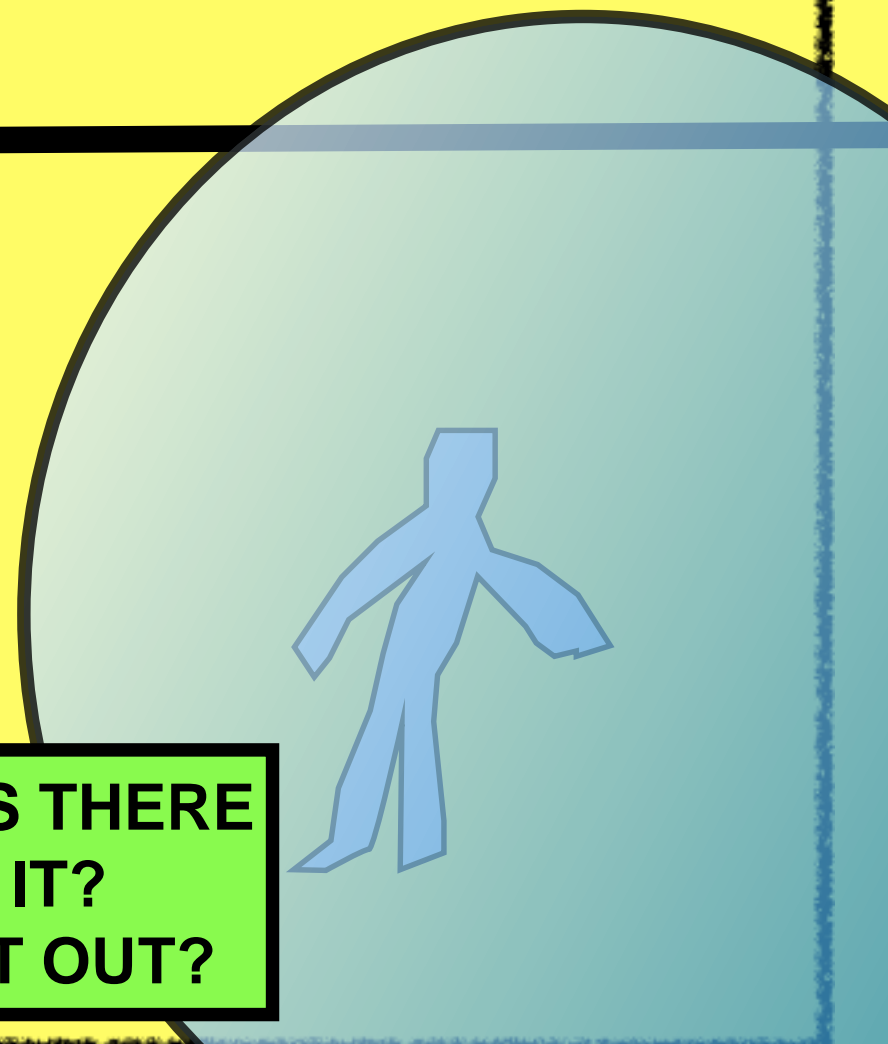
2. If so, must be REASONABLE

PROTECTION (or PROCEDURE)

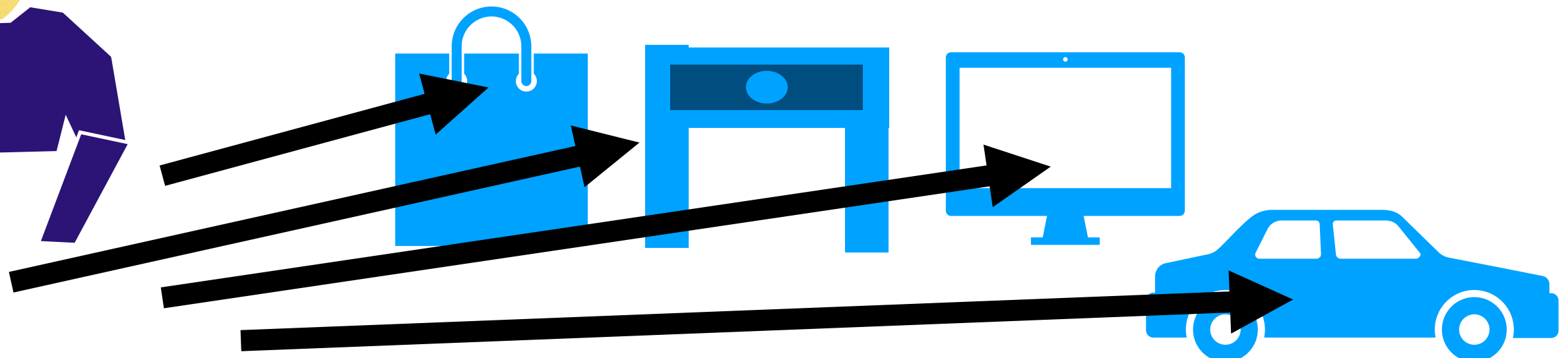
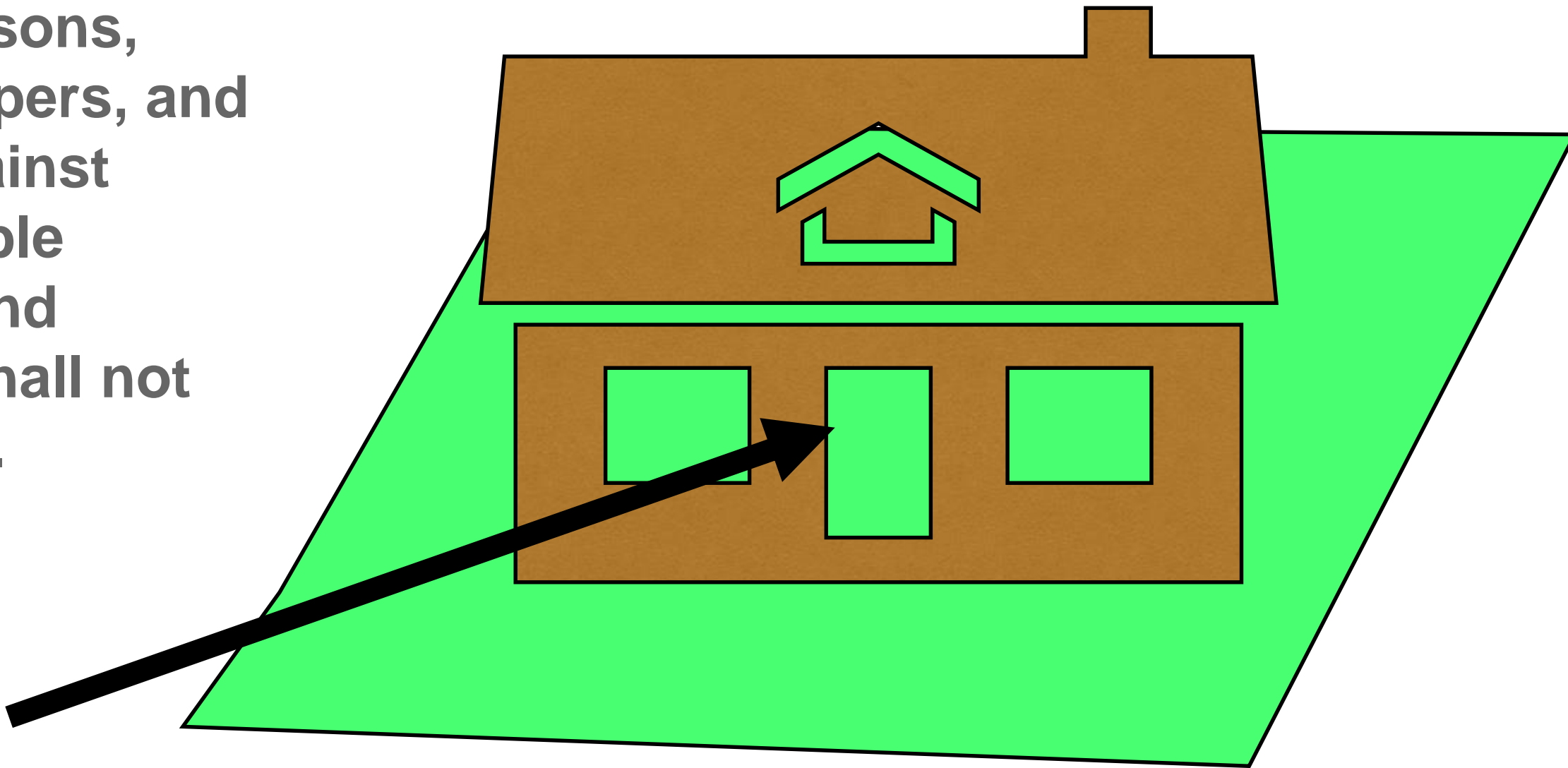
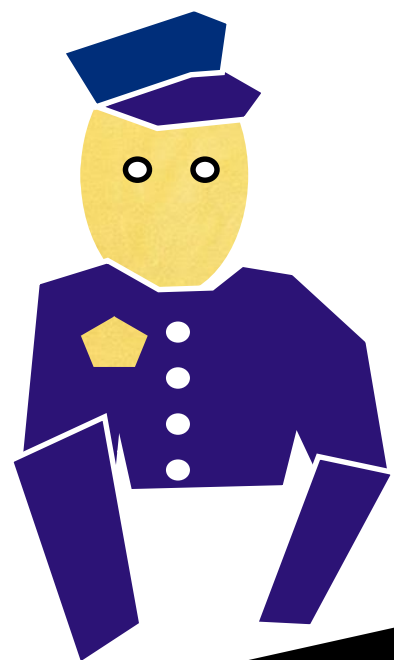
Question-

