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Search and Seizure: Historical Analysis of the Fourth Amendment

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Search & Seizure

Historical analysis of the Fourth Amendment

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ABSTRACT

This thesis is a legal analysis of the history of privacy law in the context of the Fourth Amendment. This historical analysis will focus on landmark United States Supreme Court cases involving searches and seizures from the 1886 *Boyd v. United States* case to the 2014 *Riley v. California* case. Incorporated is the evolution of the Supreme Court’s analysis from the Trespass Doctrine to the Reasonable Expectation of Privacy Doctrine. Also included is how those doctrines have related to the evolution of technology. Finally, there is a discussion of the possible direction of future U.S. Supreme Court, Fourth Amendment privacy cases.
INTRODUCTION

December 15, 1791. On this date in history, the Bill of Rights was ratified and became part of the United States Constitution (Swindle Law Group, P.C., 2013). Many rights are outlined in the United States Constitution, from those protecting the right to bear arms to the right for all citizens to vote. An amendment important to the founding fathers was the Fourth Amendment, which was incorporated into the Constitution because of searches conducted by British law enforcement during this time period. In the Colonial Era, the King of England wanted to get as much money from the colonists as he could, so he imposed taxes on them. To avoid the increasing taxes, colonists began “smuggling operations,” to get goods (Swindle Law Group, P.C., 2013).

King George of England was upset when he was informed about the smuggling, so he began to use writs of assistance. Writs of assistance are legal search warrants used by the British to search homes and properties that they believed contained illegal contraband (Swindle Law Group, P.C., 2013). One of the main problems with these writs of assistance is that they were extremely broad and non-specific. Because of this, British officials could enter into private homes or onto property without any notice to the owners and occupants, and without any specific reason (Swindle Law Group, P.C., 2013). The increased taxation and unwanted searches were a few factors that lead up to the Revolutionary War. Therefore, when the colonists gained their freedom from Britain, the founding fathers wanted to avoid creating laws similar to those they endured prior to the war. Because of this the Fourth Amendment was written into the Constitution and ratified in 1791. There was “much excitement” from the colonists when the ratification of this Amendment occurred because it “showed that the government was subjected to severe strain to protect national existence” (Boyd v. United States, 116 U.S. 616 (1886)).
Since colonists were subjected to following British law, they were thrilled to have protections between them and the federal government.

The Fourth Amendment of the United States Constitution reads,

> 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 person or things to be seized.

The Fourth Amendment has not changed since its enactment, the interpretations by United States Supreme Court has limited its application (Boyd v United States, 116 U.S. 616, (1886)). The Supreme Court has defined a “search and seizure equivalent [to] a compulsory production of a man's private papers” (Boyd v. United States, 116 U.S. 616 (1886)). Even though the U.S. Supreme Court has interpreted the Fourth Amendment’s language, it is still a broad topic that continues to be interpreted today.

Even though it is not explicitly stated in the Fourth Amendment, privacy law is a part of this amendment through the search and seizure clause. Privacy can be a difficult topic because people have their own personal beliefs of what should be considered private. What is reasonable for one may not seem reasonable for another. In regards to searches and seizures, some people believe that the government should respect complete privacy and not be allowed into their homes or lives, while other people would allow law enforcement officials to search their home if the officials took the proper route, using a search warrant. During this time, the person on the receiving end of the search should expect a reasonable sense of privacy and assurance that the officials will not deviate from what rooms, areas, or objects are listed on the search warrant.
In order to analyze privacy laws and search and seizure tactics in 2015 knowing the history of landmark United States Supreme Court cases is beneficial. Once an understanding of this has been established, one should move to also understand the doctrines that apply to these cases. Understanding how these cases are analyzed helps to show the complexity of deciding such cases that involve the Fourth Amendment.

HISTORY

One of the earliest cases that involved a Fourth Amendment rights violation was the 1886 *Boyd v. United States* case. This was the first Supreme Court case to discuss and establish the importance of privacy in the context of the Fourth Amendment. Prior to this case, law enforcement officials were searching and seizing documents related to court cases that were being heard in the local courts regarding fraudulent claims (*Boyd v. United States*, 116. U.S. 616 (1886)). In *Boyd v. United States*, the defendant, Boyd, was bringing glass plates to the United States from England. When he brought the imported goods into the country, a customs fee needed to be paid. Because Boyd did not want to pay, he falsified papers pertaining to the glass plates. Federal agents had a reasonable suspicion that the documents related to the plates were falsified for the purpose of avoiding customs fees. As a result, the plates were confiscated from the defendant. The U.S. Supreme Court ruled that actual entry onto the premise of the search was not required to be an unreasonable search within the Fourth Amendment. Because the court considered the papers to be private property, the District Attorney’s inspection of the papers was unconstitutional (*Boyd v. United States*, 116 U.S. 616 (1886)).

Twenty-eight years later in 1914, the United States Supreme Court addressed Constitutional privacy rights in *Weeks v. United States*. The defendant, Weeks, was using the mail to transport lottery tickets. At that time, the lottery was illegal gambling and considered a
criminal offense (*Weeks v. United States*, 232 U.S. 383 (1914)). When federal law enforcement personnel discovered the defendant was transporting the tickets, they arrested him without a warrant. At the same time, other officers entered the defendant’s home without a search warrant or his consent. Papers were seized as incriminating evidence against the defendant and turned over to the U.S. Marshalls to be used as evidence in court (*Weeks v. United States*, 232 U.S. 383 (1914)). The defendant was convicted of transporting mail and the case was appealed to the U.S. Supreme Court.

The U.S. Supreme Court reviewed the case and determined that the evidence gathered was inadmissible in court. Because the evidence against the defendant was gathered illegally the court created the exclusionary rule, which does not allow illegally gathered materials to be admissible in court (*Weeks v. United States*, 232 U.S. 383 (1914)). Since this ruling, law enforcement agencies are required to ensure that evidence collected against a defendant is done properly so that it can be used against the defendant in court. The Supreme Court acknowledged that any illegally obtained evidence used in court is against the defendant’s Constitutional right. However, the *Weeks* case only applied to federal law enforcement and did not explicitly incorporate the “Fourth Amendment into the Due Process clause of the Fourteenth Amendment” (*Weeks v. United States*, 232 U.S. 383 (1914)).

In 1928, the U.S. Supreme Court reviewed *Olmstead v. United States*. The defendant, Olmstead, was accused of illegally selling liquor to British Columbia and parts of Seattle, Washington. Usually the orders for liquor were placed over phone lines that were located in the defendant’s office and home (*Olmstead v. United States*, 277 U.S. 438 (1928)). In order to gather more evidence against the defendant, the federal agents secretly wiretapped the phone line leading to his office from the basement of a nearby office building. Here they listened to the
defendant’s phone conversations. The defendant argued that the wiretapping was a violation of his Fourth Amendment rights. However, the Supreme Court held that since law enforcement personnel did not physically trespass onto any private property, the gathering of evidence did not violate the Fourth Amendment (*Olmstead v. United States*, 277 U.S. 438 (1928)).

