

The Third-Party Doctrine & the Fourth Amendment

The Fourth Amendment of the United States Constitution provides protection against the government's unreasonable searches and seizures for anyone on American soil. Even with this great [Criminal Defense Attorney Woodbury MN](#) constitutional protection, law enforcement can circumvent it to obtain information. One of these ways includes the third-party doctrine. This [Criminal Defense Attorney Woodbury MN](#) doctrine provides, in part, that outside entities who willingly turn over your information to the government do not violate the Fourth Amendment. This is precisely what occurred recently in Minnesota in a cold case murder investigation.



Background Information

In 1993, a woman was found stabbed to death in her Minneapolis apartment. The case eventually went cold after authorities were unable to identify any suspects. In 2018, the Golden State Killer was caught after law enforcement used a genealogy website in conjunction with an old DNA sample to connect their suspect to the crimes. Minneapolis authorities took note and used the same method to try and re-open its case. After plugging the DNA from the 1993 crime scene into an undisclosed

genealogy website, two potential matches were identified. One matched a Minnesota man that officers decided to monitor. They looked at his social media activity and saw he was attending a hockey game. While at the game, the man ate a hotdog and used a napkin. He later discarded the napkin, which Minneapolis detectives grabbed to see if it would match DNA from a 1993 crime scene. Following DNA analysis and an ensuing match, police arrested the man resulting in homicide charges.

Here, law enforcement used a genealogy website (the third party) to obtain genetic information about a potential suspect for a cold case. To benefit from a Fourth Amendment protection, a government entity must be performing a search. To circumvent this requirement, the government may ask a third party to conduct the inquiry. In this case, the third party was the genealogy website, which contained the genetic information the cops desired.

Historically, third-party doctrine cases involved pen registers. Authorities would use these pen registers to see who suspected criminals were calling. Officers could get the phone numbers people dialed, but

not the actual substance of the conversations. While some may view this genealogy information as analogous to the pen registers, others believe this to be a far intrusion into a person's privacy.

The concept of "standing" is at the forefront of third-party doctrine analysis. To establish standing, a person must have both subjective and objective expectations of privacy. A person will fail to establish a subjective expectation of privacy, if they were never the person who gave up the genetic information to a genealogy website. For some, this may be troubling. If anyone in your family completed a popular online genetic test, then your genetic information could be available to authorities without warrant, probable cause, or any other constitutional protection.

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