



THE FOURTH AMENDMENT



Vocabulary

Concept Words – These words will help you understand the big ideas.

- **evidence:** information or objects that help prove a person is guilty or innocent
- **exclusionary rule:** a rule that says evidence collected by the police in an illegal way can't be used in court
- **privacy:** the right to keep your personal information and belongings safe from being seen or taken by others
- **probable cause:** a fact- and reason-based belief by the police that a crime has occurred
- **reasonable:** fair and sensible
- **search:** the act of looking through someone's property
- **seizure:** the act of taking someone's property
- **surveillance:** watching or listening to another for the purpose of gathering information
- **third-party doctrine:** a rule that says if you share information with a company (the third party), you lose some privacy rights over that information
- **warrant:** legal authorization from a judge allowing the police to perform a search
- **Writ of Assistance:** an old form of warrant; one that was very broad

Topic 1: The Fourth Amendment and “Unreasonable” Searches

The Fourth Amendment provides some of the Constitution’s most important protections:

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.

The word privacy doesn’t appear anywhere in its 54 words, but this Amendment helps ensure privacy and limits government power over individuals. Why are those protections so important? How did they come about?

The origins of the Fourth Amendment started with colonists’ frustration with the British. Back then, British officials could search people’s homes and take their belongings with little or no reason by using Writs of Assistance. These allowed them to search wherever they wanted. The colonists were angry because they believed this was a violation of their rights. The colonists believed that as English subjects they deserved to be protected from the abusive searches. In fact, a common saying derived from English common law states that “a man’s home is his castle.” What do you think that means?

What Is Reasonable?

The idea of the expectation of privacy is an important part of how the Supreme Court applies the Fourth Amendment to specific cases. The Fourth Amendment protects people from unfair searches and seizures. Over time, courts have created guidelines to figure out where and when people should expect privacy. In general, for a search to be considered reasonable, the government must have a warrant based on probable cause, though exceptions exist for certain situations.

There are different expectations of privacy, depending on the situation. Some places, like homes, have strong privacy protections, meaning the government usually needs permission or a warrant to search them. Other places, like public parks or trash left on

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the curb, have little or no privacy protection. The Supreme Court has helped define these rules by looking at real-life cases and considering things like where the search happens, how technology is used, and what people in society expect.

Notes and Questions:



Topic 2: Technology and Unreasonable Searches

When the Fourth Amendment was written, searches and seizures mostly involved physical spaces like homes, papers, and personal belongings. But as technology has advanced, so has the way the government collects information, raising new questions about what constitutes an unreasonable search and seizure.

History of the Fourth Amendment

Traditionally, courts have focused on whether police physically entered a space without a warrant. When the Fourth Amendment was written, that was really the only way a person's property might be searched or seized. Today, with cell phones, GPS tracking, and digital records, the Supreme Court has had to think through how to apply the Fourth Amendment to the digital world. New technologies have forced the Justices to reflect on what counts as a search and when a person has a reasonable expectation of privacy.

Cases involving wiretapping, location tracking, and phone searches have changed how the law applies to modern technology, shaping new protections for personal information in a digital world.

Fourth Amendment Case Review

The Fourth Amendment protects people from unreasonable searches and seizures, meaning the government must usually have a warrant based on probable cause to search persons, houses, papers, and effects. How did this apply to technology back then? How does it apply now? There have been several Supreme Court cases throughout history that have helped answer some of those questions. Some of these cases include:

New Jersey v. T.L.O. (1985)

T.L.O. was a high school student. School officials searched her purse suspecting she had cigarettes and found additional drugs, as well as a list of students who owed her money. Based on this search, she was charged with drug possession. Before her trial, T.L.O. moved to get the evidence found in the search thrown out because she claimed the

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warrantless search was unreasonable. The Supreme Court ruled that school officials may conduct reasonable warrantless searches of students, even without the normal probable cause standard that would apply under the Fourth Amendment.

United States v. Jones (2012)

Police officers attached a tracker to Antoine Jones's Jeep, without judicial approval, and used it to follow him for about a month. He was later arrested for drug possession, largely because of the information police officers collected from this tracker. The Supreme Court held that the installation of a GPS tracking device on Jones' vehicle, without a warrant, constituted an unlawful search under the Fourth Amendment. The Court rejected the government's argument that there is no reasonable expectation of privacy in a person's movement on public thoroughfares and emphasized that the Fourth Amendment provided some protection for trespass onto personal property.

Riley v. California (2014)

David Leon Riley belonged to the Lincoln Park Gang of San Diego, California. He and others opened fire on a rival gang member, and used Riley's car to flee the scene of the crime. He was later pulled over for driving with an expired registration, and his car was searched. Police also searched his cell phone and found videos and photos that showed Riley's gang affiliation. During his trial, he argued that the cell phone search was done without a warrant, and therefore should be thrown out. Police officers are generally allowed to conduct a warrantless search after an arrest, in order to protect officer safety. In Riley's situation, however, this was not the case and the Supreme Court ruled police officers generally needed to obtain a warrant to search the cell phone of an arrestee.

Carpenter v. United States (2018)

In *Carpenter*, the Supreme Court addressed whether the Fourth Amendment's prohibition on unreasonable searches and seizures applied to modern technology—in this case, to cellphones and smartphones. Can the government require a third-party telecommunication company to provide details about someone's

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physical location based on their collected cell phone data? Is the Fourth Amendment well suited to the Internet Age, where most of our possessions and documents can be found in “the cloud” and in the possession of third-party technology companies?

If the Fourth Amendment had been written with today’s technology in mind, what do you think it would say?

Notes and Questions:

