

ADA ELLIOTT ON TAPE RECORDINGS

An APD officer arrested three men on suspicion of commercial burglary. They were handcuffed, given their Miranda warnings, and placed in the officer's patrol car. The officer secretly turned on a tape recorder on the front seat of the patrol car, and then left the three men alone while he inventoried their car.

When the officer returned to the patrol car he told the three men, "you might want to listen to this tape," and played part of the tape for them. The tape contained incriminating statements. The three subjects then initiated a conversation with the officer and made additional incriminating statements.

QUESTION: Is it okay to secretly run a tape recorder in your patrol car?

Court of Appeals said yes. Defendants, when they sat in the patrol car, had no reasonable expectation of privacy, and thus the tape recording did not constitute unlawful seizure of evidence. State v. Lucero (1981).

VENDING MACHINES - LARCENY OR BURGLARY?

ANSWER: Larceny

Defendant was charged with burglary of soft drink vending machines outside a grocery store in Clovis, N.M.

The burglary statute states in part, "burglary consists of the unauthorized entry of any vehicle, watercraft, aircraft, dwelling OR OTHER STRUCTURE, movable or immovable, with the intent to commit any felony or theft therein." NMSA 1978, Section 30-16-3(B).

At issue was whether a vending machine is a "structure" within the purview of the burglary statute. Court of Appeals held that the statute was not intended to include vending machines. State v. Bybee (1989).



OK GUY'S HERE IS THE PLAN
JOE, YOU HIT A POLICE CAR THEN LEAVE THE SCENE
SAM, YOU LET A POLICE DOG BITE YOU
FRANK, GET DRUNK AND DRIVE THEN RESIST ARREST
WILLIE, ACT DISORDERLY, WHEN THE COPS ARRIVE FALL
DOWN AND SAY THEY HURT YOUR BACK
OK LETS GO !!!!!!!