How much protection does 4th Amendment offer AGAINST police investigation at issue?


WHEN FORCEFIELD IS THERE
HOW STRONG IS IT?
DOES IT KEEP GOV'T OUT?



The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.



FOURTH AMENDMENT



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.

Default level of protection for 4th Amend. search

WARRANT - BASED UPON PROBABLE CAUSE

EXCEPTIONS TO WARRANT REQUIREMENT

1. Searches incident to arrest

2. inventory searches

3. Hot Pursuit

4. Exigent Circumstances

5. Plain View

6. Consent

7. The Automobile Exception

8. Border Searches

9. Special Needs

**in Schools/ Workplaces
Checkpoints/ Roadblocks
Drug Testing**

10. Administrative Searches

10. Probation and parole

SPECIAL NEEDS SEARCHES (of individual students)

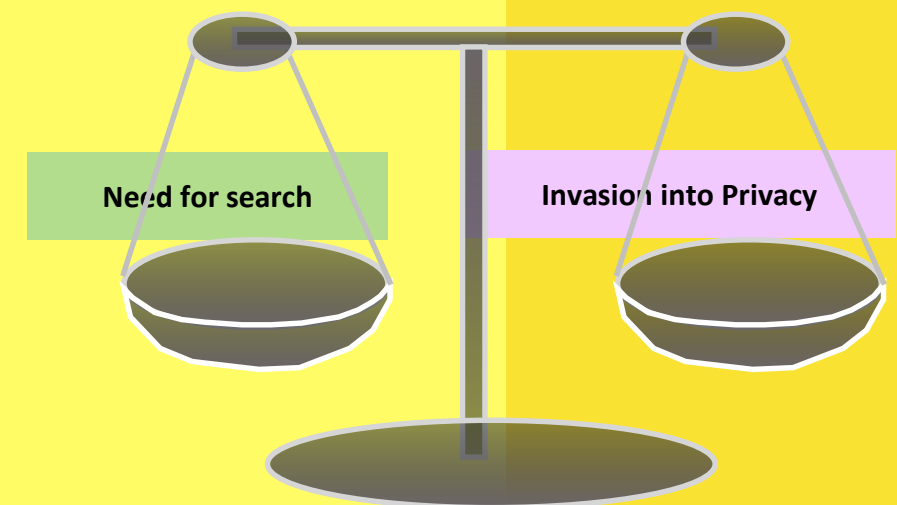
Warrants not necessary

Probable cause not necessary

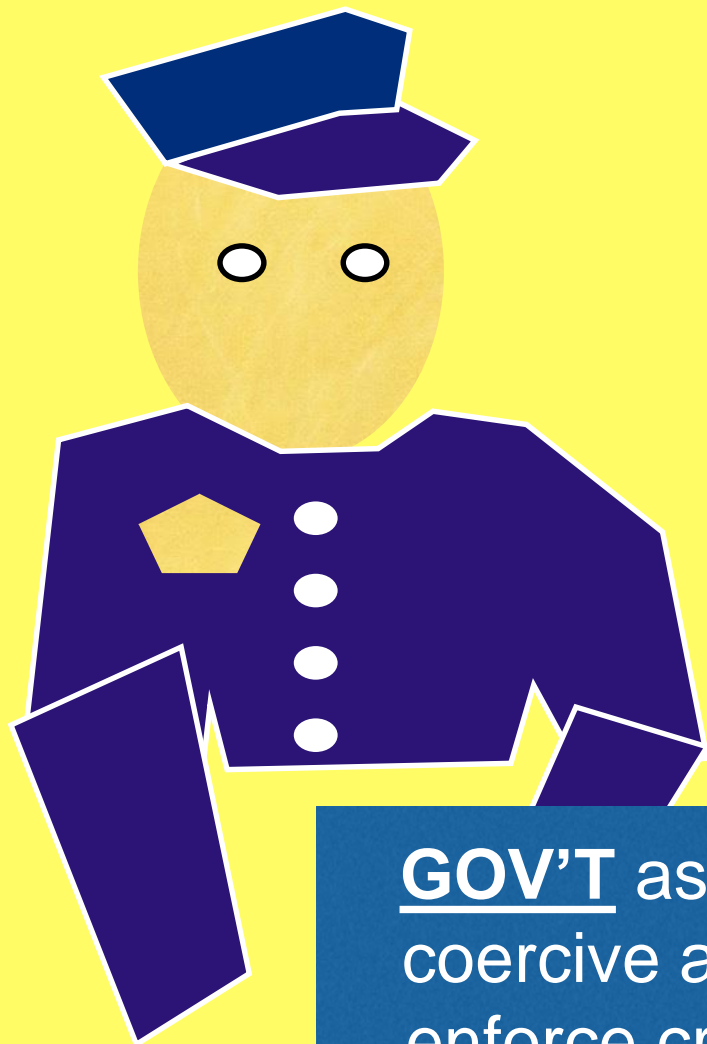
MAY BE SUSPICIONLESS

"A search unsupported by probable cause can be constitutional, we have said, "when special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable."