The *Olmstead v. United States* case laid the foundation for the Trespass Doctrine. It considered whether wiretapping constituted a Fourth Amendment search if a physical trespass does not occur in gathering information. The Supreme Court ruled “electronic eavesdropping does not constitute a search unless there occurs a physical intrusion or trespass into a protected area” (*Olmstead v. United States*, 277 U.S. 438 (1928)). The Court held that since the prosecution did not physically trespass onto the property of the defendant, then there was no search and seizure that occurred and the defendant’s privacy right was not violated (*Olmstead v. United States*, 277 U.S. 438 (1928)). In a very strict interpretation of the Fourth Amendment’s meaning, the Court reasoned that if a person connects a phone to a phone line outside of their home, it is assumed that anyone can tap the wire and listen to conversations. In this particular case there was no physical search conducted in the gathering of information and evidence against the defendant (*Olmstead v. United States*, 277 U.S. 438 (1928)). The *Olmstead v. United States* case was one of the first cases that made the switch from personal papers being the sole focus of searches to technology.

In the 1942 *Goldman v. United States* case, the defendant, Goldman, was convicted of conspiracy to violate the federal bankruptcy code. Acting on information from an informant, federal agents secretly listened to telephone conversations between the defendant and another person using a detectaphone bug. A detectaphone bug is a telephone part with an attached microphone. A motion to suppress evidence was filed by the defendant but to no avail. On
appeal, the Supreme Court ruled that the evidence obtained from the detectaphone bug was admissible in court because the law enforcement officers did not physically enter the office where the bug was placed. Therefore, no trespass occurred onto the actual property. The Supreme Court took into account that the federal agents had to physically trespass onto the premises to place the detectaphone bug. However, they stated that the actual listening to the conversation was through the detectaphone so they were not physically in the room (Goldman v. United States, 316 U.S. 129 (1942)). This was another case in which the ruling of the U.S. Supreme Court strengthened the Trespass Doctrine.

In 1949, the Wolf v. Colorado Supreme Court case considered whether the exclusionary rule applied in state courts. The defendant, Wolf, was convicted of conspiracy to conduct abortions, which were illegal in Colorado at the time. A woman who had an illegal abortion conducted by the defendant had complications and brought herself to the emergency room. When she told the police what happened, the police went to the defendant’s office and, without a search warrant or consent, searched the office (Wolf v. Colorado, 338 U.S. 25 (1949)). One piece of evidence seized during the illegal search was the defendant’s patient list. Using that list the police were able to gather more evidence through interrogation of the patients. The Colorado trial court convicted the defendant on this evidence and the Appellate Court upheld the conviction. The defendant appealed to the U.S. Supreme Court, which agreed to review the case.

The U.S. Supreme Court agreed that the evidence was gathered illegally, but that it was admissible in court because the exclusionary rule applied only to federal law enforcement and not to state law enforcement agencies at that time. The Supreme Court ruled that the Fourteenth Amendment’s Due Process clause did not prohibit the admission of illegally obtained evidence in state courts.
In 1952, the *On Lee v. United States* case refined the Trespass Doctrine. The defendant, On Lee, was at his laundry business while out on bail pending his trial on federal narcotic charges. A friend, and undercover federal agent, of the defendant’s went to visit him. At this visit the undercover agent was wearing a radio transmitter wiretap (*On Lee v. United States*, 343 U.S. 747 (1952)). The agent taped a conversation in which the defendant made self-incriminating statements. This evidence was used in court and another federal agent who was listening at the other end of the transmission from the wire, testified to the credibility of the evidence gathered (*On Lee v. United States*, 343 U.S. 747 (1952)). The defendant was convicted.

On appeal, the Supreme Court ruled that if a wired informant is invited onto private property by the defendant, or person of interest, then it is not trespassing and any information gathered is admissible in court (*On Lee v. United States*, 343 U.S. 747 (1952)). The court rejected the defendant’s argument in this case, which was if a friend was invited onto private property any information gathered from the conversations between the parties was inadmissible. The defense argued that since evidence was gathered through electronic eavesdropping, it was a form of trespassing. The Supreme Court ruled that the conversation held by the defendant and his friend who was wearing the wire was not trespassing because the defendant consented to his friend being on the premise (*On Lee v. United States*, 343 U.S. 747 (1952)). *On Lee v. United States* was the last case that used the Trespass Doctrine as a standard.

In 1961, the U.S. Supreme Court extended the *Weeks* exclusionary rule to state courts. In the *Mapp v. Ohio* case, federal law enforcement officers believed that the defendant was hiding a bombing suspect in her house and that there was information regarding bombings in her possession (*Mapp v. Ohio*, 367 U.S. 643 (1961)). The agents knocked on the door to the
defendant’s home. When asked if they could enter she refused. A few hours later the agents went back to the house with a search warrant. When no one answered the door, they forced entry into the house. Even though she did not answer the door, the defendant was in the house at this time. The defendant then asked to see the warrant and when given to her, she stuffed it down her shirt. After wrestling with an agent, who wanted to get the warrant back, she was arrested and the search continued (Mapp v. Ohio, 367 U.S. 643 (1961)). While conducting the search, agents found a trunk of “obscene materials” belonging to the defendant (Mapp v. Ohio, 367 U.S. 643 (1961)). She was convicted of possessing the materials and appealed the decision.

On appeal, the U.S. Supreme Court ruled in Mapp v. Ohio that all illegally obtained evidence in searches and seizures is inadmissible into court, at the federal and state levels (Mapp v. Ohio, 367 U.S. 643 (1961)). Less than half of a century after the United States Supreme Court ruled on the Weeks v. United States case, the court elaborated that law enforcement officials are subject to the exclusionary rule if they violate privacy laws. The 1961 Mapp v. Ohio case is considered a landmark case not only because of the ruling, but also because it overturned the decision of an earlier case, Wolf v. Colorado (1949). It concluded that if “the Fourth Amendment’s right to privacy has been declared enforceable against the States through the Due Process Clause of the Fourteenth Amendment, [then] it is enforceable against them by the same sanction of exclusion as it is used against the Federal government” (Mapp v. Ohio, 367 U.S. 643 (1961)). It is beneficial for federal and state law enforcement personnel to all follow the same protocol when gathering evidence.

A few years later in 1967, the Supreme Court ruled on electronic surveillance in the case of Katz v. United States, which added to the privacy law debate. The defendant, Katz, was charged with transmitting wagering information cross state lines, from Los Angeles to Miami
and Boston. When federal law enforcement officials discovered this information, they placed an electronic listening device on the outside of the phone booth where the defendant was known to make his out of state calls (Katz v. United States, 389 U.S. 347 (1967)). The prosecution argued that since the defendant was in a glass telephone booth, able to be seen to the naked eye, then it was okay to wiretap the booth to listen to the phone conversations.

