

F.O.R.C.E. STUDY GUIDE - 4TH AMENDMENT: SEARCH AND SEIZURE

Content-based Questions

1. Define the 4th amendment.
2. When a case went to the Supreme Court (*Kyllo vs The U.S.*) claiming that a warrant should be required for officers to use thermal measurements taken from across the street to detect “probable cause” of a crime in the basement of a private home, what did the Supreme Court decide?
3. What did the Supreme Court decide when the case came before them about officers placing a GPS on the outside of someone’s car, and then tracking the car’s movements? Did they decide it constituted “search” or “seizure”? What are some exceptions?
4. What do people mean when they call something a “fishing expedition” as it relates to the 4th amendment?
5. **True or False:** In the US, between 2001 and 2010, a black individual was almost 4x more likely to be arrested for marijuana possession than a white person, although both groups used it at equal rates.
6. What is profiling? Is it legal?
7. Why has the Supreme Court allowed random sobriety checkpoints during some holidays? What about a city police force instituting random drug stops of cars to search for drugs in the car - assuming they follow the randomizing rules and brevity rules that are used by sobriety checks?
8. Choose one answer to complete this sentence:
When a police officer does something that most citizens would easily agree is wrong, and a breach of a citizen’s 4th amendment protections, the doctrine that typically has saved them from being sued is-
 - a. “Political Animosity”
 - b. “Fishing expeditions”
 - c. “Qualified Immunity”
 - d. “The Exclusionary Rule”

Engaging the Material

1. Do you remember when the “stop and frisk” practices began, and how controversial they were? If so, share some recollections of the stories, along with your own thoughts and feelings about those stories. If not, think about how you personally would feel if a law officer suddenly, without warning, and without explaining their reasons, stopped you, made you lean up against a building, and began patting you down, feeling for weapons or contraband on your person. What questions would you (or your lawyer) have for that officer?

2. Providing your reasons, **agree or disagree with this statement:**

Since more “criminals of color” are in prison for drug-related crimes, it stands to reason that people of color are more likely to be using, buying or selling illegal drugs, and it therefore constitutes “a reasonable suspicion” of illegal activity, when a person of color is walking down the street, is wearing a hoodie, and looks nervously at a police car.

3. Think of a hypothetical case with someone who is using a space that does not belong to them to store personal belongings. It could be a storage unit. Maybe a locker. Maybe an office.

a. Speculate about whether - and how - police or owners of the space, or officials in charge of that space might have the right - or might NOT have the right, to search the contents of that space.

b. Discuss with another person - and see if they can “poke holes” in your argument, based on what you’ve learned about the Fourth Amendment.

c. Is the rule that applies to police different from the rule that applies to the owner of the space?

Content-based Answer Guide

1. The fourth amendment protects citizens from UNREASONABLE search and seizure; it requires that police or other authorities must have a warrant issued to conduct the search

2. The Supreme Court decided the use of new technology to “search” inside a person’s house from a public vantage point still required a search warrant.

3. The Supreme Court ruled that law enforcement personnel was required to obtain a search warrant before they could apply a tracking device on the vehicle; it constituted search.

Exceptions include consent from the vehicle owner to place tracker, vehicles at or crossing the borders, and for situations involving an officer’s safety

4. Fishing expedition refers to the incriminating searches that are based only on hunches, animosity, or cultural stereotypes.

5. True

6. Profiling involves searching an individual, who might be suspected of committing a crime, due to their suspicious behavior. It is legal if profiling was used due to the behavior, but it is unconstitutional and a violation of the fourth amendment if it was based on identity.

7. The Supreme Court allows for random sobriety checkpoints during some holidays to avoid drunk drivers, as drinking while impaired poses an imminent and significant threat to public safety. The city police instituting random drug stops of cars to search for drugs in the car, on the other hand, does violate the fourth amendment. By searching a random vehicle for drugs, it creates a fishing expedition.

8. C. “Qualified Immunity”