**Instead -- reasonable suspicion -- as determined by balance:
Need for Search vs. Invasion of Privacy it Entails**



SEARCHES - Ordinary criminal law enforcement



GOV'T as wielder of
coercive authority to
enforce criminal law

EXTRAORDINARY or otherwise outside of ordinary criminal law enforcement

“special needs” beyond ordinary
criminal law enforcement

administrative rather than criminal



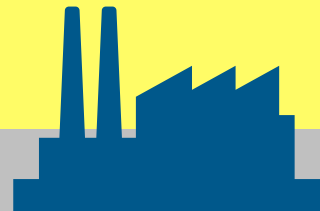
GOV'T wearing a
“different hat”

**EXTRAORDINARY or
otherwise
outside of ordinary
criminal law enforcement**

**“special needs” beyond ordinary
criminal law enforcement**

administrative rather than criminal

1. WORKPLACE



2. SCHOOL



3. HIGH-SECURITY SETTING



**GOV'T wearing a
“different hat”**

When search is on this side of the line, gov't tends to WIN

EXTRAORDINARY or otherwise outside of ordinary criminal law enforcement

“special needs” beyond ordinary criminal law enforcement

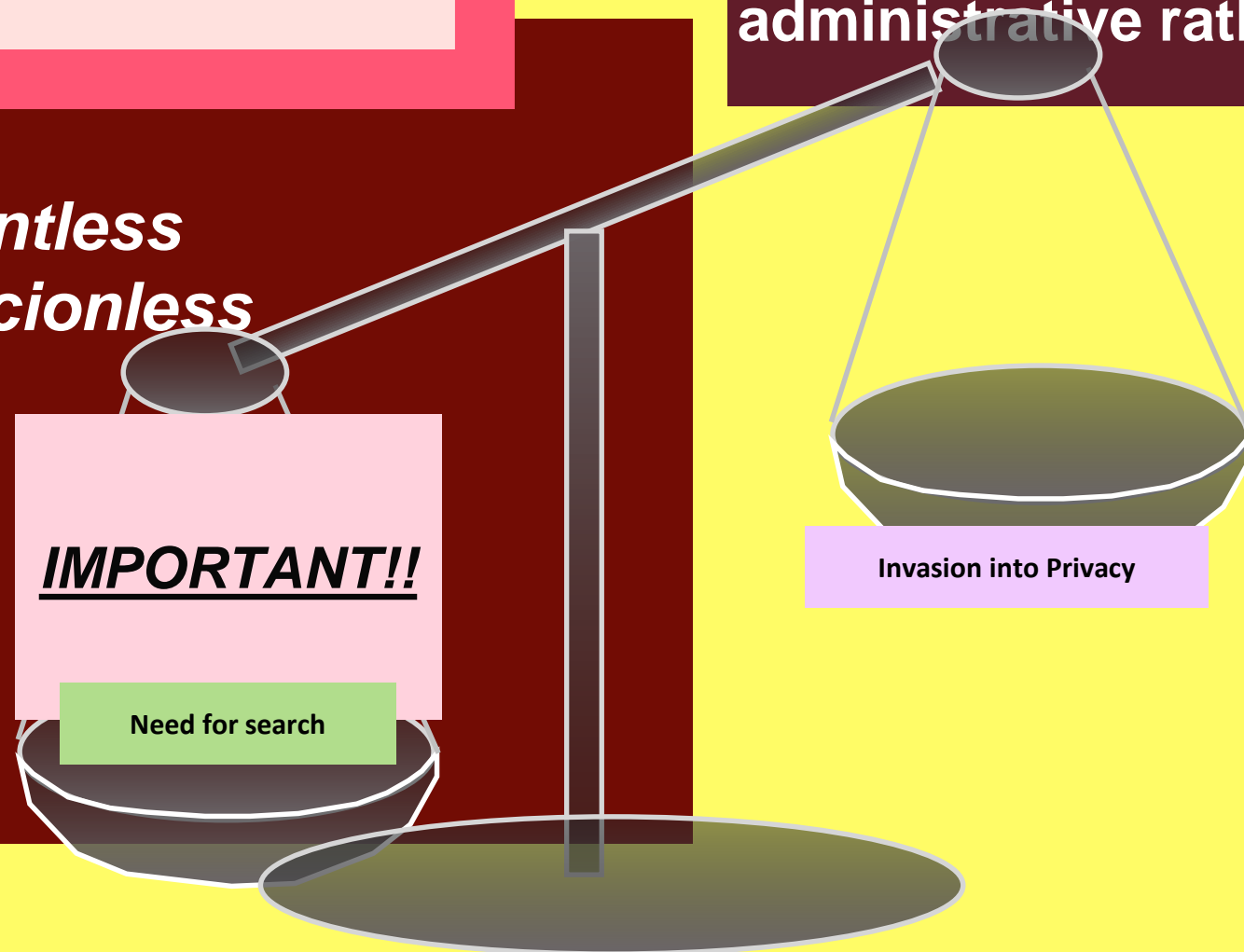
administrative rather than criminal

Can be warrantless
Can be suspicionless

IMPORTANT!!

Need for search

Invasion into Privacy



**SEARCHES - Ordinary
criminal law enforcement**

**EXTRAORDINARY or
otherwise
outside of ordinary
criminal law enforcement**

**“special needs” beyond ordinary
criminal law enforcement**

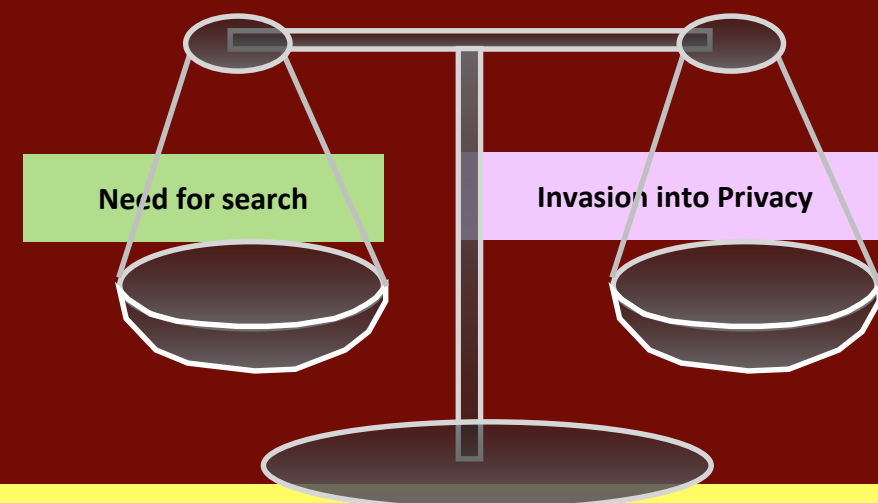
administrative rather than criminal

REASONABLENESS

***Warrant based upon
probable cause -
PLACE or PERSON
police are targeting***

REASONABLENESS

***Can be warrantless
Can be suspicionless***



Camara v. ...

Division of Housing Inspection
of SF Health Dept. wants to
make inspection of residence
to assure compliance with
Housing Code

Needs a
probable cause?

NOT IN
TRADITIONAL
SENSE

Unlike the search pursuant to a criminal investigation, the inspection programs at issue here are aimed at securing city-wide compliance with minimum physical standards for private property. The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety. Because fires and epidemics may ravage large urban areas, because unsightly conditions adversely affect the economic values of neighboring structures, numerous courts have upheld the police power of municipalities to impose and enforce such minimum standards even upon existing structures. In determining whether a particular inspection is reasonable -- and thus in determining whether there is probable cause to issue a warrant for that inspection -- the need for the inspection must be weighed in terms of these reasonable goals of code enforcement.

New York v. Burger

Can there be
warrantless
search of an
automobile
junkyard?