The Court ruled that wiretapping an individual’s calls from a phone booth was unconstitutional and violated the Fourth Amendment right because the defendant was not going into the booth to be seen. Rather, he closed the door behind him to make a private phone call and the wiretap allowed an unwanted ear into what the defendant was saying (Katz v. United States, 389 U.S. 347 (1967)). Since the telephone booth was located in a public area, the wiretapping was thought to be a legal way of gathering information because it was not located in a private area or home. However, the U.S. Supreme Court disagreed. In this particular instance, there needed to be a reasonable expectation of privacy granted because no one was expected to be in the room or booth with the person to hear the conversation as it occurred.

The Katz v. United States case overturned the Trespass Doctrine of Olmstead v. United States, Goldman v. United States and On Lee v. United States cases. The Katz v. United States case ruled that regardless of the location, a conversation is protected from unreasonable searches if it is made with a reasonable expectation of privacy. The Court held that the Fourth Amendment protects people, not places. People have their own ideas of what a “reasonable expectation” is but according to Katz v. United States, “the reasonable standard is construed upon the totality of circumstances on a case-by-case basis” (1967). During trials or when reviewing cases, analysts need to factor in all the events that took place to determine the degree of a reasonable expectation of privacy a person is allowed. Most of the time if a person takes the
time to make a phone call at home versus in public, there is a greater expectation of privacy in the home because it is a private place.

A reasonable expectation of privacy, established in *Katz v. United States* (1967), was applied by the Supreme Court in the 1984 *United States v. Karo* case. In *United States v. Karo*, the Drug Enforcement Administration (DEA) learned that the defendant and his friends were buying 50 gallons of ether that were going to be used to extract cocaine from clothing that had been imported (*United States v. Karo*, 468 U.S. 705 (1984)). The DEA agents learned this information from a government informant. In order to find out where the location of the ether was going, the agents got consent from the government informant to place a tracking device in one of the cans that supposedly contained ether. When the can reached the private residence, the agents got a warrant to search the house for the ether (*United States v. Karo*, 468 U.S. 705 (1984)). While in court, the defense argued that since the agents knew where the cans were located in the house, it was a violation of their Fourth Amendment privacy rights.

The Court ruled that the use of an electronic beeper device without a warrant was an unlawful search. They held that it is not against the Fourth Amendment to plant a homing device into a private residence, but it is a violation of the Fourth Amendment to monitor the device within the home (*United States v. Karo*, 468 U.S. 705 (1984)). In this case, the object being monitored was within a private residence. It is a general conclusion that within a person’s own home there is a higher reasonable expectation of privacy. Unless a person has done something against the law and a search warrant has been issued, private residences should be a place where the resident has the most privacy. Two years after the Supreme Court held that monitoring within a private residence is a violation of the Fourth Amendment. The *California v. Ciraolo*
(1986) case ruled that the expectation of privacy is not the same for inside a private residence and the outside of one.

The 1986 *California v. Ciraolo* case involved a defendant who was accused of having a marijuana field in his backyard that could not be seen by the naked eye at ground level. The defendant, Ciraolo, built a fence around his property to prevent people at street level from seeing his field; this included the police. So Santa Clara police officers secured a private airplane and flew over the defendant’s house at an altitude of 1,000 feet. Since the law enforcement officials could not gather information from a ground viewpoint, they gathered information from an aerial viewpoint to have enough probable cause for a search warrant (*California v. Ciraolo*, 476 U.S. 207 (1986)). From this aerial point of view the officers were able to see the field with a naked eye. This led to a search warrant being issued to search the property and seize the marijuana plants. In the trial court the motion to suppress the evidence was denied (*California v. Ciraolo*, 476 U.S. 207 (1986)).

On appeal, the Supreme Court held that the Fourth Amendment is not violated if a search warrant is issued or evidence is gathered through the use of naked-eye aerial observation (*California v. Ciraolo*, 476 U.S. 207 (1986)). The Court explained that the defendant’s expectation of privacy from all observation of his backyard was unreasonable. The reasonable expectation of privacy on the inside of homes is different from the outside. Inside of a residence it is reasonable that the person has an expectation of privacy from public view. However, the curtilage\(^1\) surrounding a private residence has a different reasonable expectation of privacy because it is located outside the home. Ultimately, the Court rejected the defendant’s argument that he had a reasonable expectation of privacy because he took measures to restrict views of his

\(^1\) Curtilage: an area of land attached to or next to a house
backyard. Fences can be constructed around a private residence to ensure some privacy for the patrons. However, anything seen from an aerial viewpoint is not considered private.

Two years after the *California v. Ciraolo* case was ruled upon, the 1988 *California v. Greenwood* case added another dimension into the reasonable expectation of privacy issue. In this case, an investigator from a California police department had been notified that narcotics were being transported to a local, private residence. After staking out the house and determining that many vehicles had stopped at the residence multiple times during the night, the inspector ordered the trash collector to bring her the trash from this particular residence. In the garbage, the inspector found evidence of narcotic drug use. This was used to get a search warrant for the defendant and bring him to court (*California v. Greenwood*, 486 U.S. 35 (1988)). The California State Supreme Court dismissed the case, stating that there would have been no probable cause for the search warrant without the evidence from the trash searches.

Under a California case, *People v. Krivda* (1971), warrantless trash searches violated the Fourth Amendment and the Constitution of California (*California v. Greenwood*, 486 U.S. 35 (1988)). Because the facts of this case involved a Fourth Amendment issue, the U.S. Supreme Court reviewed the case. The final ruling of the Court held that a resident does not have a reasonable expectation of privacy in garbage or trash left outside of the curtilage of a home. It is considered abandoned by the inhabitants of the private residence and therefore, searchable without a warrant (*California v. Greenwood*, 486 U.S. 35 (1988)). Since the garbage was abandoned, no search warrant was required. If the trash had been in a trash barrel right next to the house and not off the property, then a search warrant would have been needed.

The *California v. Greenwood* case is considered a landmark case because it established that evidence that is considered abandoned, such as the garbage being on the street, does not
need a search warrant to be seized. A main component of searching and seizing objects or information is the process of how the materials came into the hands of law enforcement. A certain course of action needs to be taken in order to make sure that the materials were not illegally obtained and therefore, inadmissible in the court. The *California v. Greenwood* case gives a clearer explanation of evidence that can be obtained legally and admissible in court.

**TECHNOLOGY**

In 1996, the California Appellate Court viewed a case that would be the beginning of another technology era in the country. A confidential citizen informant (CI) was listening to his radio scanner when a cordless telephone conversation began to come through the radio (*People v. Chavez*, 52 Cal. Rptr. 2d 347 (1996)). The topic of discussion was a narcotics transaction that was being conducted. The CI brought this information to the police and they began to monitor the conversations. It was possible to listen in on conversations during this time period because cordless phones ran over radio waves. The signal from the base of the phone, where the landline was attached, went through radio lines to the remote hand-held part of the phone (*People v. Chavez*, 52 Cal. Rptr. 2d 347 (1996)). After monitoring a few conversations between the defendant and co-conspirators, the law enforcement officials obtained a search warrant and gathered incriminating evidence against the defendant.

