



Office of the Ohio Public Defender

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Tampering With Evidence

Ohio Revised Code 2921.12



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(A) No person, knowing that an official proceeding or investigation is in progress, or is about to be or likely to be instituted, shall do any of the following:

(1) Alter, destroy, conceal, or remove any record, document, or thing, with purpose to impair its value or availability as evidence in such proceeding or investigation;

(2) Make, present, or use any record, document, or thing, knowing it to be false and with purpose to mislead a public official who is or may be engaged in such proceeding or investigation, or with purpose to corrupt the outcome of any such proceeding or investigation.

(B) Whoever violates this section is guilty of tampering with evidence, a felony of the third degree.



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1. Knowledge of an official proceeding or investigation in progress or likely to be instituted.
2. Alteration, destruction, concealment, or removal of the potential evidence.
3. Purpose of impairing the evidence's availability or value in such proceeding or investigation.



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The historical application of the tampering statute. . .



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State v. Straley, 139 Ohio St.3d 339, 2014-Ohio-2139, 11 N.E.3d 1175

State v. Barry, 145 Ohio St.3d 354, 2015-Ohio-5449, 49 N.E.3d 1248

State v. Martin, 151 Ohio St.3d 470, 2017-Ohio-7556, 90 N.E.3d 857



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State v. Straley

A conviction for tampering with evidence pursuant to R.C. 2921.12(A)(1) requires proof that the defendant intended to impair the value or availability of evidence that related to an existing or likely official investigation or proceeding.



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State v. Straley

A conviction for tampering with evidence pursuant to R.C. 2921.12(A)(1) requires proof that the defendant intended to impair the value or availability of evidence that related to an existing or likely official investigation or proceeding.

R.C. 2921.12(A)

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State v. Straley

A conviction for tampering with evidence pursuant to R.C. 2921.12(A)(1) requires proof that the defendant intended to impair the value or availability of evidence that related to an **existing or likely official investigation or proceeding**.

R.C. 2921.12(A)

(A) No person, **knowing that an official proceeding or investigation is in progress, or is about to be or likely to be instituted**, shall do any of the following:



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State v. Barry

Ohio does not recognize the "unmistakable crime" doctrine in connection with the offense of tampering with evidence because that doctrine erroneously imputes to the perpetrator constructive knowledge of a pending or likely investigation into a crime;



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State v. Barry

Ohio does not recognize the "unmistakable crime" doctrine in connection with the offense of tampering with evidence because that doctrine erroneously imputes to the perpetrator constructive knowledge of a pending or likely investigation into a crime; merely establishing that the crime committed is an unmistakable crime is insufficient to prove that the accused knew at the time the evidence was altered, destroyed, concealed, or removed that an official proceeding or investigation into that crime was ongoing or likely to be instituted.



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State v. Barry

Ohio does not recognize the "unmistakable crime" doctrine in connection with the offense of tampering with evidence because that doctrine erroneously imputes to the perpetrator constructive knowledge of a pending or likely investigation into a crime; merely establishing that the crime committed is an unmistakable crime is insufficient to prove that the accused **knew at the time the evidence was altered, destroyed, concealed, or removed that an official proceeding or investigation into that crime was ongoing or likely to be instituted.**



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State v. Martin

As a matter of common sense, we can infer that a person who had shot two people and left them for dead in a residential neighborhood would know that an investigation was likely. Nevertheless, we recognize that "Ohio law does not impute constructive knowledge of an impending investigation based solely on the commission of an offense."



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State v. Martin

Barry does not foreclose the possibility that knowledge of a likely investigation may be inferred when the defendant commits a crime that is likely to be reported. Here, the crime was not a possessory offense; it was homicide. Homicides are highly likely to be discovered and investigated. Certainly, a jury may reasonably believe that a murderer knows this.



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State v. Martin

Barry does not foreclose the possibility that **knowledge of a likely investigation may be inferred** when the defendant commits a crime that is **likely to be reported**. Here, the crime was not a possessory offense; it was homicide. Homicides are **highly likely to be discovered and investigated**. Certainly, a jury may reasonably believe that a murderer knows this.