YES

New York v. Burger

Searches of this sort
“fall within [the]
established exception
to the warrant
requirement for
administrative
inspection in ‘closely-
regulated’ businesses

1. state substantial interest in regulation
2. regulation “reasonable serves” this interest
3. “constitutionally adequate substitute for a warrant”

Administrative Searches

WORK: Warrant not required for searches of “closely-regulated businesses” -- in that case, acc’d to Court in NY v. Burger, gov’t can conduct warrantless search if it can show:

1. state substantial interest in regulation

2. regulation “reasonable serves” this interest

3. “constitutionally adequate substitute for a warrant”

FIRST AMENDMENT

FIRST AMENDMENT

Congress shall make no law

**abridging the freedom
of speech, or of the press;**

FIRST AMEND. COVERAGE: WHAT IS SPEECH?

**1st Amendment
What is Protected
Drones or UAVs**

FIRST AMEND. PUBLIC FORUM DOCTRINE

**To what spaces
speakers have p
access?**

Drones or UAVs

RIGHT TO RECORD



RIGHT TO RECORD



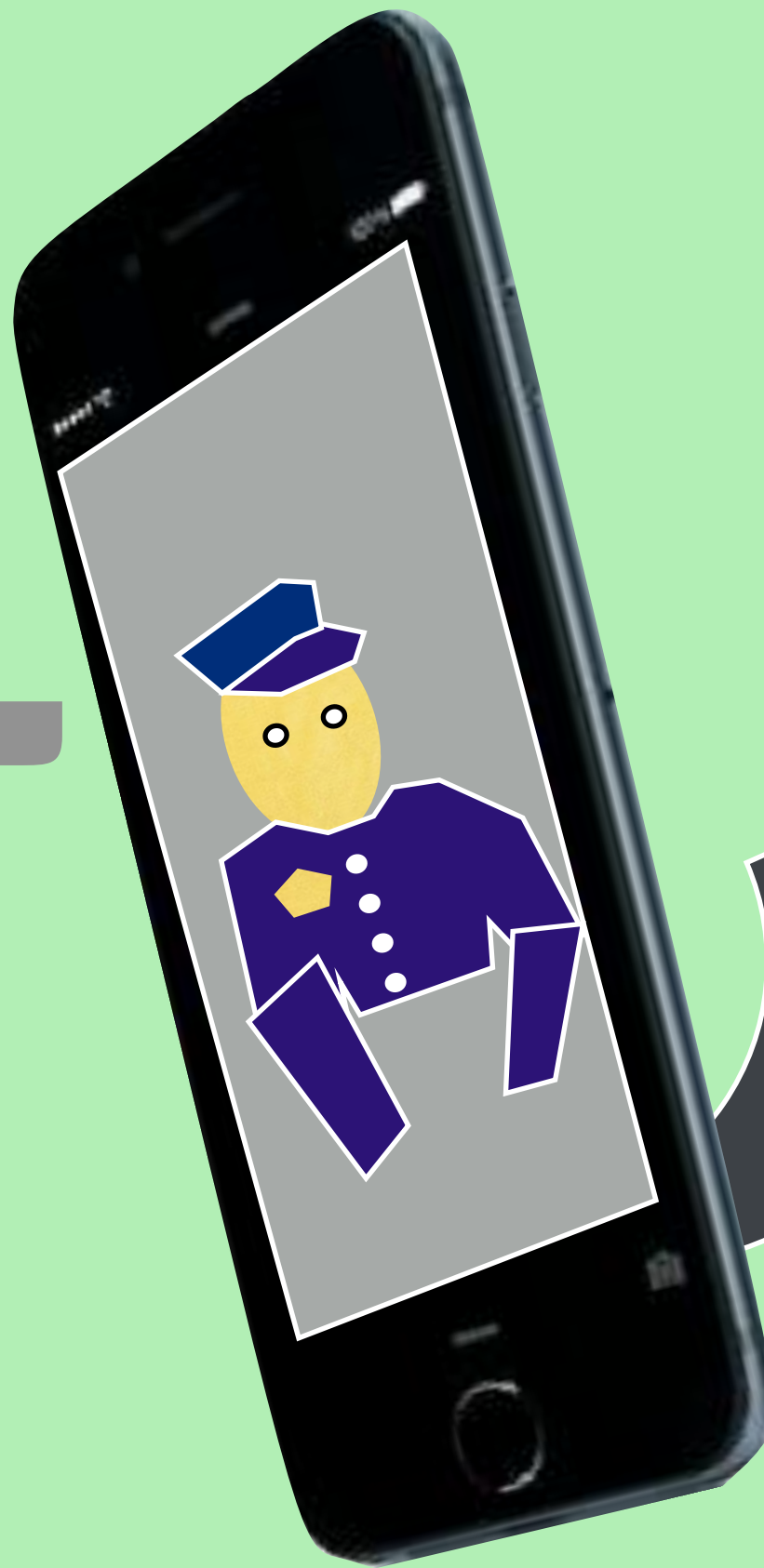
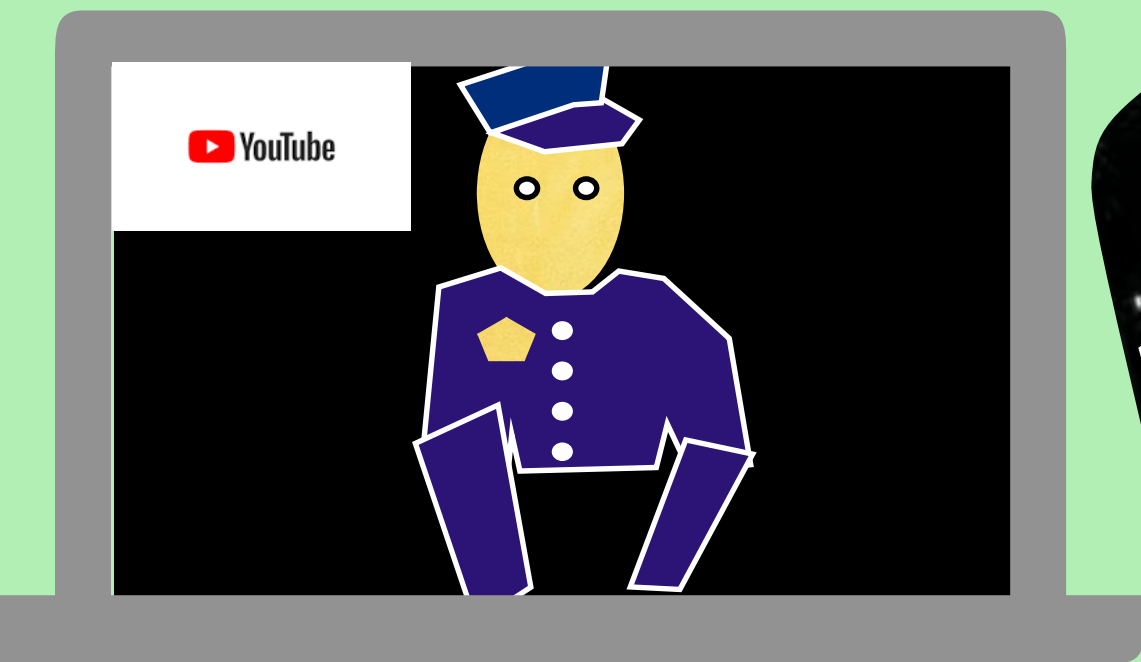
RIGHT TO RECORD

Alvarez v. ACLU (7th Cir. 2013)

1. videorecording (incl. audio) is a precondition to creating speech / indispensable to essential medium of expression
2. in a democracy, citizens have to be able to know about and speak about gov't activities (and other events of public interest)