During the trial, the defendants argued that the evidence gathered prior to the warrant should be inadmissible in court but the trial judge decided to give them a new trial instead of suppressing the evidence. The California Appellate Court noted that listening to wireless phone conversations falls under the category of electronic eavesdropping rather than electronic wiretapping (*People v. Chavez*, 52 Cal. Rptr. 2d 347 (1996)). The final decision of the Appellate court was to reverse the order granting a new trial, and give the defendant his original conviction.
(People v. Chavez, 52 Cal. Rptr. 2d 347 (1996)). The U.S. Supreme Court decided not to hear a case similar to this one because the decision by the state court was the prevailing law on a national level. Not long after the California Appellate Court made this decision, criminal cases involving technology were being reviewed at the U.S. Supreme Court level.

The influence of modern technology starts to increase for the United States Supreme Court in the 2001 *Kyllo v. United States* case. Evidence in the *Kyllo v. United States* case was gathered through the use of a thermal imaging device. Two law enforcement officials used the device on the defendant’s home and noticed that the roof and sidewall were warmer than the other two walls connected to it (*Kyllo v. United States*, 533 U.S. 27 (2001)). Based on that knowledge the officers obtained a search warrant to search the home. They were under the impression that the defendant was growing marijuana and the warmer areas were coming from certain lights known to be used in growing this plant. Once inside the home, the officers confirmed their suspicions and found marijuana (*Kyllo v. United States*, 533 U.S. 27 (2001)). In court the defendant filed a motion to suppress the evidence based on the argument that the search was a violation of the defendant’s Fourth Amendment right. The Supreme Court determined that the search was unconstitutional because the “information from the thermal imaging was the product of a search” and a search warrant was not obtained by the officials before conducting the search (*Kyllo v. United States*, 533 U.S. 27 (2001)). At this point technology began to play an important role in the outcome of Supreme Court cases. This was another increase in technology cases since the 1928 *Olmstead v United States* case.

In 2012, the United States Supreme Court reviewed a case that involved Global-Positioning-System (GPS) data that was used to gather evidence. In *United States v. Jones*, law enforcement officials obtained a search warrant that allowed the installation of a GPS device on
a vehicle that was registered to the defendant’s wife (United States v. Jones, 565 U.S. __ (2012)). Law enforcement officials gathered enough data to charge the defendant with drug trafficking charges. Originally, the data collected when the vehicle was parked at the defendant’s residence was suppressed. However, any data gathered when the vehicle was on public streets was not suppressed because there is no reasonable expectation of privacy on public streets (United States v. Jones, 565 U.S. __ (2012)). This decision was reversed by the Court of Appeals and then the U.S. Supreme Court affirmed the appellate ruling. This decision was affirmed due to the admission of the evidence “obtained by the warrantless use of the GPS device, which violated the Fourth Amendment” (United States v. Jones, 565 U.S. __ (2012)). The search warrant that originally allowed the GPS device to be installed on the vehicle had a time limit and place specification, to which law enforcement officials did not adhere. The Jones court ruled that installing a GPS tracking device on a vehicle and using it to monitor the vehicle’s movements constitutes a search.

The latest decision of the United States Supreme Court regarding technology was the 2014 Riley v. California case. The U.S. Supreme Court merged the Riley case with the United States v. Wurie case since the main issue in both cases was information found on a cell phone. In Riley v. California (2014), the defendant was stopped for a traffic violation, arrested, searched incident to the arrest and the officers found a cell phone on his person. After a few hours, detectives at the police department searched the phone and linked the defendant to a gang shooting that happened a few weeks prior. The defendant filed a motion to suppress the evidence found on the phone and was denied. The U.S. Supreme Court reversed this decision stating that generally police may not search an individual’s phone without a warrant. The reasoning behind this is because searching a phone is more in-depth than a brief physical search
to a person (Riley v. California, 573 U.S. __ (2014)). In the same case, the Supreme Court ruled on United States v. Wurie.

In United States v. Wurie, law enforcement officials observed the defendant participating in a drug sale, arrested him and seized his cell phone. The officers noticed “my house” in the call log multiple times and, using technology, were able to locate the defendant’s home address. The officers then obtained a search warrant for the address and found drugs and ammunition in the apartment. The defendant was convicted but the decision was reversed in the Court of Appeals and the U.S. Supreme Court affirmed the reversal (Riley v. California, 573 U.S. __ (2014)). The same reasoning was given to this case as the previous one mentioned; a search warrant must be obtained to search the contents of a cell phone.

For both of the previous mentioned cases, the reasoning given by the U.S. Supreme Court is that searches done incident to arrest are to protect the officers, arrestees, and by-standers from any harm and the information located in a cell phone is not an immediate danger (Riley v. California, 573 U.S. __ (2014)). One of the main concerns was that the information on the cell phone could be remotely wiped or encrypted but there is little indication that this is prevalent at this time (Riley v. California, 573 U.S. __ (2014)). In the future, if remote wiping or encryption is possible, then the U.S. Supreme Court will have to make a decision regarding that when the time comes. For now it is not an important fact in the decision of these cases. Because technology is always evolving, the United States Supreme Court has to tread carefully when making decisions regarding technology and searches. They have to continuously interpret the Fourth Amendment of the United States Constitution.
AUTOMOBILE SEARCHES

Searches conducted in regards to private residences are different from those conducted in automobiles. When it comes to private residences, there is a reasonable expectation of privacy that law enforcement officials will not enter the home without a search or arrest warrant. However, there is a lower expectation of privacy with automobiles than with private residences. Even though the automobile itself is private property, the objects in the car can be seen to naked eye observation (*Coolidge v. New Hampshire*, 403 U.S. 443 (1971)). Police officers can gather evidence just by looking into an automobile.

To be considered an automobile, the object has to be movable and have a reasonably less privacy from other people. Unlike stores or homes, automobiles can be “quickly moved out of the locality or jurisdiction in which the warrant must be sought” (*Carroll v. United States*, 267 U.S. 132 (1925)). This is an exigent circumstance in which law enforcement officials need to act quickly and accordingly to ensure that evidence does not get destroyed. Before we look at present day standards for automobile searches, let us look at early cases.

