

# Yosemite Law Day

What is "Unreasonable search and seizure" in the digital age? Unreasonable search and seizure is when a police officer takes your phone and looks through it without a warrant. It is also when you are being tracked illegally by a GPS or drone. The Fourth Amendment states that "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."<sup>1</sup> There are several court cases that involve peoples Fourth Amendment rights being violated.

In 1967 the FBI put an electronic listening device on the outside of a public telephone booth. They were using this device to record Charles Katz conversations with other people. Katz was using the phone to send illegal gambling bets from Los Angeles to Boston and Miami. Katz was then arrested on October 17th in 1967 based on the evidence from the telephone booth.

He argued against the court saying that the way the FBI got the recordings was against his Fourth Amendment rights. Justice Stewart wrote for the Supreme Court saying "One who occupies (a telephone booth), shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world."<sup>2</sup> The reason government wiretapping by the state and federal authorities is now against the Fourth Amendment warrant rules is because

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<sup>1</sup> Constitution of United States of America 1789

[https://www.constituteproject.org/constitution/United\\_States\\_of\\_America\\_1992](https://www.constituteproject.org/constitution/United_States_of_America_1992)

<sup>2</sup> United States Supreme Court

Katz v. United States

[https://en.wikipedia.org/wiki/Katz\\_v.\\_United\\_States#cite\\_note-White-4](https://en.wikipedia.org/wiki/Katz_v._United_States#cite_note-White-4)

of the Katz Case. The ruling was nearly unanimous, there was only one justice that voted against Katz.

The second example of my evidence of unreasonable search and seizure is the Carpenter v United States court case. This case has to do with the privacy of historical cellphone locations. In 2011 four men were arrested that were connected to a series of armed robberies in Detroit. One of the men confessed to the crimes. He gave the FBI his cellphone and the phone numbers of the other men. The transactional records that the government got were the date and time of calls, and where the calls were started and ended. They found this information based on the phone calls connection to cell towers.

Timothy Carpenter was then charged in 2011 for aiding a robbery and trying to leave the state. Carpenter decided to suppress the government's evidence based on his Fourth Amendment rights. He argued that that the FBI needed a warrant to obtain the phone records. The district court decided to deny his motion to suppress the government. They said that the data was business records and business records are not protected by the Fourth Amendment. The government did however not have a warrant when going through Carpenters cell-site records, so they did violate his fourth amendment rights. It was a close decision but, the supreme court ruled 5-4.

The Fourth Amendment protects us from unreasonable search and seizure, but with the digital age it is now easier to track or find information about anyone. I feel that with the modern technology, personal and confidential information can easily be obtained and mined without your consent, permission, and without warrants. Therefore the information can be used against you. I feel that during the 21st century my Fourth Amendment rights are impacted in a way that government agency can just look up my information without probable

cause. Thus with the digital age someone or anyone's Fourth Amendment rights can easily be violated.

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