RIGHT TO RECORD



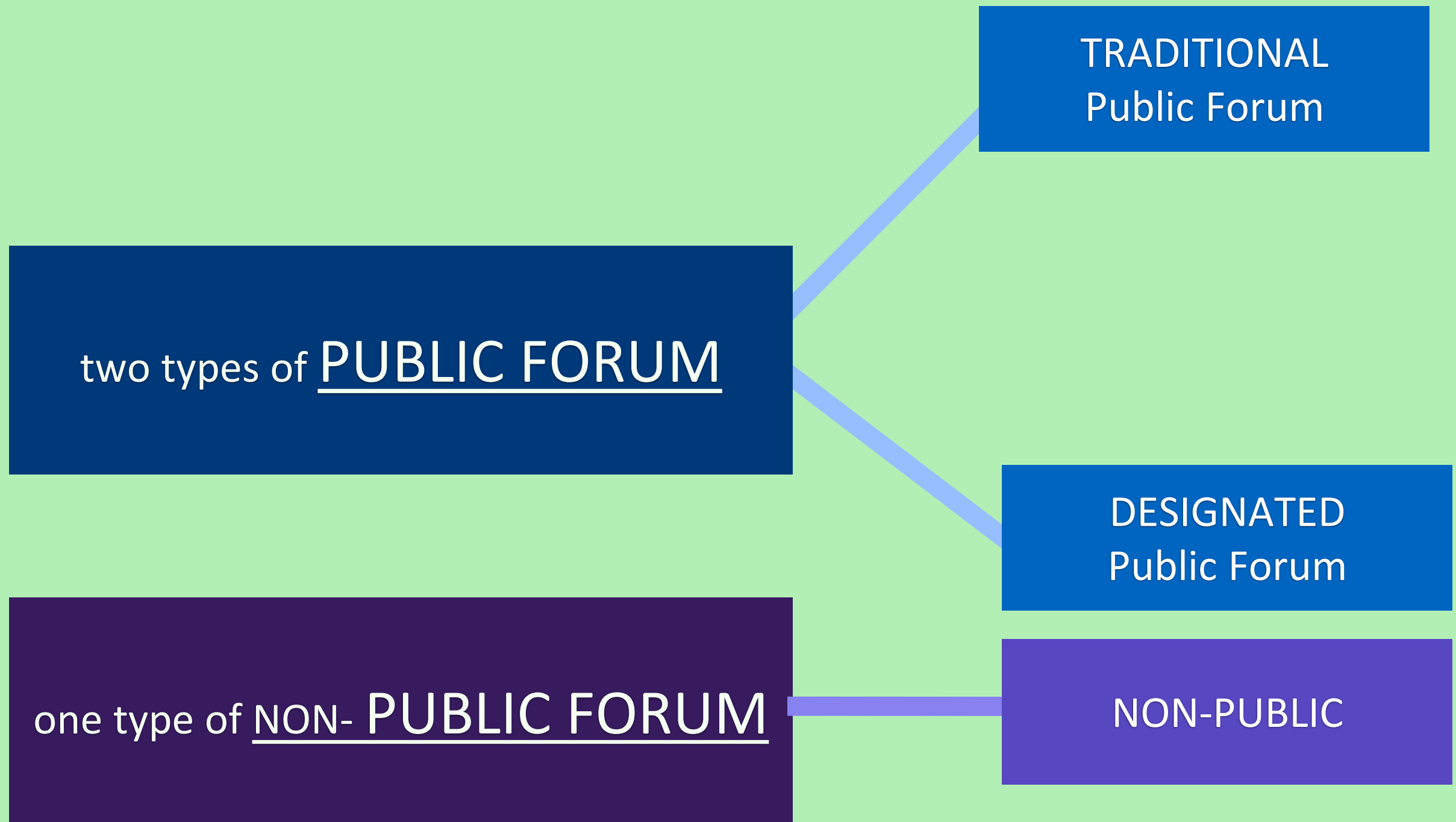


THE THREE TYPES OF FORUMS: (and the accompanying black letter law)

two types of PUBLIC FORUM

one type of NON- PUBLIC FORUM

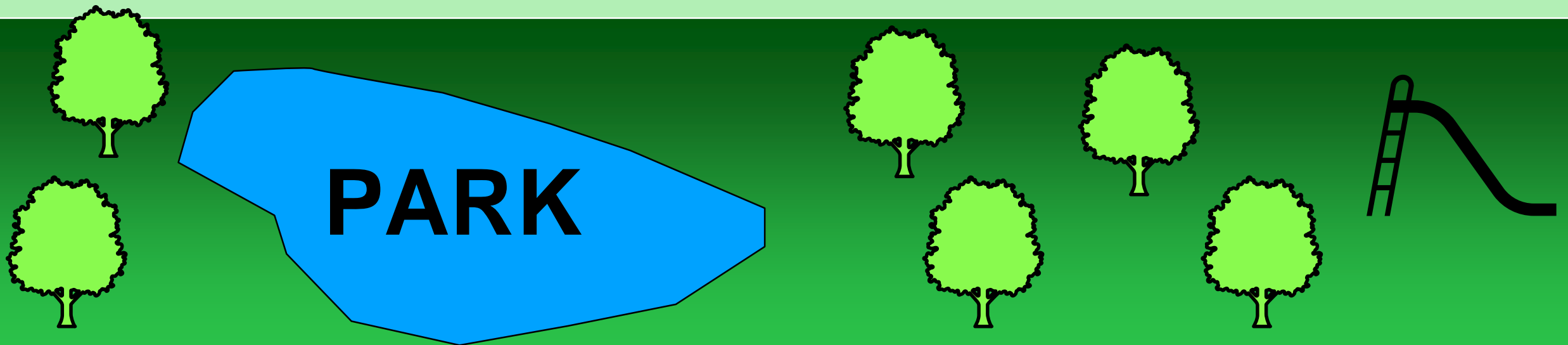
THE THREE TYPES OF FORUMS: (and the accompanying black letter law)