In the 1925 *Carroll v. United States* case the Supreme Court held that police officers have authorization to conduct warrantless roadside searches of a vehicle. For this to happen the officers need probable cause that either evidence will be destroyed or “lost” if the vehicle leaves the scene (*Carroll v. United States*, 267 U.S. 132 (1925)). In this particular case, the contraband located in the car was alcohol. Since this occurred during the Prohibition Era, the officers believed that if they let the defendants leave the scene the evidence would be destroyed (*Carroll v. United States*, 267 U.S. 132 (1925)). Therefore, the final ruling by the Supreme Court determined that warrantless searches do not always violate the Fourth Amendment and the expectation of privacy. The law enforcement officers are merely preventing evidence from being
destroyed. The U.S. Supreme Court made the decision knowing that automobiles could be easily moved and transported to another location from the time of the stop to having a judge sign a search warrant (*Carroll v. United States*, 267 U.S. 132 (1925)). This case is significant because it states that officers are constitutionally authorized to partake in these roadside searches when probable cause exists that the objects located in the vehicle are evidence of criminal activity (*Carroll v. United States*, 267 U.S. 132 (1925)). Compared to other types of searches, such as businesses and homes, automobile searches can rely on probable cause for a search without a warrant. Other types of searches need probable cause to obtain a warrant to search the location.

In the 1970 *Chambers v. Maroney* case, the defendant was arrested when, following an armed robbery, the police stopped his vehicle. The vehicle was then driven to a nearby police station where it was searched. Evidence was found linking the defendant and his friends to the crime that had just occurred (*Chambers v. Maroney*, 399 U.S. 42 (1970)). The focus of this case was whether searching a vehicle that had been moved from the original location of the traffic stop to a police station without a warrant was a violation of the Fourth Amendment. The Supreme Court determined that a warrantless search of a vehicle that has been moved does not violate the Fourth Amendment right. The court used the 1925 *Carroll v. United States* case to reason about why this type of search is not a violation. The court reasoned that the search was “permissible on the grounds of exigency” (*Chambers v. Maroney*, 399 U.S. 42 (1970)).

The 1985 *California v. Carney* case resolved the issue of whether a motor home is considered a vehicle and if it is a violation of the Fourth Amendment to conduct a warrantless search. A federal drug enforcement agent had reasonable suspicion that the defendant, Carney, was using his motor home as a location to exchange marijuana for sex (*California v. Carney*, 471 U.S. 386 (1985)). The agent was able to get into the motor home and confirmed his suspicions.
The motor home was then impounded and taken to a nearby police station so the officers could conduct a more thorough search of the motor home. At this point more marijuana was found and the defendant was convicted of marijuana possession (California v. Carney, 471 U.S. 386 (1985)). The defendant filed a motion to suppress but the appellate court denied it. However, the California Supreme Court reversed Carney’s conviction and the U.S. Supreme Court agreed to review the case (California v. Carney, 471 U.S. 386 (1985)). The U.S. Supreme Court decided that a motor home that is on public roadways qualifies it as a vehicle and can be subjected to warrantless searches. However, if a motor home is not on public roadways, it requires a warrant to search the vehicle because it is considered a house (California v. Carney, 471 U.S. 386 (1985)). This was an important case because it explicitly stated when a search warrant is needed and when it is not, without violating the defendant’s Fourth Amendment right to privacy.

In 1999, the Wyoming v. Houghton case considered whether the Fourth Amendment prohibits officers from searching a passenger’s personal belongings during the course of a warrantless vehicle search. The defendant was a passenger in a moving vehicle when a trooper conducted a traffic stop. When the trooper asked the defendant her identity, she lied to the trooper. Therefore, the trooper began to search her purse, most likely looking for an identification card, and noticed drugs, specifically methamphetamine and related narcotics (Wyoming v. Houghton, 526 U.S. 295 (1999)). The defendant was then arrested and argued at trial that the evidence should have been suppressed under her Fourth Amendment right. The Wyoming Supreme Court reversed the conviction, ruling that the officer had no reason to search the defendant’s purse (Wyoming v. Houghton, 526 U.S. 295 (1999)). On appeal, the U.S. Supreme Court ruled that a warrantless search of a passenger’s personal belongings does not
violate the Fourth Amendment if a law enforcement official has probable cause to conduct a warrantless vehicle search (*Wyoming v. Houghton*, 526 U.S. 295 (1999)). This case was one of the most recent cases the U.S. Supreme Court has reviewed involving vehicle searches.

**DOCTRINES**

The Supreme Court decisions on privacy law and the Fourth Amendment allowed for doctrines to be established to regulate if an act is constitutional or not in regards to the Fourth Amendment. The *Olmstead v. United States* (1928) case paved the grounds for the Trespass Doctrine to be used as a standard in determining Fourth Amendment violations in court. Later in 1967, *Katz v. United States* overruled *Olmstead* and established the “Reasonable Expectation of Privacy” Doctrine. Both of these doctrines played an important role in determining the outcomes of Fourth Amendment related U.S. Supreme Court cases throughout history.

**TRESPASS DOCTRINE**

The Trespass Doctrine was a legal guideline used to determine if a defendant’s Fourth Amendment right was violated in the gathering of information and evidence in the case against him/her. The *Olmstead v. United States* (1928), *Goldman v. United States* (1942) and *On Lee v. United States* (1952) cases established the Trespass Doctrine, which was a standard by which other cases were decided. In all three of these cases, the U.S. Supreme Court decided that there was no violation of the Fourth Amendment because there was no physical trespass in any of the cases. In *Olmstead v. United States* the evidence used in the case was gathered from across the street and not on the defendant’s private property. In *Goldman v. United States*, the Court found no violation of the Amendment. Their reasoning was that the listening and gathering of evidence did not occur when the federal agents were physically in the room of the defendant. Lastly, in the 1952 *On Lee v. United States* case, the U.S. Supreme Court found no violation of the Fourth
Amendment as well. The agent wearing the wire was invited onto the defendant’s property and the agent listening to the conversation was not on the property at all.

The main component of the Trespass Doctrine was that a physical trespass had to occur in gathering evidence without a warrant to be found in violation of the doctrine. If the defendant invited someone wearing a wire onto the property then no trespass had occurred even if there was no warrant at the time of the invitation (On Lee v. United States, 343 U.S. 747 (1952)).

Also, as mentioned in the Goldman v. United States case, agents did trespass into a room of the defendant’s to place the listening device. However, when listening to the defendant’s conversations and gathering evidence the agents were not trespassing onto private property.

For the next few years the Trespass Doctrine was in place and referenced in any privacy law case that arose during that time. Then in 1967, the Katz v. United States landmark case overruled the Trespass Doctrine and established the “Reasonable Expectation of Privacy” Doctrine. Before the Katz v. United States case in 1967, electronic and other types of surveillance were found in violation or not in violation of the Fourth Amendment. It depended on whether the law enforcement officers physically went into a private area without a warrant. However, after this case, there was a different standard used to determine if a case was in violation or not.

