THE FOURTH AMENDMENT pdf

1: 4th Amendment - constitution | www.enganchecubano.com

Amendment IVThe 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.

It is also dangerous to turn a blind eye to history. Civilizations, military commanders, and leaders of nations have ignored history with devastating results. Because the 4th Amendment is so vitally important to America, it deserves a look into the history behind its inception into the Constitution. It deals with protecting people from the searching of their homes and private property without properly executed search warrants. The 4th Amendment specifically provides: The idea that citizens should be protected from unreasonable searches and seizures goes back far into English history. In , Sir Edward Coke first identified this right. Britain passed numerous revenue collection bills aimed at generating as much money from the colonists as possible. Obviously, the colonists resented this act by the King and began smuggling operations in order to circumvent the custom taxes imposed by the British Crown. British agents could obtain a writ of assistance to search any property they believed might contain contraband goods. Agents could interrogate anyone about their use of customed goods and force cooperation of any person. These types of searches and seizures became an egregious affront to the people of the colonies. These actions by the British Crown would be one the precipitating factors leading to the American Revolution and the eventual forming of our Constitution. When the 4th Amendment became part of the Constitution, it was originally only applied to the federal government. Later, it was applied to the states through the Due Process Clause of the 14th Amendment. Of course, there are many common sense exceptions to the 4th Amendment right to have a properly executed search warrant issued before a search or seizure of private property can be conducted. They are too numerous to list in this column. However, two common examples are 1 a police officer may conduct a pat down search of someone if he or she has observed someone engaging in behavior that would give the officer reasonable, articulable suspicion that a crime has or is being committed; and 2 if a police officer sees someone committing a crime, or believes that he or she has probable cause to suspect someone has committed a crime, the officer may arrest the suspect without a warrant. Looking back at the reasoning behind liberties in cultures helps to preserve freedoms. It is only when we become disinterested or even indifferent to our Founders that we take a dangerous path toward civilizational decline. We cannot forget why Americans enjoy legal rights like the 4th Amendment.

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2: Fourth Amendment | United States Constitution | www.enganchecubano.com

The Fourth Amendment (Amendment IV) to the United States Constitution is part of the Bill of Rights. It prohibits unreasonable searches and seizures. In addition, it sets requirements for issuing warrants: warrants must be issued by a judge or magistrate, justified by probable cause, supported by oath or affirmation, and must particularly.

Searches and Seizures What is the Fourth Amendment? 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 Fourth Amendment Defined: Like the majority of fields within American law, the Fourth Amendment is heavily rooted in the English legal doctrine. In a general sense, the Fourth Amendment was created to limit the power of the government and their ability to enforce legal actions on individuals. The Fourth Amendment was adopted as a direct response to the abuse of the writ of assistance, which was a type of general search warrant used by the government during the American Revolution. The Fourth Amendment is a part of the Bill of Rights, which are the first 10 Amendments to the United States Constitution and the framework to elucidate upon the freedoms of the individual. The Bill of Rights were proposed and sent to the states by the first session of the First Congress. They were later ratified on December 15, The first 10 Amendments to the United States Constitution were introduced by James Madison as a series of legislative articles and came into effect as Constitutional Amendments following the process of ratification by three-fourths of the States on December 15, The Fourth Amendment ties in numerous limitations whereby an individual may be searched without a warrant given the presence of certain circumstances. The individual is on parole or in a tax hearing, faces deportation, the evidence is seized from a common carrier, the evidence is collected by U. Court Cases tied into the 4th Amendment In Mapp v. Additionally, the Supreme Court ruled that certain searches and seizures were in direct violation of the Fourth Amendment even when a warrant was properly issued to the coordinating law enforcement agencies. November 20, ; rejected article II Maryland: December 19, ; approved all North Carolina: December 22, ; approved all South Carolina: January 19, ; approved all New Hampshire: January 25, ; rejected article II Delaware: January 28, ; rejected article I New York: February 27, ; rejected article II Pennsylvania: March 10, ; rejected article II Rhode Island: June 7, ; rejected article II Vermont: November 3, ; approved all Virginia: December 15, ; approved all.

THE FOURTH AMENDMENT pdf

3: Swindle Law Group | THE HISTORY BEHIND THE 4TH AMENDMENT

Fourth Amendment, amendment () to the Constitution of the United States, part of the Bill of Rights, that forbids unreasonable searches and seizures of individuals and property.