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christian slater patricia arquette

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CHEATING
KILLING

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brad pitt christopher walken

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VAL KILMER GARY OLDMAN BRAD PITT CHRISTOPHER WALKEN MUSIC BY HANS ZIMMER EXECUTIVE PRODUCERS JODI AND HARVEY WEINSTEIN EDITED BY MICHAEL TRONICK AND CHRISTIAN WAGNER
PRODUCTION DESIGNER CELIA JAMES FERNANDEZ DIRECTOR OF PHOTOGRAPHY JEFFREY L. KOSMALL A.S.C. EXECUTIVE PRODUCERS JAMES G. ROBINSON AND GARY BARBER WRITTEN BY QUENTIN TARANTINO
PRODUCED BY SAMUEL BARON STEVE PERDY JILL LINGER DIRECTED BY TONY SCOTT





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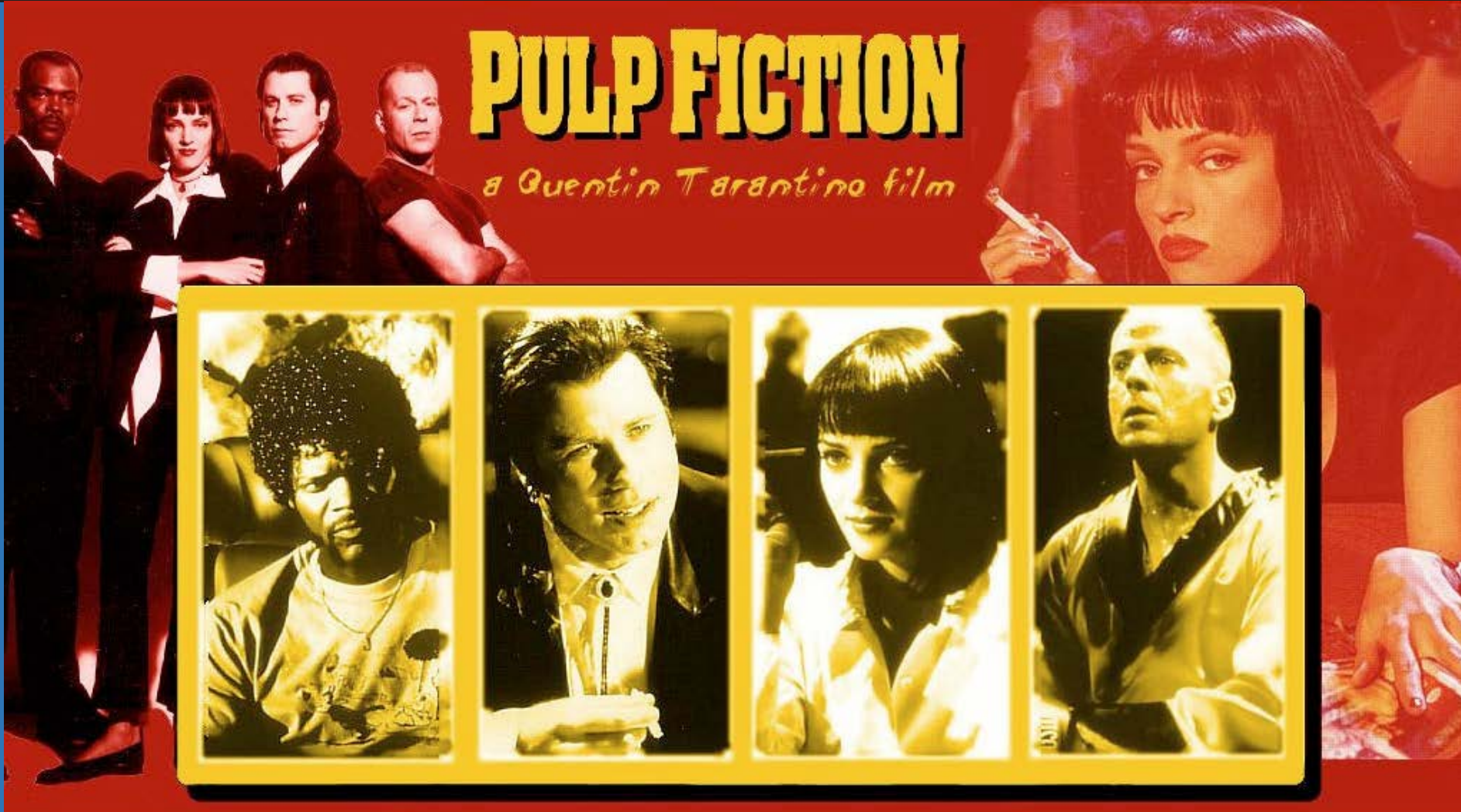


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