“REASONABLE EXPECTATION OF PRIVACY” DOCTRINE

The Trespass Doctrine was the standard by which to determine violations of the Fourth Amendment until the “Reasonable Expectation of Privacy” Doctrine was established in the 1967 Katz v. United States case. This doctrine analyzed the evidence in Katz v. United States that was gathered from a bug attached to a phone booth. The incriminating information was used against the defendant. The Supreme Court ruled, “prohibition against unreasonable searches and
seizures was to protect ‘people, not places’ and, thus, ‘the reach of [the Fourth] Amendment cannot turn upon the presence or absence of a physical intrusion into any given enclosure’” (*Katz v. United States*, 389 U.S. 347 (1967)). Early U.S. Supreme Court cases required law enforcement officials to physically trespass onto private property, as seen in the Trespass Doctrine. But now citizens are allowed to have a reasonable expectation of privacy. There does not need to be a physical trespass for a violation of the Fourth Amendment right to occur.

The key to this doctrine is that reasonableness is determined when analysts look at the totality of the circumstances. Put simply, every factor is accounted for in each case and a reasonable expectation can change case-by-case, depending on the facts of the case (*Katz v. United States*, 389 U.S. 347 (1967)). A person has a lesser expectation of privacy while in a park because they are in a public place. On the other hand, a person has a higher expectation of privacy in their homes since homes are considered private property.

**WARRANT REQUIREMENTS**

For reasonable searches to not be in violation of the Fourth Amendment there is a warrant requirement involved unless there is a specific exception to the warrant clause. As determined in the 1995 *Vernonia School Dist. 49J v. Acton* case, “[w]here a search is undertaken by law enforcement officials to discover evidence of criminal wrong-doing…reasonableness generally requires the obtaining of a judicial warrant.” If warrants were not needed to conduct a lawful search, then law enforcement officials could search a person’s house anytime they wanted to do so. Because of the Fourth Amendment protections, this is not the case. The reasoning behind this protection is because securing a warrant before conducting a search ensures inferences that support the search are made by neutral judges and magistrates (*Johnson v. United States*, 333 U.S. 10, 14 (1948)).
There are cases that were decided by the U.S. Supreme Court that established expectations to the warrant requirements. In 1969, the U.S. Supreme Court decided in *Chimel v. California* that a warrantless incident to arrest search is justified by either the interest of officer safety or the interest of preserving evidence. This warrantless search is only legal when “the arrestee is unsecured and is in reaching distance from the passenger compartment at the time of the search” (*Chimel v. California*, 395 U.S. 752 (1969)). One of the flaws of this decision is that the wording is general and does not explicitly state what that distance must be for the search to be legal.

In 2009, the *Arizona v. Gant* case added another exception to the warrant requirement. The U.S. Supreme Court determined that a warrantless search is legal if it is “reasonable to believe that evidence related to the crime and/or arrest might be found in the vehicle,” and that the arrestee will have access to the compartments in the vehicle (*Arizona v. Gant*, 556 U.S. 332 (2009)). If there is no reasonable belief that the arrestee will be able to get to the compartments, the warrantless search would be conducted in violation of the Fourth Amendment.

In 2011, *Kentucky v. King* declared that in exigent circumstances a warrant does not need to be obtained for the search to be legal (*Kentucky v. King*, 563 U.S. __ (2011)). In 2006 *Brigham City v. Stuart* reasoned that warrantless searches can be conducted to prevent the imminent destruction of evidence. Also, the police cannot create the exigency through engaging or threatening to engage in conduct violating the Fourth Amendment (*Brigham City v. Stuart*, 547 U.S. 398 (2006)). Using these criteria, warrantless entries and searches are legal during exigent circumstances when the police do not create the circumstances.
ANALYZING A CASE

When deciding if a case involves Fourth Amendment rights and whether or not they are violated, a flow chart system is used (See Appendix A). Using the most recent Supreme Court case *Riley v. California* (2014), examples will be given throughout the explanation as to why this case made it to the Supreme Court. There are three main components to be considered when determining if a case incorporates the Fourth Amendment violation. The first question is, whether any government conduct/intrusion occurred. In order to be a violation of a Constitutional right the government must be the entity committing the violation. Government officials include anyone within the government law enforcement and anyone working for them, such as confidential informants. Any cases that do not involve government conduct or intrusion are not considered to be violations of the U.S. Constitution. If there is governmental conduct in the case, then the second question is analyzed. That question is whether a reasonable expectation of privacy existed. The Court considers the totality of circumstances surrounding the intrusion to determine whether a reasonable person would feel that his/her privacy is being violated. To conclude the first part of the analysis, a search or seizure needs to occur for analysts to further examine the case.

If the answer to all these questions is “NO,” then there is no suppression of evidence needed because the case does not involve the Fourth Amendment. However, if all three answers are “YES,” then the Fourth Amendment applies to the case and further action needs to be taken. If the answers to the first two questions are “YES” and the third one is “NO” then there is no suppression of evidence. In the *Riley v. United States* case, a law enforcement officer arrested the defendant, Riley. The officer was a government official so there was government conduct involved. Secondly, Riley had a reasonable expectation that people, including the officer, were
not going to search his phone. Since there was a reasonable expectation of privacy at that point, analysts look at the last threshold analysis. Lastly, the officer on the scene of the arrest searched the defendants phone and, upon finding incriminating evidence, seized it. Because all of these questions were answered in the affirmative, the analysis determined that the Fourth Amendment applies to the case.

The second set of questions deals with warrants and the validity of the warrants. If the warrant used in the search is a valid warrant or valid waiver (consent to the search), then there is no suppression of evidence. This question is simply asking if there was a search warrant issued to search or seize a property or an object. If a search warrant was valid, there is no violation of the Fourth Amendment. If there is no valid warrant, analysts need to determine if a valid consent was given for the search. If there was no valid warrant or consent given to search then there is a further violation of the Fourth Amendment. In the Riley case, the officers did not have a valid warrant to search the phone. Upon further analysis, the officers also did not have the defendant’s consent to search the phone. Since the Fourth Amendment applies to the case, as determined through the first set of questions, either a valid warrant or consent needed to be given for the evidence to be admissible in court.

The next avenue is to look at judicially created exceptions to the warrant clause. The Supreme Court has established several exceptions to the warrant requirement. If one of these exceptions exists, any evidence seized will be admissible in court. If no exceptions exist, then evidence must be suppressed because there has been a violation of the Fourth Amendment.

There are many different aspects that need to be incorporated when determining if a case is a violation of the Fourth Amendment. Having one method of analysis helps to solidify that there was a violation of the amendment. To simplify, since there are many different
circumstances in which the Fourth Amendment can be violated it is helpful to have a consistent way of analyzing the cases. When attorneys call for motion hearings to suppress evidence against their client, they have to use this process as grounds for their motion to be granted. They need to give the judge a motion as to why they believe that evidence needs to be suppressed and how it is a violation. Then it is up to the judge to decide in a motion hearing if the evidence was obtained in an unconstitutional manner. Later in this research, this will be the method of analysis when discussing search and seizure cases and the laws that came from them.