TRADITIONAL or QUINTESSENTIAL PUBLIC FORUM

PUBLIC FORUM type 1

PUBLIC STREET

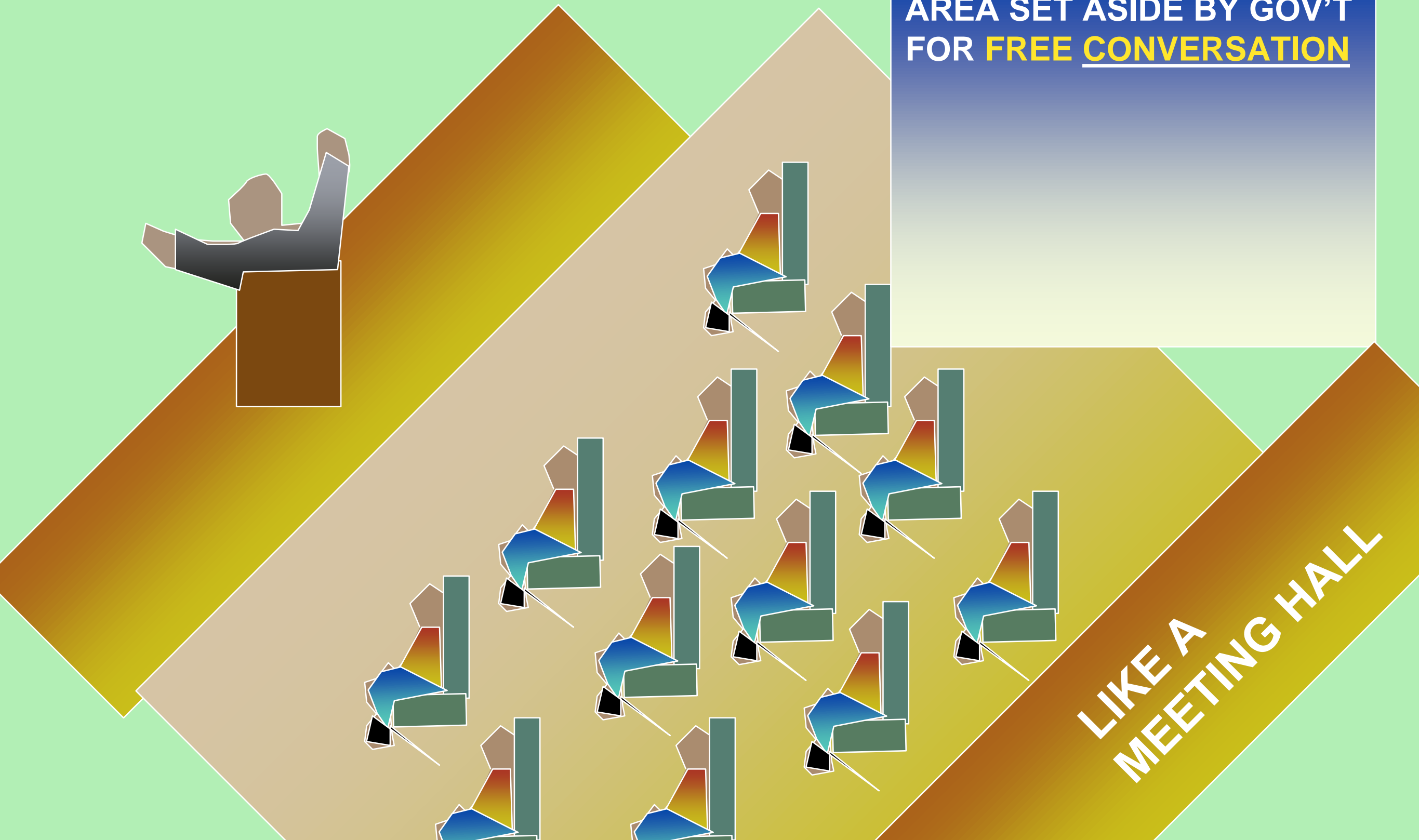


DESIGNATED PUBLIC FORUM

PUBLIC FORUM type 2

AREA SET ASIDE BY GOV'T
FOR **FREE** CONVERSATION

LIKE A
MEETING HALL



DESIGNATED PUBLIC FORUM

PUBLIC FORUM - traditional
or designated

**Black
Letter
Law**

IF CONTENT-BASED REGULATION -->
subject to **STRICT SCRUTINY**

- narrowly-tailored (necessary to)
- compelling gov't interest

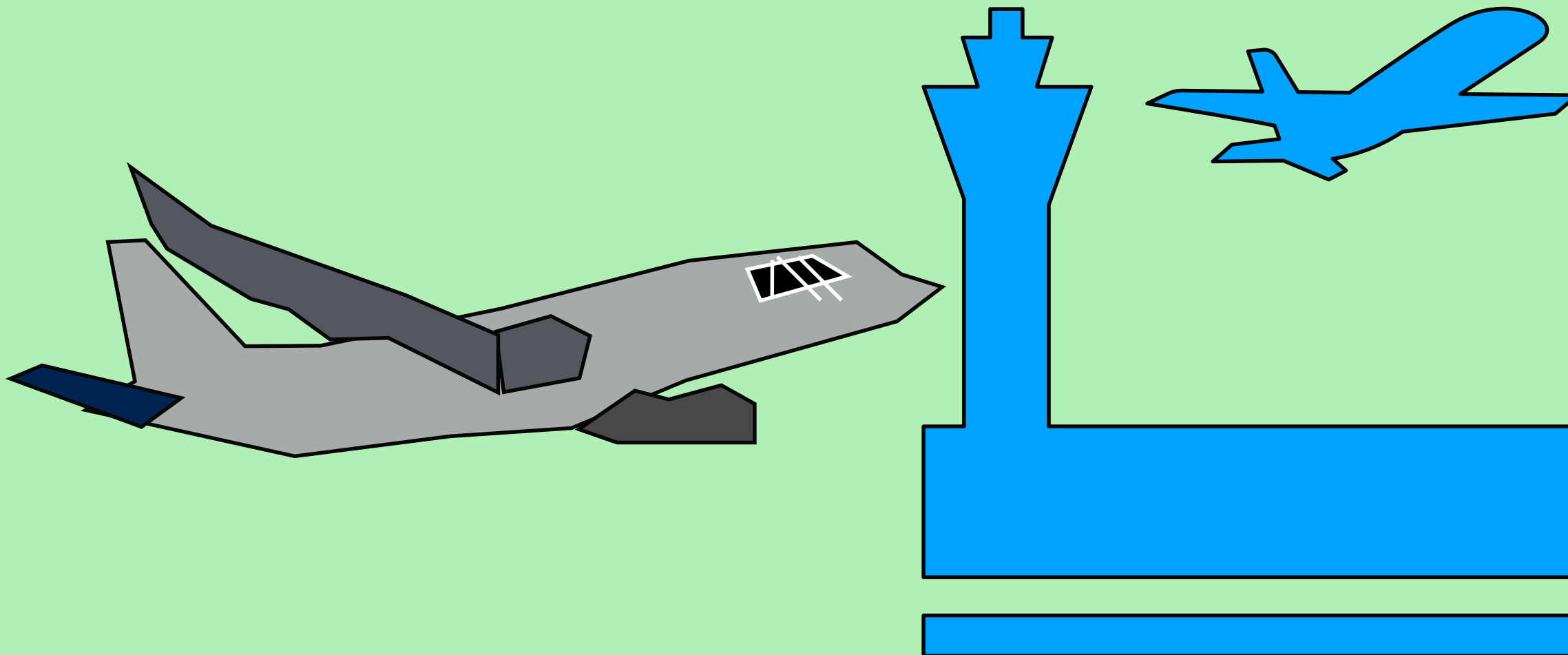
IF CONTENT-NEUTRAL -->
a form of INTERMEDIATE SCRUTINY

1. truly content-neutral
2. significant-gov't interest
3. narrowly tailed (doesn't restrict substantially more speech than necessary)
3. leave open ample alternative channels for communication

GOV'T FUNCTION
ISN'T FREE
CONVERSATION -
- SOME **OTHER**
GOV'T PURPOSE,
LIKE SECURITY,
TAKES **HAS**
PRIORITY

NON-PUBLIC FORUM

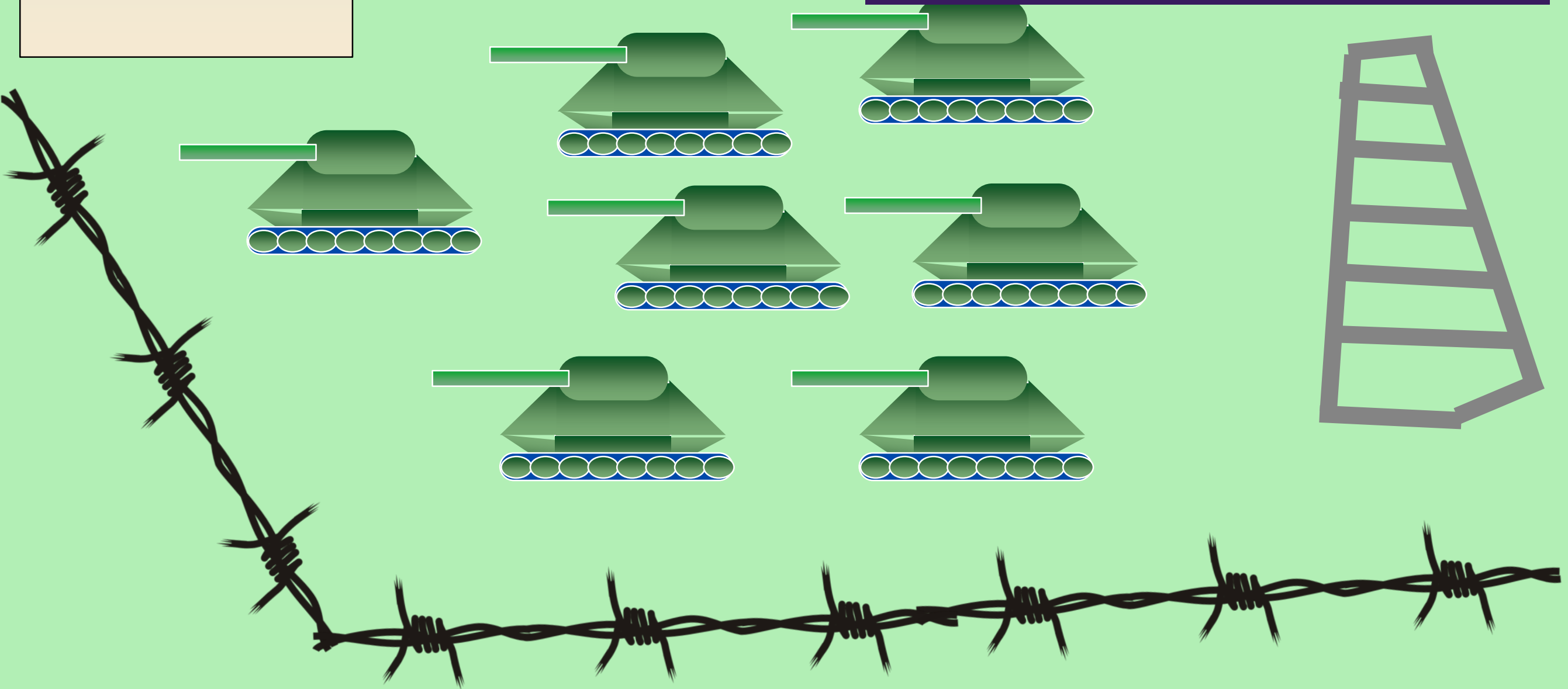
one type of NON- PUBLIC FORUM



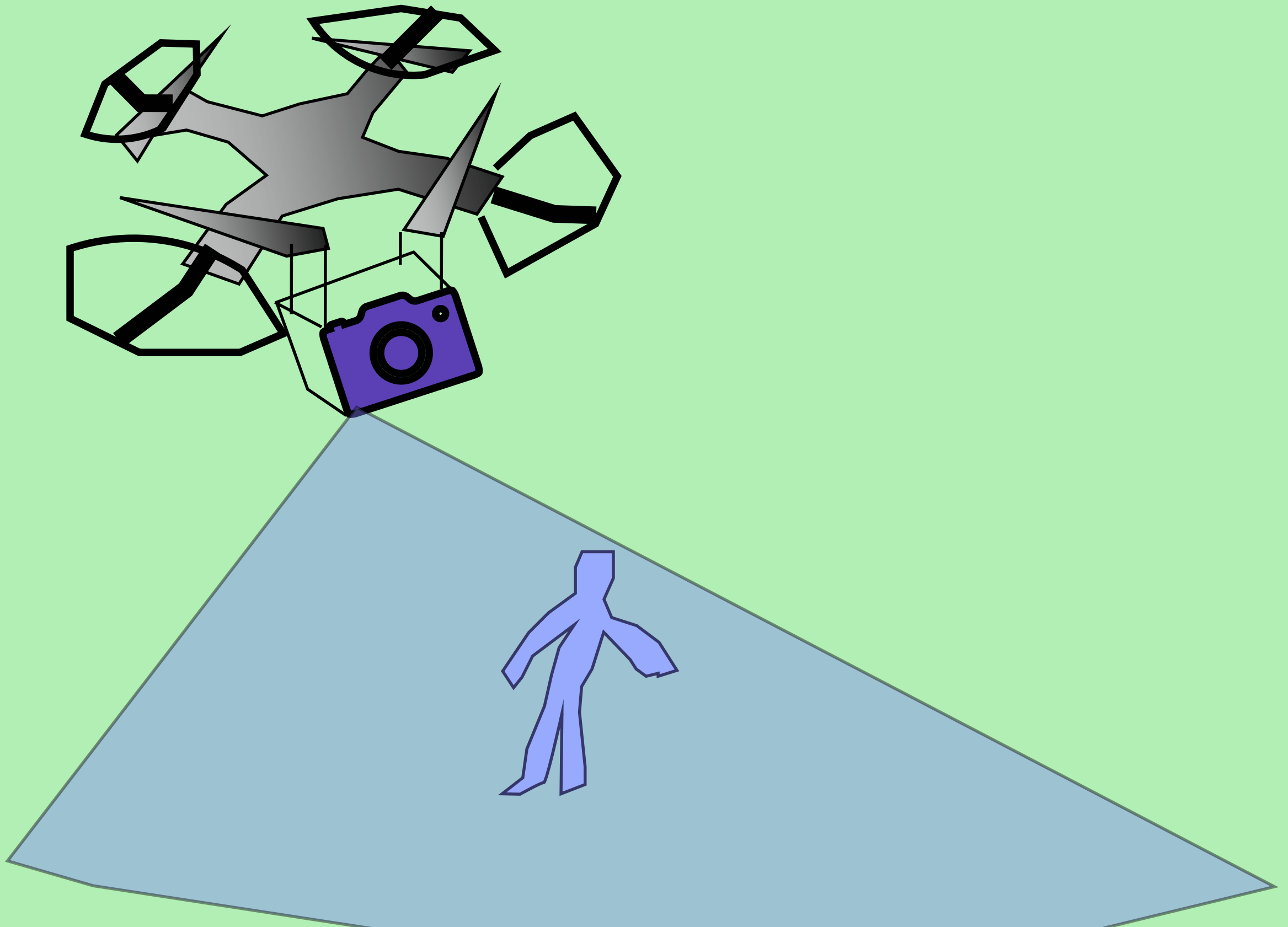
GOV'T FUNCTION
ISN'T FREE
CONVERSATION -
- SOME **OTHER**
GOV'T PURPOSE,
LIKE SECURITY,
HAS
PRIORITY