Charles Pratt, 1st Earl Camden established the English common law precedent against general search warrants. Like many other areas of American law, the Fourth Amendment finds its roots in English legal doctrine. In , the colony of Massachusetts barred the use of general warrants. This represented the first law in American history curtailing the use of seizure power. Its creation largely stemmed from the great public outcry over the Excise Act of , which gave tax collectors unlimited powers to interrogate colonists concerning their use of goods subject to customs. All writs automatically expired six months after the death of the King, and would have had to be re-issued by George III , the new king, to remain valid. During the five-hour hearing on February 23, , Otis vehemently denounced British colonial policies, including their sanction of general warrants and writs of assistance. The governor overturned the legislation, finding it contrary to English law and parliamentary sovereignty. This prohibition became a precedent for the Fourth Amendment: All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: United States Bill of Rights After several years of comparatively weak government under the Articles of Confederation , a Constitutional Convention in Philadelphia proposed a new constitution on September 17, , featuring a stronger chief executive and other changes. Other delegatesâ€”including future Bill of Rights drafter James Madison â€”disagreed, arguing that existing state guarantees of civil liberties were sufficient and that any attempt to enumerate individual rights risked the implication that other, unnamed rights were unprotected. Supporters of the Constitution in states where popular sentiment was against ratification including Virginia, Massachusetts, and New York successfully proposed that their state conventions both ratify the Constitution and call for the addition of a bill of rights. On December 19, , December 22, , and January 19, , respectively, Maryland, North Carolina, and South Carolina ratified all twelve amendments. Connecticut and Georgia found a Bill of Rights unnecessary and so refused to ratify, while Massachusetts ratified most of the amendments, but failed to send official notice to the Secretary of State that it had done so. All three states would later ratify the Bill of Rights for sesquicentennial celebrations in Virginia initially postponed its debate, but after Vermont was admitted to the Union in , the total number of states needed for ratification rose to eleven. Vermont ratified on November 3, , approving all twelve amendments, and Virginia finally followed on December 15, Wood , "After ratification, most Americans promptly forgot about the first ten amendments to the Constitution. As federal criminal jurisdiction expanded to include other areas such as narcotics , more questions about the Fourth Amendment came to the Supreme Court. Supreme Court responded to these questions by outlining the fundamental purpose of the amendment as guaranteeing "the privacy, dignity and security of persons against certain arbitrary and invasive acts by officers of the Government, without regard to whether the government actor is investigating crime or performing another function". Ohio , [31] the U. The Supreme Court further held in Chandler v. United States , which expanded Fourth Amendment protections to electronic surveillance. One threshold question in the Fourth Amendment jurisprudence is whether a "search" has occurred. Early 20th-century Court decisions, such as Olmstead v. United States , held that Fourth Amendment rights applied in cases of physical intrusion, but not to other forms of police surveillance e. United States , the Court stated of the amendment that "at the very core stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion". While there was no physical intrusion into the booth, the Court reasoned that: Justice Potter Stewart wrote in the majority opinion that "the Fourth Amendment protects people, not places". Maryland , [47] for determining whether a search has occurred for purposes of the Fourth Amendment: The Supreme Court has held that the Fourth Amendment does not apply to information that is voluntarily shared with third parties. United States , individuals do have a reasonable expectation of privacy

regarding cell phone records that would reveal where that person had traveled over many months and so law enforcement must get a search warrant before obtaining such records. Jones , the Court ruled that the Katz standard did not replace earlier case law, but rather, has supplemented it. The Court concluded that Jones was a bailee to the car, and so had a property interest in the car. The Court used similar "trespass" reasoning in Florida v. Jardines , to rule that bringing a drug detection dog to sniff at the front door of a home was a search. Ohio , law enforcement officers are permitted to conduct a limited warrantless search on a level of suspicion less than probable cause under certain circumstances. In Terry, the Supreme Court ruled that when a police officer witnesses "unusual conduct" that leads that officer to reasonably believe "that criminal activity may be afoot", that the suspicious person has a weapon and that the person is presently dangerous to the officer or others, the officer may conduct a "pat-down search" or "frisk" to determine whether the person is carrying a weapon. To conduct a frisk, officers must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant their actions. Royer , such a search must be temporary, and questioning must be limited to the purpose of the stop e. The exclusionary rule would not bar voluntary answers to such questions from being offered into evidence in a subsequent criminal prosecution. The person is not being seized if his freedom of movement is not restrained. His refusal to listen or answer does not by itself furnish such grounds. Mendenhall , the Court held that a person is seized only when, by means of physical force or show of authority, his freedom of movement is restrained and, in the circumstances surrounding the incident, a reasonable person would believe that he was not free to leave. Bostick , the Court ruled that as long as the police do not convey a message that compliance with their requests is required, the police contact is a "citizen encounter" that falls outside the protections of the Fourth Amendment. A person subjected to a routine traffic stop on the other hand, has been seized, but is not "arrested" because traffic stops are a relatively brief encounter and are more analogous to a Terry stop than to a formal arrest. King , the Court upheld the constitutionality of police swabbing for DNA upon arrests for serious crimes, along the same reasoning that allows police to take fingerprints or photographs of those they arrest and detain. In United States v. Martinez-Fuerte , the Supreme Court allowed discretionless immigration checkpoints. Sitz , the Supreme Court allowed discretionless sobriety checkpoints. Lidster , the Supreme Court allowed focused informational checkpoints. Edmond , the Supreme Court ruled that discretionary checkpoints or general crime-fighting checkpoints are not allowed. A court grants permission by issuing a writ known as a warrant. A search or seizure is generally unreasonable and unconstitutional if conducted without a valid warrant [78] and the police must obtain a warrant whenever practicable. Supreme Court carved out an exception to the requirement of individualized suspicion. It ruled that, "In limited circumstances, where the privacy interests implicated by the search are minimal and where an important governmental interest furthered by the intrusion would be placed in jeopardy by a requirement of individualized suspicion" a search [or seizure] would still be reasonable. Probable cause The standards of probable cause differ for an arrest and a search. The government has probable cause to make an arrest when "the facts and circumstances within their knowledge and of which they had reasonably trustworthy information" would lead a prudent person to believe that the arrested person had committed or was committing a crime. Evidence obtained after the arrest may not apply retroactively to justify the arrest. They must have legally sufficient reasons to believe a search is necessary. United States , the Supreme Court stated that probable cause to search is a flexible, common-sense standard. A "practical, non-technical" probability that incriminating evidence is involved is all that is required. Gates , the Court ruled that the reliability of an informant is to be determined based on the " totality of the circumstances ". Consent search If a party gives consent to a search, a warrant is not required. Bustamonte , the Court ruled that a consent search is still valid even if the police do not inform a suspect of his right to refuse the search. Randolph , the Supreme Court ruled that when two co-occupants are both present, one consenting and the other rejecting the search of a shared residence, the police may not make a search of that residence within the consent exception to the warrant requirement. Rodriguez , [99] a consent search is still considered valid if police accept in good faith the consent of an "apparent authority", even if that party is later discovered to not have authority over the property in question. Plain view doctrine and Open-fields doctrine According to the plain view doctrine as defined in Coolidge v. New Hampshire , [] if an officer is lawfully

