

General Fourth Amendment Information

The Fourth Amendment places certain restrictions on when and how searches and seizures can be conducted. The Fourth Amendment *only* restricts and limits the actions of government officials. In other words, the Fourth Amendment doesn't prevent private citizens, companies, or organizations from conduct searches and seizures (although it is likely that there are criminal and civil laws limiting the actions of non-government officials!).

A *search* doesn't just involve government officials riffling through your files and computer records. Generally, a search occurs any time government officials interfere with an individual's reasonable expectation of privacy. What is a "reasonable expectation of privacy?" Well—that really depends! A court will look at what a common everyday person would expect, the age and situation of the person being searched, whether that person attempted to create a private setting, and a variety of other factors and circumstances. A *seizure* occurs anytime the government meaningfully interferes with an individual's freedom of movement. This means that if the police made a reasonable person believe that he or she was not free to leave, it is likely that their Fourth Amendment rights were violated.

What happens if an official executes a search or seizure that is unconstitutional? There is a chance that the person who was wronged could sue the government for damages. For the purposes of studying the Constitution and the rights of individuals, the most important consequence is the Exclusionary Rule. This rule says that any evidence that is obtained during an illegal search or seizure cannot be used against the person whose rights were violated by the search or seizure. The theory behind the Exclusionary Rule is that such consequences will encourage police departments to make sure their officers follow the Constitution and encourage law enforcement personnel to protect the rights of our communities.



Search and Seizures in Public

When you are in public, walking down the street or going to work, chances are that you have a limited expectation of privacy. You *are* in public right? In general, the Supreme Court agrees that in public, the Fourth Amendment provides little protection. Nevertheless, the Court has said that the Fourth Amendment *does* have some power in public, and in other, perhaps surprising ways, doesn't.

Focus Questions

Think about these questions while reading the case studies.

1. How does the 4th Amendment regulate activities in this location?
2. What do you think is the legal "rule" regarding searches/seizures in the location?
3. What types of searches and seizures are allowed?
4. Did any of the cases surprise you? Why or why not?

Case Study 1: *Terry v. Ohio*, 392 US 1 (1968)

Facts: A police officer saw Terry and another man acting suspiciously. According to the officer, the men were walking up and down a street, stopping and looking in a store window again and again. The officer thought they were "casing" the store and might be armed. In response to this suspicion, the officer confronted the men, asked them to identify themselves, and patted the men down. During the pat down, the officer found a gun on both Terry and his companion. Terry was charged with carrying a concealed weapon and the gun was admitted as evidence against him.

Decision: The Supreme Court determined the gun could be admitted as evidence against Terry. According to the Court, such a "Stop and Frisk" search was permitted by the Constitution so long as:

1. The conduct of the suspect was unusual;
2. The police officer had a reasonable belief that criminal activity was afoot;
3. The police officer had a reasonable belief that the suspect was armed; and
4. The police officer had a reasonable belief that the suspect posed imminent harm to the officer or the community.

Case Study 2: *Katz v. United States* 389 U.S. 347 (1967)

Facts: Katz used a public phone in LA to call other parts of the country to place illegal bets. Katz frequently used the same phone booth and the police set up an electronic listening/recording device in the booth without a warrant. The recordings of Katz's portion of the phone calls were used against him in his trial for illegal gambling. Katz claimed that the police use of the device violated his Fourth Amendment right. California claimed that Katz had no reasonable right to expect that his phone calls in a public phone booth would be private.

Decision: The Court held that the Fourth Amendment did in fact apply in a public phone booth. According to the Court, the Fourth Amendment applies to *people* not *places*. In other words, if a person acts in a way that indicates that he or she expects privacy, and such an expectation is reasonable, then the Fourth Amendment will apply.

Case Study 3: *California v. Greenwood* 486 U.S. 35 (1988)

Facts: The police received a tip that Greenwood was selling drugs out of his home. A police officer asked the trash collector who worked on Greenwood's street to set the trash bags from in front of Greenwood's home aside when collecting trash. The officer then went through the bags from in front of Greenwood's house and found evidence of drug use. This evidence was then used to get a warrant to search Greenwood's home, where the police found drugs. Greenwood was charged with drug possession and drug trafficking. Greenwood argued that the warrantless search of his trash violated his Fourth Amendment rights.

Decision: The Court upheld the search and subsequent warrant and arrest. According to the Supreme Court, there is no expectation of privacy in our trash. The Court focused on the fact that the trash was left on the side of the curb, where anyone can look at it and animals or scavengers could get into it. Because trash is knowingly exposed to the public, the Court said there was no role for the Fourth Amendment to play here.