NON-PUBLIC FORUM

one type of NON- PUBLIC FORUM



**WHAT TYPE OF FORUM IS AIRSPACE
DRONE OPERATES IN?**

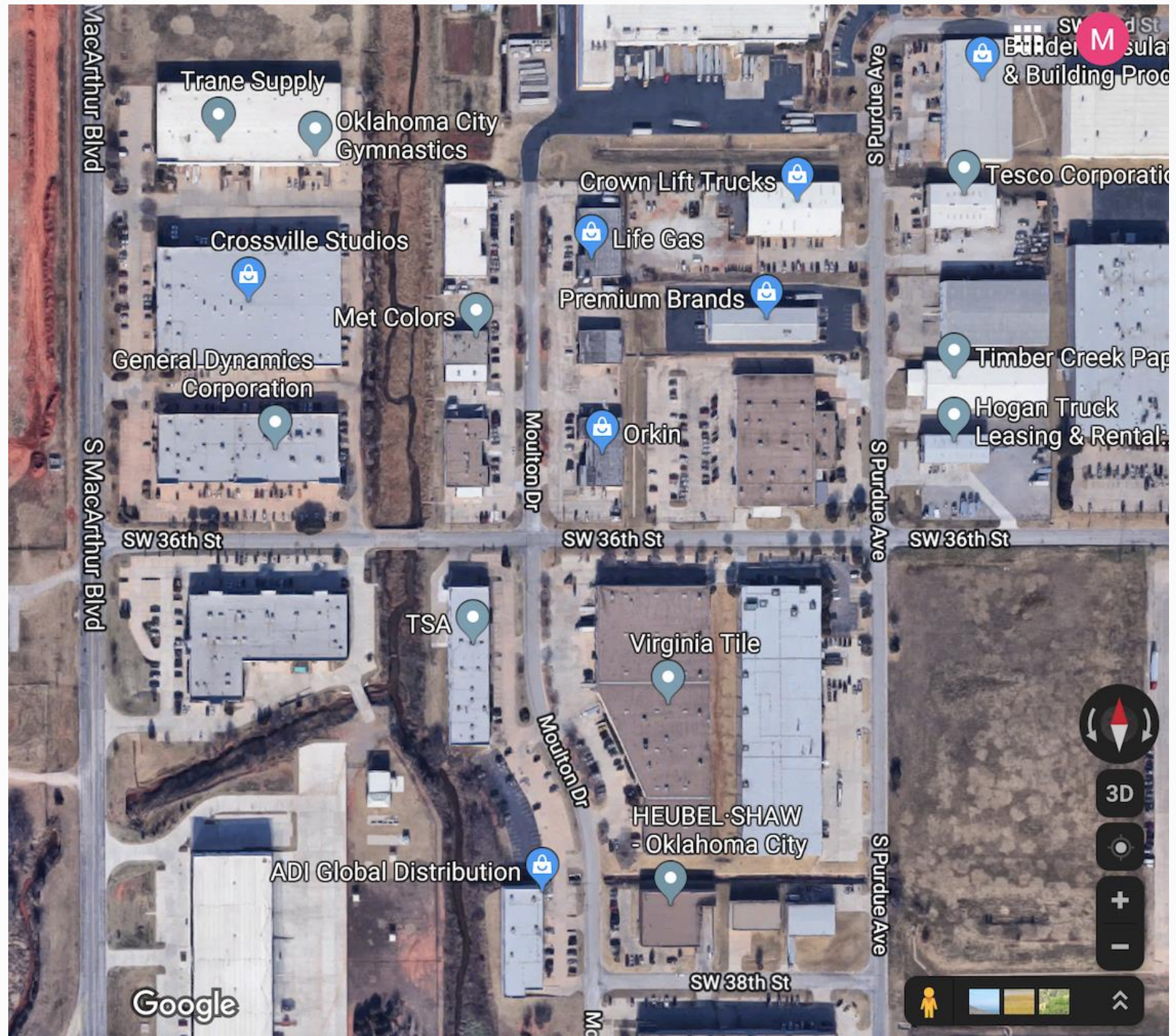


Implications for

**“POSITIVE LAW” model - if it isn’t
illegal for private citizens to look,
why for government**

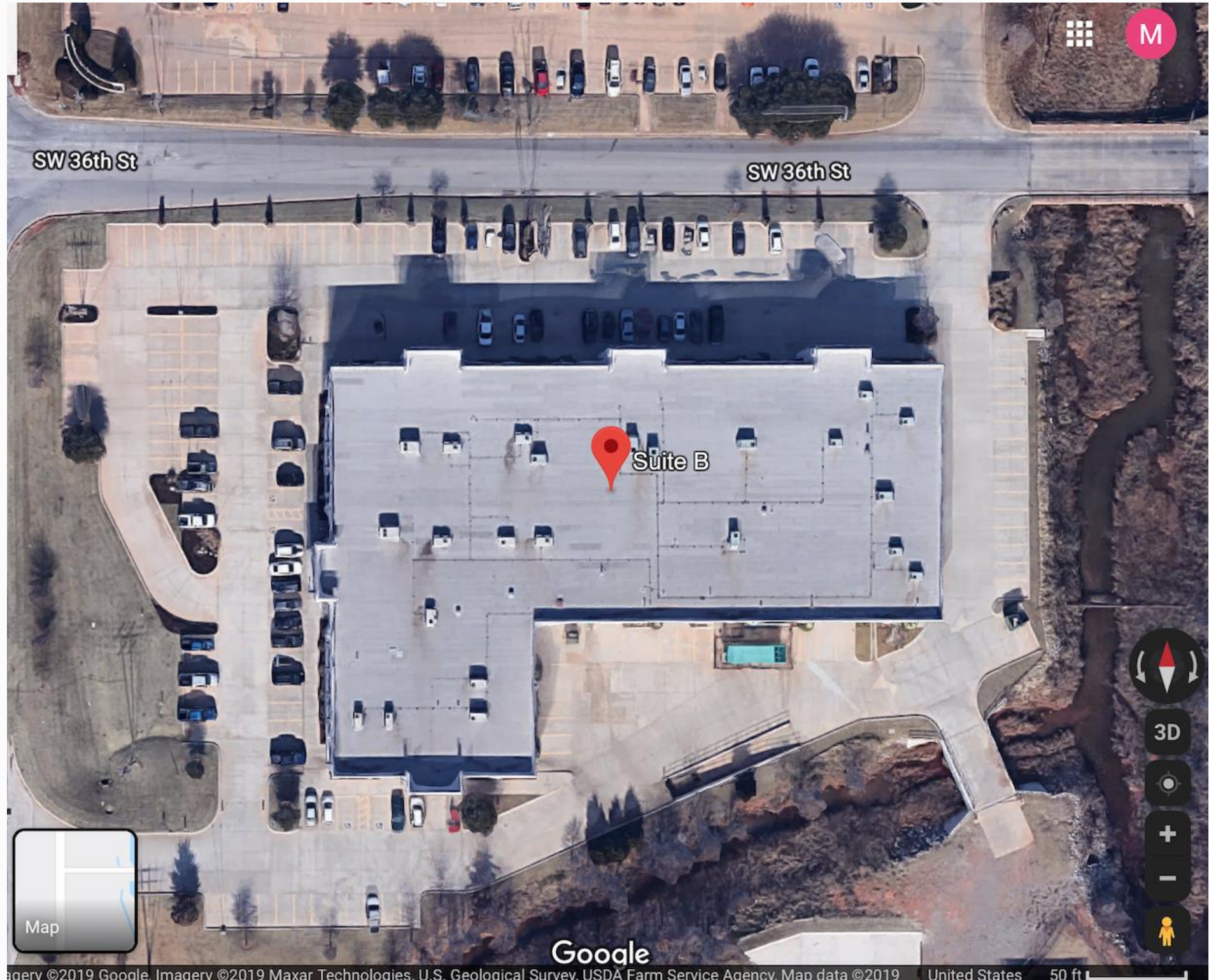
If it is legal for
Individuals to
gain view
from above

Why not for
gov't officials?



If it is legal for
Individuals to
gain view
from above

Why not for
gov't officials?



**If it is legal for
Individuals to
use drones to
capture
photographs**



**Why not for
gov't officials?**



AND FIRST AMENDMENT MIGHT ASSURE

**it is legal for
individuals to
use drones to
capture
photographs**

**at least in some
circumstances**



**Why not for
gov't officials?**