present, he may seize objects that are in "plain view". However, the officer must have had probable cause to believe that the objects are contraband. Hicks , the Supreme Court held that an officer stepped beyond the plain view doctrine when he moved a turntable in order to view its serial number to confirm that the turntable was stolen. The doctrine was first articulated by the Court in Hester v. The Supreme Court ruled that no search had taken place, because there was no privacy expectation regarding an open field: There is no societal interest in protecting the privacy of those activities, such as the cultivation of crops, that occur in open fields. The curtilage is "intimately linked to the home, both physically and psychologically," and is where "privacy expectations are most heightened. However, they cannot bring a drug detection dog to sniff at the front door of a home without either a warrant or consent of the homeowner or resident. Exigent circumstance in United States law Law enforcement officers may also conduct warrantless searches in several types of exigent circumstances where obtaining a warrant is dangerous or impractical. One example is the Terry stop , which allows police to frisk suspects for weapons. United States to preserve evidence that might otherwise be destroyed and to ensure suspects were disarmed. United States , [87] the Court ruled that law enforcement officers could search a vehicle that they suspected of carrying contraband without a warrant. Hayden provided an exception to the warrant requirement if officers were in "hot pursuit" of a suspect. Motor vehicle exception The Supreme Court has held that individuals in automobiles have a reduced expectation of privacy, because 1 vehicles generally do not serve as residences or repositories of personal effects, and 2 vehicles "can be quickly moved out of the locality or jurisdiction in which the warrant must be sought. Items in plain view may be seized; areas that could potentially hide weapons may also be searched. With probable cause to believe evidence is present, police officers may search any area in the vehicle. Gant , [] the Court ruled that a law enforcement officer needs a warrant before searching a motor vehicle after an arrest of an occupant of that vehicle, unless 1 at the time of the search the person being arrested is unsecured and within reaching distance of the passenger compartment of the vehicle or 2 police officers have reason to believe that evidence for the crime for which the person is being arrested will be found in the vehicle. Searches incident to a lawful arrest A common law rule from Great Britain permits searches incident to an arrest without a warrant. This rule has been applied in American law, and has a lengthy common law history. Supreme Court ruled that "both justifications for the search-incident-to-arrest exception are absent and the rule does not apply", when "there is no possibility" that the suspect could gain access to a weapon or destroy evidence. United States , the Supreme Court held that "a search or seizure without a warrant as an incident to a lawful arrest has always been considered to be a strictly limited right. It grows out of the inherent necessities of the situation at the time of the arrest. But there must be something more in the way of necessity than merely a lawful arrest. Rabinowitz suggested that any area within the "immediate control" of the arrestee could be searched, but it did not define the term. California , the Supreme Court elucidated its previous decisions. It held that when an arrest is made, it is reasonable for the officer to search the arrestee for weapons and evidence. Border search exception Searches conducted at the United States border or the equivalent of the border such as an international airport may be conducted without a warrant or probable cause subject to the border search exception. Customs and Border Protection plenary search authority. District Court [] left open the possibility for a foreign intelligence surveillance exception to the warrant clause.

THE FOURTH AMENDMENT pdf

4: All Amendments to the United States Constitution

The Constitution, through the Fourth Amendment, protects people from unreasonable searches and seizures by the government. The Fourth Amendment, however, is not a guarantee against all searches and seizures, but only those that are deemed unreasonable under the law.

He orders you out of the car. Maybe he wants to place you under arrest. Or maybe he wants to search your car for evidence of a crime. Can the officer do that? The Fourth Amendment is the part of the Constitution that gives the answer. The Fourth Amendment has been debated frequently during the last several years, as police and intelligence agencies in the United States have engaged in a number of controversial activities. There is also concern about the use of aerial surveillance, whether by piloted aircraft or drones. The application of the Fourth Amendment to all these activities would have surprised those who drafted it, and not only because they could not imagine the modern technologies like the Internet and drones. They also were not familiar with organized police forces like we have today. Wood and Entick v. In those cases the judges decided that such warrants violated English common law. In the colonies the Crown used the writs of assistanceâ€”like general warrants, but often unbounded by time restraintsâ€”to search for goods on which taxes had not been paid. James Otis challenged the writs in a Boston court; though he lost, some such as John Adams attribute this legal battle as the spark that led to the Revolution. Today the Fourth Amendment is understood as placing restraints on the government any time it detains seizes or searches a person or property. To the extent that a warrant is required in theory before police can search, there are so many exceptions that in practice warrants rarely are obtained. Police can search automobiles without warrants, they can detain people on the street without them, and they can always search or seize in an emergency without going to a judge. The way that the Fourth Amendment most commonly is put into practice is in criminal proceedings. The Supreme Court decided in the mid-twentieth century that if the police seize evidence as part of an illegal search, the evidence cannot be admitted into court. If the police standing in Times Square in New York watched a person planting a bomb in plain daylight, we would not think they needed a warrant or any cause. But what about installing closed circuit TV cameras on poles, or flying drones over backyards, or gathering evidence that you have given to a third party such as an Internet provider or a banker? Another hard question is when a search is acceptable when the government has no suspicion that a person has done something wrong. This is the same sort of issue with bulk data collection, and possibly with gathering biometric information. What should be clear by now is that advancing technology and the many threats that face society add up to a brew in which the Fourth Amendment will continue to play a central role. Orin Kerr Fred C.

5: List of amendments to the United States Constitution - Wikipedia

Fourth Amendment - Search and Seizure. Amendment Text | Annotations 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.