General Fourth Amendment Information

The Fourth Amendment places certain restrictions on when and how searches and seizures can be conducted. The Fourth Amendment *only* restricts and limits the actions of government officials. In other words, the Fourth Amendment doesn't prevent private citizens, companies, or organizations from conduct searches and seizures (although it is likely that there are criminal and civil laws limiting the actions of non-government officials!).

A *search* doesn't just involve government officials riffling through your files and computer records. Generally, a search occurs any time government officials interfere with an individual's reasonable expectation of privacy. What is a "reasonable expectation of privacy?" Well—that really depends! A court will look at what a common everyday person would expect, the age and situation of the person being searched, whether that person attempted to create a private setting, and a variety of other factors and circumstances. A *seizure* occurs anytime the government meaningfully interferes with an individual's freedom of movement. This means that if the police made a reasonable person believe that he or she was not free to leave, it is likely that their Fourth Amendment rights were violated.

What happens if an official executes a search or seizure that is unconstitutional? There is a chance that the person who was wronged could sue the government for damages. For the purposes of studying the Constitution and the rights of individuals, the most important consequence is the Exclusionary Rule. This rule says that any evidence that is obtained during an illegal search or seizure cannot be used against the person whose rights were violated by the search or seizure. The theory behind the Exclusionary Rule is that such consequences will encourage police departments to make sure their officers follow the Constitution and encourage law enforcement personnel to protect the rights of our communities.

Search and Seizures in Cars



When you get into a car, you aren't "in public," but you are out of your home and in view of the general public, passer-bys, and the police. Generally, the Court has walked a fine line when it comes to defining Fourth Amendment rights when it comes to searches executed in automobiles. As the Court is quick to point out, when it comes to cars, we open ourselves up to a lack of privacy: there are usually multiple windows, you must have a license to drive, cars are regulated and monitored by the government, and you are out in public. However, the Court has said that police can not search a car just because they feel like it.

Focus Questions

Think about these questions while reading the case studies.

1. How does the 4th Amendment regulate activities in this location?
2. What do you think is the legal "rule" regarding searches/seizures in the location?
3. What types of searches and seizures are allowed?
4. Did any of the cases surprise you? Why or why not?

Case Study 1: *Carroll v. United States* 267 U.S. 132 (1925)

Facts: Carroll and another man were charged with illegally transporting alcohol. The police knew that Carroll had been smuggling alcohol and when they saw him driving, they chased him, pulled him over, searched the car and found the liquor; all without a warrant. Carroll claimed that the warrantless search of his car violated his Fourth Amendment rights.

Decision: The Court disagreed with Carroll. The Court asserted this search was permissible because, although there is some privacy expectation in cars, the fact that a car can be moved lowers the expectation and creates a need to allow the police to search without a warrant. In the time it would take the police to get a warrant, the car could be driven off and any evidence lost.

Case Study 2: *Wyoming v. Houghton*, 526 U.S. 295 (1999)

Facts: The police pulled over a car that was driving with a faulty break light. Houghton was a passenger in the car. The police spotted a syringe in the pocket of the driver and the driver subsequently admitted to using drugs. The passengers were ordered out of the car and the police questioned Houghton; she gave a fake name. The police then searched her purse, found her real name, and discovered a syringe filled with drugs. Houghton argued that the search of her purse was unconstitutional under the Fourth Amendment.

Decision: The Court held that the Fourth Amendment would not prevent warrantless searches of the personal belongings of passengers in car that has been legally stopped. According to the Court, given the close proximity of passengers in car, there is a likelihood that they are engaging in common activities and can easily help each other conceal evidence or items that could put officers' safety at risk.

Case Study 3: *Arizona v. Gant* 556 U.S. ____ (2009)

Facts: After an interaction with Gant earlier in the day, the police knew that he had a suspended license. The police were at the home of Gant's friend when Gant pulled up in his car, parked, and got out. The police then arrested him for driving with a suspended license. The police handcuffed Gant and placed him in the police car and then searched his car. During the search, they found a gun and drugs. Gant was tried with drug possession with intent to sell. Gant argued that because he was secure in the back of the police car, there was no need for the police to search his car and any such search was a violation of his Fourth Amendment rights.

Decision: The Court agreed with Gant and found that the search of his car was a violation of his Fourth Amendment rights. According to the Court, the police may search a car after an arrest of an recent occupant *only* if the officers have a reasonable belief that the evidence of the offense (meaning, evidence of the crime the individual is being arrested for) can be found in the car or if the person being arrested is within reach of the car and presents a safety concern for the officers.

General Fourth Amendment Information

The Fourth Amendment places certain restrictions on when and how searches and seizures can be conducted. The Fourth Amendment *only* restricts and limits the actions of government officials. In other words, the Fourth Amendment doesn't prevent private citizens, companies, or organizations from conduct searches and seizures (although it is likely that there are criminal and civil laws limiting the actions of non-government officials!).