**DISCUSSION**

Privacy law and Fourth Amendment rights are unique to American people. Throughout our history, how we view violations of the Fourth Amendment has changed and continues to change. In the past, the Trespass Doctrine was used to determine violations of the Fourth Amendment and technology was not an influencing factor of court decisions. In earlier cases, such as the 1886 *Boyd v. United States* case and the 1914 *Weeks v. United States* case, the issue was whether law enforcement officials needed a search warrant to gather evidence in the defendant’s home. Those cases helped to set a precedent about how to legally gather evidence in a criminal case.

During the earlier cases involving the Fourth Amendment, society and the U.S. Supreme Court were not worried about technology. The main concern was for laws to be enacted that prevented law enforcement officials from searching homes, businesses and persons without a proper search warrant or probable cause of a crime. When the *Boyd v. United States* (1886) case took place, society wanted to make sure that goods coming into the country were legal and papers were one of the biggest focuses of the U.S. courts. Because of that, the U.S. Supreme Court reviewed cases that involved trading, goods and personal documents.
Then came the 1928 *Olmstead v. United States* case, the 1942 *Goldman v. United States* case, and the 1952 *On Lee v. United States* case, all of which influenced the Trespass Doctrine. The Supreme Court had ruled that a search warrant was needed to conduct a legal search but nothing was mentioned about physically being on the property until these cases. The U.S. Supreme Court ruled that unless law enforcement officials physically trespass onto private property of the defendant, there is no violation of the Fourth Amendment. This doctrine influenced many cases from the 1930s to the 1960s until the “Reasonable Expectation of Privacy” Doctrine was established by the 1967 *Katz v. United States* case.

Until *Katz*, the U.S. Supreme Court was focused on where the search and seizure took place. If a physical trespass that occurred in the gathering of evidence, then the evidence was inadmissible in court because it was a violation of the Fourth Amendment. However, if the evidence was gathered from another location, as is seen in the 1942 *Goldman v. United States* case, there was no violation and the evidence gathered is admissible in court. Until 1967, the U.S. Supreme Court used this as a standard to determine when cases were in violation of the Fourth Amendment.

In the 1967 *Katz v. United States* case the U.S. Supreme Court ruled that the Trespass Doctrine could not effectively be used as a standard to determine violations of the Fourth Amendment due to its nature. Instead, a reasonable expectation of privacy was used for a wiretap on a public phone booth, when no physical trespass occurred (*Katz v. United States*, 389 U.S. 347 (1967)). The Court ruled that the Fourth Amendment is in place to protect people, therefore, no decision should be based on the location where evidence was gathered. Rather, the U.S. Supreme Court considers the totality of the circumstances to determine whether a violation occurred. If a person is in their home, a reasonable expectation of privacy is established because
they are not out in public. Because of this, law enforcement officials need a search warrant to go into a home to search it. On the contrary, if a person is having a conversation on a cell phone there is a lesser expectation of privacy since the conversation is in public and anyone can listen to it. That is why when the U.S. Supreme Court reviews cases involving the Fourth Amendment, they need to make a decision based on the totality of the circumstances. They cannot just apply the same rules to every case that involved privacy law.

Technology started to become important in the 1920s as seen in the 1928 *Olmstead v. United States* case. However, technology does not influence many cases until it begins to rise again in the 1960s. Since the 1960s, many U.S. Supreme Court decisions have begun to consider modern technology. Prior to this point in history, technology, other than telephones, was not important because it did not affect the outcomes of Supreme Court decisions. Beginning with the 1961 *Katz v. United States* case, electronic surveillance became a focus of American society and the Supreme Court. Technology was also important in the 1986 *California v. Ciraolo* case. Law enforcement officials could not see the marijuana field growing behind the defendant’s house but using a plane they were able to fly over the property and gather the evidence they needed (*California v. Ciraolo*, 476 U.S. 207 (1986)). Without the ability to fly an airplane, law enforcement officials would not have been able to collect the evidence they needed against Ciraolo.

In the 2001 *Kyllo v. United States* case, law enforcement officials used a thermal imaging device to determine that there was probable cause that the defendant was growing marijuana in his home. The officers obtained a search warrant to search the home but the evidence gathered was determined inadmissible in court. The U.S. Supreme Court ruled that the officer should have obtained a search warrant to use the thermal imaging device (*Kyllo v. United States*, 533
U.S. 27 (2001)). Then in 2005, the U.S. Supreme Court ruled that a search warrant is required to place a GPS device onto a specific vehicle and the law enforcement officials must adhere to the specifications of the warrant (United States v. Jones, 565 U.S. __ (2005)).

The most recent cases involving technology were the 2014 Riley v. California and United States v. Wurie cases. In both of these cases cell phones were searched by law enforcement officials without a search warrant. The officers in both cases found incriminating evidence that linked the defendants to other crimes. Both defendants filed a motion to suppress the evidence gathered from the cell phones because it was gathered illegally. The Supreme Court’s decision was the same for both the Riley and Wurie cases: search warrants are needed when gathering evidence from a cell phone. Their reasoning is that cell phones are mini-computers. Since a search warrant is needed to search a computer, one is needed to search a cell phone. These cases are landmark cases because it was the first time the Supreme Court made a decision based on current technology that influences our lives everyday (Riley v. California, 573 U.S. __ (2014)).

This decision reflects society’s views because technology is becoming a part of everything that is done. Computers are needed to complete homework, phones to contact people, etc. The Supreme Court’s reasoning in their decision to require search warrants to search cell phones also reflects the constant use of technology. Every few months new phones are released into the market with new technology that makes them better than the phones before it. These new phones include almost all of the same functions as computers. Therefore, logical reasoning says to treat the phones as if they were computers.

There are many factors that are continuously changing through history that affect the outcomes of U.S. Supreme Court cases, and influence standards at which each case is compared to others. One relevant factor in 2015 is the importance of technology in our society. Since
technology is changing, how the U.S. Supreme Court decides their cases is changing too. Since the “Reasonable Expectation of Privacy” Doctrine is more abstract than the Trespass Doctrine, it has been easier to morph the doctrine with ever-changing technology. In 2015, when determining if a case involves a violation of the Fourth Amendment, the “Reasonable Expectation of Privacy” doctrine is used in analyzing the case.

MOVING FORWARD

In the near future, the Supreme Court will probably have to make more decisions on privacy laws in regards to technology. Similar to how society’s view of technology changed from the 1950s to present day, technology will continue to evolve. This has the potential to cause problems with privacy law. As mentioned in the 2014 Riley v. California case, at this point in time cell phones are unable to be wiped by a remote device. Because of this, there is no need to search a cell phone of a person in custody right away. Law enforcement officials have time to obtain a search warrant to check the phone. There could be a chance that in the future, phones can be remotely wiped. When that happens we can expect that the U.S. Supreme Court will review these cases and possibly overturn the Riley v. California case.