Congress of the United States begun and held at the City of New-York, on Wednesday the fourth of March, one thousand seven hundred and eighty nine. THE Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution. RESOLVED by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all, or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution; viz. The following text is a transcription of the first ten amendments to the Constitution in their original form. These amendments were ratified December 15, , and form what is known as the "Bill of Rights. AMENDMENT IV 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. AMENDMENT V No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. AMENDMENT VI In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence. AMENDMENT VII In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law. Ratified February 7, Article III, section 2, of the Constitution was modified by amendment The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State. Ratified June 15, A portion of Article II, section 1 of the Constitution was superseded by the 12th amendment. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States. Ratified December 6, A portion of Article IV, section 2, of the Constitution was superseded by the 13th amendment. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation. Ratified July 9, Article I, section 2, of the Constitution was modified by section 2 of the 14th amendment. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State

deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article. Ratified February 3, The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude-- Section 2. The Congress shall have the power to enforce this article by appropriate legislation. Article I, section 9, of the Constitution was modified by amendment The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. Ratified April 8, Article I, section 3, of the Constitution was modified by the 17th amendment. The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct. This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution. Ratified January 16, Repealed by amendment After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress. Ratified August 18, The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Ratified January 23, Article I, section 4, of the Constitution was modified by section 2 of this amendment. In addition, a portion of the 12th amendment was superseded by section 3. The terms of the President and the Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified. The Congress

may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission. Ratified December 5, The eighteenth article of amendment to the Constitution of the United States is hereby repealed. The transportation or importation into any State, Territory, or Possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress. Ratified February 27, No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress. Ratified March 29, The District constituting the seat of Government of the United States shall appoint in such manner as Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment. The Congress shall have power to enforce this article by appropriate legislation. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay poll tax or other tax. Ratified February 10, Article II, section 1, of the Constitution was affected by the 25th amendment. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President. Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter

written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office. Ratified July 1, Amendment 14, section 2, of the Constitution was modified by section 1 of the 26th amendment. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. Ratified May 7, No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of representatives shall have intervened.

6: Fourth Amendment Activities | United States Courts

To claim violation of Fourth Amendment as the basis for suppressing a relevant evidence, the court had long required that the claimant must prove that he himself was the victim of an invasion of privacy to have a valid standing to claim protection under the Fourth Amendment.

The Fourth Amendment to the U. At the same time, it recognized that the lawful agents of the state can intrude on private property to execute or enforce the law, so long as they obey certain procedural rules that protect the subject of the search. This protection was understood in to limit and regulate physical trespass , and the seizing of papers, effects, or "things. Supreme Court has explained, "is the protection of privacy rather than property. The first clause forbids the government from conducting any search or seizure that is "unreasonable. Supreme Court has long since read these two clauses together, generally holding that a warrantless search or seizure is presumptively if not per se unreasonable. Although there may be statutory protections that require certain conduct, an individual does not have fourth amendment protections unless there is a search and seizure. Definition of "search" Edit The U. Determination of reasonableness depends on the judicial balancing of the individual interest, generally regarded as a privacy interest, against the governmental interest, including law and order, national security , internal security, and the proper administration of the laws. Reasonableness generally entails a predicate of probable cause and, with many exceptions, the issuance of a warrant. Warrant based upon probable cause Edit The U. Supreme Court has interpreted the Fourth Amendment to include a presumptive warrant requirement on all searches and seizures conducted by the government, and has ruled that any violations of this standard will result in the suppression of any information derived therefrom. Generally, the same warrant rules apply when preparing and executing a search warrant for digital evidence as in other investigations. Law enforcement should consider the following when preparing and executing a search warrant for digital evidence: If the evidence sought is the computer itself and the hardware is an instrumentality, a fruit of the crime, or contraband , then the warrant should describe the computer as the target of the search. If the evidence sought is information that may be stored on digital media , then the warrant should describe what that evidence is and request the authority to seize it in whatever form including digital it may be stored. This includes requesting authority to search for evidence of ownership and control of the relevant data on the media. In the course of conducting a search, law enforcement may discover passwords and keys that could facilitate access to the system and data. Law enforcement may also find evidence of a crime that is outside the scope of the search warrant. In such an event, law enforcement should consider securing another warrant to expand the scope of the search. In some cases, it might be impractical to search the device on-site. If a device is to be searched off-site , law enforcement should consider adding language to the warrant affidavit that justifies its removal. If a device is removed for an off-site search , the search should be completed in a timely manner. Law enforcement may consider returning copies of noncontraband seized data , even if they are commingled with evidence of a crime, to accommodate a reasonable request from suspects or third parties. Intelligence gathering Edit While the right against unreasonable searches and seizures was originally applied only to tangible things, Supreme Court jurisprudence eventually expanded the contours of the Fourth Amendment to cover intangible items such as conversations. As communications technology has advanced, the technology for intrusion into private conversations has kept pace, as have government efforts to exploit such technology for law enforcement and intelligence purposes. At the same time, the Supreme Court has expanded its interpretation of the scope of the Fourth Amendment with respect to such techniques, and Congress has legislated both to protect privacy and to enable the government to pursue its legitimate interests in enforcing the law and gathering foreign intelligence information. Yet the precise boundaries of what the Constitution allows, as well as what it requires, are not fully demarcated, and the relevant statutes are not entirely free from ambiguity. Although the surveillance of wire or oral communications for criminal law enforcement purposes was held to be subject to the warrant requirement of the Fourth Amendment in , [11] neither the Supreme Court nor Congress sought to regulate the use of such surveillance for national security purposes at that time. Although the following is not an exhaustive list, the examples provide an idea of how

