

# The Fourth Amendment: Liberty, Security, and Technology

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## The Fourth Amendment:

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.

## Introduction

### Part One: The Framers and the Fourth Amendment

- ➡ The Rights of the Accused
- ➡ General Warrants and Writs of Assistance
- ➡ Principles and Values

### Part Two: The Supreme Court and the Fourth Amendment

- ➡ The Role of the Supreme Court
- ➡ *Olmstead v. United States* (1928)
- ➡ *Katz v. United States* (1967)
- ➡ Exceptions to the Warrant Requirement

### Part Three: Liberty, Security, and Technology Today

- ➡ Principles and Cases
- ➡ Email, texts, GPS location information

## **Fourth Amendment Writing Assignment**

Imagine that you are justices on the Supreme Court (congratulations!), and that you must decide a case which contains the following difficult questions:

- ➡ May the government, without a warrant, have access to e-mails older than 180 days, or would this be a violation of the 4th amendment?
- ➡ May the government, without a warrant, obtain the location of individuals using GPS data from their cell phones or tablets, or would this be a violation of the 4th amendment?

As noted in the presentation, there are several issues you may wish to consider, including whether a search under the 4th Amendment has occurred; whether the individuals have a reasonable expectation of privacy; the notion that the 4th amendment protects people, not places; the larger values underpinning the 4th amendment (including protecting individuals against government oppression and a concern about giving the government too much discretion in criminal investigations); and the legitimate security concerns of the government.

If there are strong disagreements within your group, you may wish to consider writing one majority opinion and a separate dissenting opinion. Also note that you may end up answering the two questions in different ways.