A *search* doesn't just involve government officials riffling through your files and computer records. Generally, a search occurs any time government officials interfere with an individual's reasonable expectation of privacy. What is a "reasonable expectation of privacy?" Well—that really depends! A court will look at what a common everyday person would expect, the age and situation of the person being searched, whether that person attempted to create a private setting, and a variety of other factors and circumstances. A *seizure* occurs anytime the government meaningfully interferes with an individual's freedom of movement. This means that if the police made a reasonable person believe that he or she was not free to leave, it is likely that their Fourth Amendment rights were violated.

What happens if an official executes a search or seizure that is unconstitutional? There is a chance that the person who was wronged could sue the government for damages. For the purposes of studying the Constitution and the rights of individuals, the most important consequence is the Exclusionary Rule. This rule says that any evidence that is obtained during an illegal search or seizure cannot be used against the person whose rights were violated by the search or seizure. The theory behind the Exclusionary Rule is that such consequences will encourage police departments to make sure their officers follow the Constitution and encourage law enforcement personnel to protect the rights of our communities.



Search and Seizures in Homes

As the saying goes, your home is your castle. And the law generally recognizes this when it comes to Fourth Amendment protections. The Supreme Court has attempted to ensure that what goes on in your home is protected from the prying eyes of law enforcement officials. However, even with that hope, the Court has carved out many exceptions, allowing the police to search homes if certain criteria are met.

Focus Questions

Think about these questions while reading the case studies.

1. How does the 4th Amendment regulate activities in this location?
2. What do you think is the legal “rule” regarding searches/seizures in the location?
3. What types of searches and seizures are allowed?
4. Did any of the cases surprise you? Why or why not?

Case Study 1: *Chimel v. California*, 395 U.S 752 (1969)

Facts: The police went to Chimel’s home in order to arrest him for the burglary of a coin shop. When they got to the home, the police knocked on the door, spoke to Chimel’s wife and asked if they could come in. They then waited at the home until Chimel came home and then arrested him. The police asked if they could search the home, and Chimel said no. The police still searched the home. The police had Chimel’s wife walk them through the house, directing her to open up draws and remove their contents. The police found evidence of the burglary that was later used against Chimel at trial. Chimel objected, claiming the search violated his Fourth Amendment rights.

Decision: The Court first asserted that a person being arrested can clearly be searched in order to remove any weapons and prevent any destruction of evidence. Likewise, the Court said that the area within an arrestee’s reach can clearly be searched. Building on this, the Court came to the rule that, in order to balance the officers’ safety and the preservation of evidence with protecting an individual’s Fourth Amendment rights, it is *only* the area within the arrestee’s immediate area that can be searched without a warrant. Consequently, the Court held that the evidence could not be used against Chimel.

Case Study 2: *Vale v. Louisiana*, 399 U.S. 30 (1970)

Facts: The police had a warrant to arrest Vale and were watching Vale's home. The police then witnessed Vale interact with a known addict and appear to exchange narcotics. The police arrested Vale on his front porch and announced that they would then search his home. During the search, the police found narcotics in Vale's room. Vale challenged the admission of the drugs, claiming that the warrantless search of his home violated his Fourth Amendment rights.

Decision: The Court agreed with Vale. The Court reasoned that in order for a search connected to an arrest to be permitted, the arrest must take place within the home. Although this arrest took place on Vale's property, it was clearly outside the home.

Case Study 3: *Payton v. New York*, 445 U.S. 573 (1980)

Facts: A New York state statute allowed police to enter homes, without warrants, to search for individuals believed to have committed felonies. This statute was challenged on the basis that such warrantless entries and searches of homes violated the Fourth Amendment.

Decision: The Court agreed with the challenge and found that such a search was a violation of the Fourth Amendment, even if the purpose was to find an alleged felon. According to the Court, the Fourth Amendment draws a firm line at the door to a residence. However, the Court did point out that an arrest warrant would give the police the right to enter the home.

General Fourth Amendment Information

The Fourth Amendment places certain restrictions on when and how searches and seizures can be conducted. The Fourth Amendment *only* restricts and limits the actions of government officials. In other words, the Fourth Amendment doesn't prevent private citizens, companies, or organizations from conduct searches and seizures (although it is likely that there are criminal and civil laws limiting the actions of non-government officials!).