the common exceptions apply to the search and seizure of digital evidence. Consent is a valuable tool for an investigator. It can come from many sources, including a log-in banner, terms-of-use agreement , or company policy. Consent can be withdrawn at any time. The rules are more complicated when the employer is the government. To prevent the destruction of evidence, law enforcement can seize an electronic storage device. Once the exigent circumstances end, so does the exception. Search incident to arrest. This search incident to arrest can include a search of an electronic storage device , such as a cell phone or pager , held by the subject. The inventory search exception is intended to protect the property of a person in custody and guard against claims of damage or loss. This exception is untested in the courts, so it is uncertain whether the inventory search exception will allow law enforcement to access digital evidence without a warrant. The plain view doctrine may apply in some instances to the search for and seizure of digital evidence. For plain view to apply, law enforcement must legitimately be in the position to observe evidence, the incriminating character of which must be immediately apparent. Law enforcement officials should exercise caution when relying on the plain view doctrine in connection with digital media , as rules concerning the application of the doctrine vary among jurisdictions. Documents held by third parties Edit In contrast with its rulings on surveillance , the Supreme Court has not historically applied the protections of the Fourth Amendment to documents held by third parties. In , it held that financial records in the possession of third parties could be obtained by the government without a warrant. Although these privacy protections are subject to a foreign intelligence exception, [19] government authorities were not authorized to compel financial institutions to secretly turn over financial records until The first provided access to credit and financial records of federal employees with security clearances. Courts must consider the scope of the particular intrusion , the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted. A violation of the Fourth Amendment may, as a general rule, result in the suppression of any information derived therefrom in a judicial proceeding. Government action Edit In most circumstances, government action is implicated when a government official conducts a search. Private parties who independently acquire evidence of a crime may turn it over to law enforcement. In such a case, law enforcement may examine anything that the employee observed. Reasonable expectation of privacy Edit The Fourth Amendment applies when the searched party has an actual expectation of privacy in the place to be searched or thing to be seized , and then only if it is an expectation that society is prepared to recognize as reasonable. Under assumption of risk , an individual is presumed to assume the risk that another party to a conversation or activity may consent to a search. This assumption of risk prevails even if the consenting party is an informer or undercover agent. Yet, it requires this without specifying an objective referent. The result of the objective part of the test is that the Court has implicitly constructed a continuum of circumstances under which society would regard an individual as having a reasonable expectation of privacy. The objective expectation of privacy along the continuum shopping centers, motels, offices, automobiles, and yards depends on judicial interpretation. People, not places Edit The second important component of Katz v. The issue of the protection afforded people as distinct from that afforded places has become more significant with the growth of third-party recordkeepers, e. The thrust of the U. Supreme Court opinion in Katz seemed to represent an expansion, not a replacement, of the existing fourth amendment protections: The property aspect is viewed as still important because it gives specificity and concreteness to fourth amendment analysis. Yet, in some rulings the U. Supreme Court has treated privacy as the only interest protected by the fourth amendment. This implies a further narrowing of fourth amendment protection, both because property interests are not considered and because of the problems of defining privacy. In evaluating the appropriateness of the use of electronic surveillance technologies by Government officials, the courts have worked within the framework established by Katz. By analogy to traditional surveillance devices , the courts have attempted to determine whether or not individuals have a reasonable expectation of privacy. This becomes more difficult as surveillance devices become more technologically sophisticated because the analogy is often more remote and hence less convincing. The courts have generally continued to consider the place in which a surveillance device is located or the place that a device is monitoring. The courts generally have adopted the more expansive interpretation of Katz and have not abandoned higher levels of protection for certain places, e. Yet, the Katz framework has not offered the courts sufficient policy guidance to deal with the range and uses of

