

duce vomiting,¹⁵⁵ and surgery under general anesthetic to remove a bullet lodged in a suspect's chest.¹⁵⁶ Factors to be weighed in determining which medical tests and procedures are reasonable include the extent to which the procedure threatens the individual's safety or health, "the extent of the intrusion upon the individual's dignitary interests in personal privacy and bodily integrity," and the importance of the evidence to the prosecution's case.¹⁵⁷

In *Warden v. Hayden*,¹⁵⁸ Justice Brennan for the Court cautioned that the items there seized were not "'testimonial' or 'communicative' in nature, and their introduction therefore did not compel respondent to become a witness against himself in violation of the Fifth Amendment. . . . This case thus does not require that we consider whether there are items of evidential value whose very nature precludes them from being the object of a reasonable search and seizure." This merging of Fourth and Fifth Amendment considerations derived from *Boyd v. United States*,¹⁵⁹ the first case in which the Supreme Court considered at length the meaning of the Fourth Amendment. *Boyd* was a quasi-criminal proceeding for the forfeiture of goods alleged to have been imported in violation of law, and concerned a statute that authorized court orders to require defendants to produce any document that might "tend to prove any allegation made by the United States."¹⁶⁰ The entire Court agreed that there was a self-incrimination problem, but Justice Bradley for a majority of the Justices also used the Fourth Amendment.

Although the statute did not authorize a search but instead compelled the production of documents, the Justice concluded that the law was well within the restrictions of the Search and Seizure Clause.¹⁶¹ With this point established, the Justice relied on Lord Camden's opinion in *Entick v. Carrington*¹⁶² for the proposition that seizure of items to be used as evidence only was impermissible. Justice Bradley announced that the "essence of the offence" committed by the government against Boyd "is not the breaking of his doors, and the rummaging of his drawers . . . but it is the invasion of his

¹⁵⁵ *Rochin v. California*, 342 U.S. 165 (1952).

¹⁵⁶ *Winston v. Lee*, 470 U.S. 753 (1985).

¹⁵⁷ *Winston v. Lee*, 470 U.S. 753, 761–63 (1985). Chief Justice Burger concurred on the basis of his reading of the Court's opinion "as not preventing detention of an individual if there are reasonable grounds to believe that natural bodily functions will disclose the presence of contraband materials secreted internally." *Id.* at 767. *Cf. United States v. Montoya de Hernandez*, 473 U.S. 531 (1985).

¹⁵⁸ 387 U.S. 294, 302–03 (1967). Seizure of a diary was at issue in *Hill v. California*, 401 U.S. 797, 805 (1971), but it had not been raised in the state courts and was deemed waived.

¹⁵⁹ 116 U.S. 616 (1886).

¹⁶⁰ Act of June 22, 1874, § 5, 18 Stat. 187.

¹⁶¹ *Boyd v. United States*, 116 U.S. 616, 622 (1886).

¹⁶² *Howell's State Trials* 1029, 95 Eng. Rep. 807 (1765).