Unit 5 2012-13

The right of the people to be secure against unreasonable searches and seizures is protected under the Fourth Amendment. Justice Louis D. Brandeis believed that, in order to protect men against unjustifiable intrusions, they must be deemed violations of the Fourth Amendment whatever the means employed. Justice Brandeis is correct because without continuously regulating the exercise of the Fourth Amendment, the government could invade people’s privacy more easily.

In *Olmstead V. U.S.* (1928) the Supreme Court ruled that wiretapping a phone was not a violation of the Fourth or Fifth Amendment. Several years later *Katz V. U.S.* (1967) overruled Olmstead. The Supreme Court ruled in Katz’s favor and made wiretapping illegal without a warrant. The court ruled that the fourth amendment should protect people, not places, and anywhere that a person has a reasonable expectation of privacy, they are protected.

*Kyllo V. U.S* (2001) defined in deeper detail the jurisdiction of law enforcement in warrantless searches. The Court ruled that the use of thermal imaging of a person’s home was unconstitutional and a violation of the Fourth Amendment. This case helped secure a person’s right against intrusions by making sure that even as technology improved, people would still be protected. This means that the government can not use extra resources to obtain access to something that they would normally need a warrant to search. However, *Knots V. U.S* (1983) ruled that law enforcement have the right to place trackers in a person’s car only to follow any civilian without a warrant in a public place for a reasonable period of time in which law enforcement does not go out of their way, in order to follow a suspect.

The framers strongly held the importance of the right against unreasonable searches and seizures because the British would do home searches with general warrants, which didn't describe specific items or places to be searched in order to collect taxes and recover stolen goods, and would also ransack the colonist's homes during the process.

Courts interpret the Fourth Amendment as a protection of privacy because it prohibits general warrants, requires probable cause for a warrant to be issued, a judge must serve the warrant, and it must state what can be searched and seized.

Another part of “intrusions” that is also questioned is whether law enforcement officers truly have "reasonable suspicion" to invade a citizens privacy. Reasonable suspicion has no specific definition due to the variety of situations but for the most part it can be noises, smells, and things a police officer sees.

The protections from the government are always there, except in certain circumstances. However, it is up to the people to know their rights. If they accept or volunteer to a search, they give up their Fourth Amendment right.

With everything the Supreme Court does, they have to balance citizen’s protection and citizen’s rights. The case with the Fourth Amendment is no different, and this has caused the Supreme Court to struggle to be true to the spirit of the amendment while not restricting police in ways that render effective law enforcement impossible. The hardest part comes from trying to balance the two, in that one does not want to infringe on the individual citizen’s rights, however they must still keep in mind the safety and well being of the rest of the country.

The USA PATRIOT Act of 2001, illustrates the Supreme Court’s dilemma of protecting individual citizen’s rights given under the fourth amendment because it allows police to eavesdrop on electronic communication.

One way to enforce the Fourth is through the exclusionary rule. Which is in place protect individual citizen’s rights against unreasonable search and seizure.  In *Weeks v United States* (1914), the Court ruled that evidence seized from the defendant's home could not be used in trial since it was seized without a warrant. In *Mapp v Ohio*  (1961) Dollree Mapp sought for her conviction of possessing obscene materials to be overturned because the police had obtained the evidence against her without a warrant. The court ruled six to three in favor of Mapp observing the exclusionary rule.  Nevertheless, in *US v Herring* (2009), the  Court ruled that in unlawful searches due to procedural errors not in disregard to the rights promised, the exclusionary rule does not apply. Having the exclusionary rule keeps law enforcement officials from breaking the law and assures citizens that if law enforcement violates the Fourth Amendment, the evidence would not be viewed.

The fourth amendment provides the american public with protections against all unjustifiable intrusions by the government, and is a right that should never be taken away.