new surveillance technologies. Determining whether a place is sufficiently private to offer protection against official surveillance is more and more difficult as the public sphere of activities encroaches on what was once deemed private. Three Tons of Coal, 28 F. United States, U. United States , U. Supreme Court has gone back and forth on whether warrantless searches or]]seizure]]s are presumptively unreasonable or per se unreasonable. It is unclear which approach the Court currently follows. City of Lago Vista, U. District Court, U. See also In re Directives, F. Maryland , U. In White the Court ruled that agents can be wired for sound and still be covered by the assumption of risk, reasoning that the risk did not increase materially simply because the informers were transmitting the conversation electronically.

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It is a relief to think about the nomination, if only for a moment, in terms of constitutional issues. In this op-ed, a libertarian Republican objects to Kavanaugh's confirmation on Fourth.

Kerr is the Frances R. It does so with an eye to guessing how he might rule in search and seizure cases if he is confirmed to the Supreme Court. The Supreme Court has a large Fourth Amendment docket. How might a Justice Kavanaugh approach those cases? My analysis is tentative for two reasons. The first is probably obvious. Circuit judges are supposed to follow Supreme Court and circuit precedent, while Supreme Court justices have much more room to roam. Given that, translation is hard. A Westlaw search revealed around 35 cases in the subject area in which Kavanaugh sat on the panel or considered a rehearing petition en banc. Most of those were unanimous and pretty easy. I found only five Fourth Amendment decisions, and one recent speech, that I think might reveal something significant about his approach. He is wary of novel theories that would expand Fourth Amendment protection. If we had to associate Kavanaugh with a familiar justice, the limited evidence suggests that his approach in Fourth Amendment cases is probably somewhere in the ballpark of Justice Anthony Kennedy or Chief Justice William Rehnquist. Askew and Vilsack The first two cases to consider involve balancing of government and privacy interests. In both cases, the majority held that the government practice violated the Fourth Amendment. Kavanaugh dissented, largely on the ground that he would have balanced the interests differently and therefore would have ruled for the government. The first case is United States v. Askew , a stop-and-frisk case. The police stopped the suspect based on suspicion that he had just committed an armed robbery. It turned out the initial frisk had been poorly done: Circuit went en banc and divided sharply over whether the outer-jacket unzipping was allowed. As I joked at the time , the D. There was no obvious answer from Supreme Court caselaw. The en banc D. Circuit did not reach a majority view on the issue, although five of its 11 judges, Judges Harry Edwards, Judith Rogers, David Tatel, Janice Brown and Thomas Griffith, argued that identification searches were not permitted. Kavanaugh wrote a page dissent, joined by then-Chief Judge David Sentelle and Judges Karen Henderson and Raymond Randolph, that argued that the unzipping to help identification should be allowed. In his view, the reasonableness framework that applies to Terry stops generally also permits reasonable identification procedures. The employees ran a residential job corps program at public schools for at-risk students aged 16 to In addition, testing every employee was too broad because different employees served in different capacities. In his view, the drug-testing program was clearly reasonable. Many of the at-risk students had a history of drug problems. The testing only required providing a urine sample, and it only revealed the presence of certain illegal drugs. Wesby and Maynard The next two cases show Kavanaugh writing on the Fourth Amendment in dissents from denial of rehearing en banc. In both cases, the original panel reached a surprising holding that the government had violated the Fourth Amendment. And whether or not Kavanaugh intended it, his dissents appear to have done just that. The first case is along these lines is Wesby v. District of Columbia , which involved trespass arrests at a loud party held in a vacant house. When the police arrived, and the people in the house had trouble identifying whose house it was, the police arrested everyone for trespass. The group sued the officers under the Fourth Amendment. In an opinion by Judge Cornelia Pillard, the D. Circuit somewhat remarkably held that the arrests violated the Fourth Amendment and that qualified immunity did not apply. Kavanaugh penned a dissent from denial of rehearing en banc that was joined by Henderson, Brown and Griffith. Both the facts and the law created lots of room for a reasonable officer to believe the arrests were based on probable cause. Police officers should never lightly take that step, and the courts should not hesitate to impose liability when officers act unreasonably in light of clearly established law. But that is not what happened here, not by a long shot. Maynard , later reviewed by the Supreme Court under the name United States v. In an astonishing opinion for the D. Circuit denied the petition for rehearing Maybe it was the installation of the GPS that was a search, Kavanaugh suggested, rather than its use. Fourth Amendment caselaw before Katz v. United States had held that physical intrusion onto property was a search. The justices granted certiorari under the name United States v. Installing a GPS was deemed a search because the installation trespassed on to the car. Jones sharply

