

# ALBUQUERQUE CRIMINAL LAWYER BLOG

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## **Legality of Computer Searches Determined by Scope of Warrant**

Because computers store such a large volume and variety of documents, a police search and seizure of your computer during is often a far greater intrusion on your privacy than a normal search would be. Computers can hold anything from banking records to e-mails to text documents to photos. Technology is advancing at an astounding rate, and hard drives can now store enough data to fill a warehouse.

A warrant to search your house for specific evidence doesn't give police carte blanche to search every nook and cranny for evidence of unrelated crimes. For example, a warrant to search for illegal firearms doesn't allow police to read your financial documents for evidence of tax evasion. Nor does a warrant to search your computer for specific evidence give police the right to open and examine every file on your hard drive.

This issue is still in debate, so you should consult with an Albuquerque criminal attorney with up-to-date knowledge on the latest case law, but here are some of the main arguments your attorney may wish to present that a computer search was improper.

Police can do searches for specific keywords, and computer forensic experts have advanced tools that can filter files based on different criteria. They do not need to open each file and inspect its contents to look for relevant evidence as they might do when looking through a file cabinet.

Imagine that a search warrant specifies that police can search your computer for e-mails relating to suspected fraud. E-mails stored on your computer have a identifiable file extensions. Police should not review image files or other unrelated file extensions since this would exceed the scope of the warrant. On occasion, law enforcement will stumble on to evidence of other crimes as they unlawfully peruse the contents of a suspect's computer. In cases where the scope of the warrant has been exceeded, a criminal defendant may want to challenge the scope of the search. A search may be

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unlawful under the 4th Amendment if it exceeds to legal scope of the warrant meriting the suppression of any illegally gathered evidence.

Because these issues are complex both legally and technologically, it may be necessary to obtain expert computer forensics assistance in figuring out exactly what transpired during the search of your computer. In order to determine the scope and legality of a search, it may be necessary to retrace the computer search. This is not a simple process requiring expert assistance which is well beyond the aptitude of most criminal defense attorneys (including this one).

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