A *search* doesn't just involve government officials riffling through your files and computer records. Generally, a search occurs any time government officials interfere with an individual's reasonable expectation of privacy. What is a "reasonable expectation of privacy?" Well—that really depends! A court will look at what a common everyday person would expect, the age and situation of the person being searched, whether that person attempted to create a private setting, and a variety of other factors and circumstances. A *seizure* occurs anytime the government meaningfully interferes with an individual's freedom of movement. This means that if the police made a reasonable person believe that he or she was not free to leave, it is likely that their Fourth Amendment rights were violated.

What happens if an official executes a search or seizure that is unconstitutional? There is a chance that the person who was wronged could sue the government for damages. For the purposes of studying the Constitution and the rights of individuals, the most important consequence is the Exclusionary Rule. This rule says that any evidence that is obtained during an illegal search or seizure cannot be used against the person whose rights were violated by the search or seizure. The theory behind the Exclusionary Rule is that such consequences will encourage police departments to make sure their officers follow the Constitution and encourage law enforcement personnel to protect the rights of our communities.

Search and Seizures in Schools



As a student in a school, chances are you don't have a ton of freedom: you are told where you need to be, what to read, when you can talk, and probably, what you can (or can't) wear. Nevertheless, the Supreme Court has long held that the Constitution doesn't stop at the school-house door: students in school are still protected by the Constitution. However, because of the special responsibilities that teachers and school officials have to ensure the safety and security of students, the Court has allowed school officials certain leeway.

Focus Questions

Think about these questions while reading the case studies.

1. How does the 4th Amendment regulate activities in this location?
2. What do you think is the legal "rule" regarding searches/seizures in the location?
3. What types of searches and seizures are allowed?
4. Did any of the cases surprise you? Why or why not?

Case Study 1: *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

Facts: T.L.O. was accused by a teacher at her high school of smoking cigarettes. Based on this accusation, the principal searched T.L.O.'s purse, where he found cigarettes and rolling papers (which the principal believed indicated drug use). After finding the rolling papers, the principal searched T.L.O.'s purse more thoroughly and found marijuana and a pipe. The principal turned the evidence over to the police. T.L.O. was charged with delinquency. T.L.O. claimed that the evidence should be suppressed because the search was in violation of her Fourth Amendment rights. School officials claimed that they weren't constrained by the Fourth Amendment.

Decision: The Court, at first, agreed with T.L.O. and held that the Fourth Amendment does apply in schools and limited the searches and seizures that school officials could conduct. However, the Court said that, because of the schools' need to create a safe learning environment, the reasonable expectations of privacy might be lessened in the school environment. The Court determined that when assessing a search or seizure in the school setting, it would balance:

1. whether the search was justified when it was started; and
2. whether the searched was reasonable in its scope.

According to the Court, school officials only needed a "reasonable suspicion," not probable cause, to search students. The Court determined that, under the circumstances of T.L.O.'s case, the search was reasonable and the evidence could be included at the hearing.

Case Study 2: *Vernonia School District v. Acton*, 515 U.S. 646 (1995)

Facts: Vernonia school officials, in response to an increase in student drug use, implemented a policy that required drug testing of all student-athletes (school officials claimed that athletes were leaders within the school and possibly encouraging the drug culture). Under the policy, the parents' of athletes would have to sign a consent form allowing for the testing, the athletes would be tested at the beginning of season for their sport. Then, once a week, 10 percent of the athletes were randomly selected for more testing. Although students had to urinate in front of school officials during the test, the lab conducting the analysis of the sample never knew the student identities.

Acton signed up to play football at a Vernonia school, but his parents refused to sign the consent form so he was told he couldn't play. Acton and his parents sued claiming that this suspicionless search violated his Fourth Amendment rights.

Decision: The Court said that, when it comes to suspicionless searches in schools, it would balance:

1. the nature of the privacy interest,
2. the character of the intrusion on the student's privacy,
3. and the nature and degree of concern and how effect the search is at addressing this concern.

The Court determined that the search here was constitutional because the school has a responsibility to keep students safe, the conditions of the testing were no more intrusive than using a public restroom, and the test was clearly effective at directly addressing the drug problem.

Case Study 3: *Safford Unified School District v. Redding*, 557 U.S. (2009)

Facts: A student told school officials that 13 year-old Redding was distributing prescription strength ibuprofen to other students. Based on this tip, the principal and another school official searched Redding's belongings and had her strip down to her underwear and demonstrate that nothing was hidden in her underwear by shaking them out. Redding and her family sued the school officials claiming that the search had violated her Fourth Amendment rights.

Decision: The Court agreed with Redding and her family. According to the Court, the search was unreasonable at the start given the uncertainty of the tip and the threat the alleged action posed. Additionally, the Court said that the nature of the search was further unreasonable given the humiliation the subject of the search may feel. The Court concluded that for such an intrusive search, school officials must have more concrete evidence of a more threatening concern.