changed Fourth Amendment blackletter law by recognizing two different ways of establishing a search: There had been something of a split on the question, and I agreed at the time that this should be the big question. But Kavanaugh was the one who best articulated the theory and teed it up for the justices. The Section opinion in Klayman The last Kavanaugh opinion to consider is the one that has drawn the most attention. Leon ruled that the program was unconstitutional but then stayed any remedy while the appeal was pending. Circuit sent the case back to the district court on procedural grounds. With the Section program about to expire , Leon quickly handed down a new decision that the program was unlawful and refused to grant a stay. The next day, the D. Circuit issued an administrative stay ; plaintiff Larry Klayman then sought an emergency petition for rehearing en banc, which the full court denied. Kavanaugh filed a two-page solo concurrence in the denial of rehearing. First, the Supreme Court had held that collecting telephony metadata was not a search in Smith v. On one hand, his view that the program satisfied the Fourth Amendment under Smith was doctrinally correct, in my view, at least before Carpenter v. United States last month. He gave the whole point only two sentences. But the argument was sound, and it matched what several district courts had said at that point one example being the U. I would think the question is how much the program actually advances the interest in preventing terrorist attacks, not just the importance of its goal in the abstract. In both cases, Kavanaugh applied the special-needs exception in ways that construed the government interests as very weighty and the privacy interests as comparatively light. Like Rehnquist, or perhaps like Kennedy? Kavanaugh mentions three areas in particular. Rehnquist was a pretty reliable voice for law enforcement interests in Fourth Amendment cases. The affinity may be revealing. Like Rehnquist, Kennedy tended to take a law-enforcement-oriented view in Fourth Amendment cases. Like Kennedy, Kavanaugh seems to take government interests very seriously.

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8: Judge Kavanaugh on the Fourth Amendment - SCOTUSblog

in writing the Fourth Amendment.6 In the colonies, smuggling rather than seditious libel afforded the leading examples of the necessity for protection against unrea-.

It protects people from unlawful searches and seizures. They would use general warrants to enter and search any house they wanted without needing evidence of wrongdoing. The Founding Fathers wanted to protect people from this sort of invasion of privacy from the government. What is "searches and seizures"? A "search" under the Fourth Amendment is when a public employee like a police officer looks at something that is considered "private". It typically takes two things in order for something to be considered "private": When someone is "seized" they are not free to leave like being arrested and placed in jail. When something is "seized" it cannot be taken back like the police taking your wallet and not giving it back. Judges Warrant In order to conduct a legal "search" or "seizure" the police must have a warrant written by a judge. To get this warrant they must present evidence to the judge that some criminal activity has taken place. Probable Cause The Fourth Amendment also states that there must be "probable cause. The police must have this evidence before any arrest or search. Any evidence found during the search does not count as probable cause. How does this work in public schools? The requirements for search and seizure are slightly different in the public schools. The Supreme Court has said that school officials and police officers can search a student if they have "reasonable suspicion" that a crime has occurred. This is less of a requirement than "probable cause. Consider the airport where everyone who flies is searched. When you agree to fly, you give up some of your Fourth Amendment rights. Another example is a roadblock that tests for drunk drivers. When you drive on public roads you give up some of your Fourth Amendment rights. These searches are generally accepted by the citizens for their own safety and protection. Interesting Facts about the Fourth Amendment Evidence that is obtained by violating the Fourth Amendment is usually not admissible in court. Objects that are in "plain view" a police officer can see them are subject to search and seizure. If someone agrees to being searched then no warrant is needed. School lockers can be searched without a warrant in many states. Activities Take a quiz about this page. Listen to a recorded reading of this page: Your browser does not support the audio element. To learn more about the United States government:

9: What Does the Fourth Amendment Mean? | United States Courts

Fourth Amendment Activities "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.

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