Another matter that could be of interest to the U.S. Supreme Court in the near future is the use of drones. Since drones can be flown within a certain distance of a remote control, there is a potential for huge privacy law violations. As it stands now, a “reasonable expectation of privacy” states that there are certain places where a person can expect more privacy than others. For example, in a home one has more privacy than on a street. If a person is in their home and a government drone watches and hears what is happening from inside the house, it is a violation of the privacy law. Another way drone use could influence court decisions is that drones may be able to collect incriminating evidence. It is possible that the U.S. Supreme Court could decide
that drones cannot be used in evidence collection because no search warrant was issued to obtain the evidence.

Trial courts around the country are beginning to see cases that involve drones appear in their courtrooms now. In 2014, a case was brought to court regarding a drone that was caught taking pictures of the University of Virginia campus. The defendant in the case, Raphael Pirker, was fined $10,000 by the Federal Aviation Administration (FAA) for using the drone. A decision was made that model aircraft, also referred to as drones, are not the same as the aircrafts mentioned in the FAA’s regulations. On appeal, the National Transportation Safety Board reversed the decision and granted power of authority regarding unmanned aircraft, drones, to the FAA (*Federal Aviation Administration v. Raphael Pirker*, NTSB Order No. EA-5730, Docket CP-217 (2014)). The fine that was originally given to Pirker was reduced during a settlement between the parties. This recent case is one of many that have the possibility of being reviewed at the U.S. Supreme Court level in the near future. Although this case did not involve the Fourth Amendment because it did not involve government intrusion, it shows that drones are becoming more common. It is only a matter of time until government use of drones will be considered by the U.S. Supreme Court.

One other area that could be of interest to the Supreme Court regarding modern technology is body-cameras on police. During earlier cases, police officers only had their word against the plaintiff’s if an officer was brought to court. In 2015, body cameras give better documentation and increased transparency to every police-citizen interaction (Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum, 2014). It seems to be a good idea to help ensure that officers are following the laws enacted to protect citizens. It is possible that seeing a situation at a later date will help the officer improve his skills to create a better relationship with
citizens. However, body cameras also create a problem for departments in regards to privacy law.

Body cameras go wherever the officer wearing them goes. This includes into private residences while conducting a search. Allowing officers to record the search and theoretically a person’s entire house is a different level of a reasonable expectation of privacy (State v. Young, 123 Wash. 2d 173, 184, 867, P. 2d 593, 599 (1994)). When officers go into the homes with a search warrant, there is an expectation that what the officer sees will not leave the house. Once law enforcement officials begin to wear body cameras during every shift, there is a high chance that searches will be taped without a valid search warrant. Body cameras on police will be important for the U.S. Supreme Court to review due to the underlying privacy issues involved since they will allow interactions with the public to be transparent. Those underlying issues could become violations of privacy law.

Drones and police body cameras may be the last focuses involving technology cases for a few years if the prevalent trend continues. The trend seems to be that every twenty to thirty years technology in criminal cases rises and declines. Technology was present in some 1920s cases, declined until the 1960s when there was an increase in technology cases, decline again until the 2000s, and since then it has been on an increase. Because of this, it is possible that there will be a few more cases involving modern technology in the coming years. However, in about five years or so, there might be a decline in the technology cases. The U.S. Supreme Court will choose to make decisions on what the future holds. It is beneficial to American society if the focus of the Supreme Court changes because the decisions will be relevant to what is happening in society. With ever-changing focuses of the U.S. Supreme Court, privacy laws continuously reflect what is important in American society.
OPINION

Reviewing United States Supreme Court cases and doctrines involving search and seizure within the Fourth Amendment, has allowed me to comment on how these cases are decided. One of the main observations during this analysis was that laws and doctrines have evolved throughout history. As seen in the Boyd v. United States 1886 case, the court decided that entering a home without consent or a warrant is a violation of the Constitutional right. From there, search and seizure laws evolved to produce the Trespass Doctrine. That doctrine was the standard for many years until in 1967, the “Reasonable Expectation of Privacy” Doctrine was established. Throughout the history of the United States the Fourth Amendment did not change, but laws and doctrines regarding searches and seizures have changed.

It is beneficial to the defendant that these laws are continuously evolving. In 2015, the “Reasonable Expectation of Privacy” Doctrine is beneficial to the defendant because it allows individual analysis of each case. The reasoning for this is because one of the focuses of the “Reasonable Expectation of Privacy” Doctrine is to look at the totality of the circumstances before the court makes a definite ruling. Depending on the circumstances occurring when evidence was gathered can determine if the evidence is admissible in court or not. Even though cases may seem similar, they have unique characteristics that call for individual analysis. Overall, the “Reasonable Expectation of Privacy” Doctrine is a great doctrine in place that helps people get the most justice possible in search and seizure cases.

CONCLUSION

Throughout the United States history, protecting citizens’ rights in regards to the Fourth Amendment and privacy law has been difficult. Many cases have been decided by the United States Supreme Court in order to protect this right with the changing times. Privacy rights can
range from an unconsented or warranted search of a person’s home to wiretapping their conversations to searching cell phones without a warrant (Weeks v. United States, 232 U.S. 383 (1914); Katz v. United States, 389 U.S. 347 (1967); Riley v. California, 573 U.S. ___ (2014)). All of the above mentioned focuses of the U.S. Supreme Court are violations of the Fourth Amendment. Throughout history, society’s view regarding privacy law has changed as well. This is why as technology becomes more prevalent in society, more cases regarding the Fourth Amendment are seen in courts.

Along with the ever-changing focus of privacy law is the ever-changing technology that evolves with it. The U.S. Supreme Court cannot predict what type of technology will have the biggest impact on privacy law so they can only make decisions on what is most prevalent in society now. In the future, the court will encounter many more cases regarding technology because of how important it is in society. Drones, unmanned aircrafts, and police body cameras are just some examples of modern technology that has potential to influence future cases. Back when the 1886 Boyd v. United States case occurred one of the most important pieces of society was paperwork for imported goods from England. That is why the Boyd case made it to the U.S. Supreme Court. Falsifying papers was seen as a terrible crime in the 1880s. This case is just shy of 130 years old and already many major changes have occurred in privacy laws and application of the Fourth Amendment.

Also, knowing the formula in which privacy law cases are analyzed helps to understand how specific the process is. There are many avenues in which a case can be found in violation of the Fourth Amendment or not. The U.S. Supreme Court needs to review each aspect of the case to make sure it is entered into the formula correctly and no mistakes are made. The best way to
have consistency is to always use the same method. That is why the method mentioned above is very important in regards to Fourth Amendment violation cases.

Overall, the history of privacy law and the Fourth Amendment is very influential. There have been a lot of decisions made regarding how and when search warrants are needed and executed. Also, many cases have influenced doctrines that set precedents for other cases to be decided. Without the previous Trespass Doctrine and current reasonable expectation of privacy doctrine, cases could be difficult to resolve. However, since these doctrines were and are in place, it makes it easier for trial and appellate courts to make decisions without going straight to the Supreme Court. Due to decisions made by the U.S. Supreme Court, the Fourth Amendment and privacy laws are still one of the most unique rights given to American citizens.
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