Email - must have warrant for all email, no date restriction

GPS - no warrant

- you would want to be able to track people under suspicion - like if someone is suspected of kidnapping and you wanted to find a missing child

1. Searching physical property- how is the 4th amendment used: Intro

Talk about previous cases on using normal search warrants

Marcus vs Search Warrant 1961

Main Thesis for the Paper:

2. Email

use judge quote - password protection

3. GPS

safety reasons, to protect people

no other reason to track people

What does the fourth amendment cover? It it obvious it covers physical material and an example of this is the case of Marcus v. Search Warrant 1961.

In the 1967 Supreme Court case, Katz vs. the United States, Charles Katz had a prior conviction overturned because his right to privacy was violated. Katz was under suspicion of illegal gambling; and without obtaining a warrant, the FBI placed a listening device on the outside of a public phone booth that he frequently used. Katz made a phone call at that booth with the door closed, not expecting anyone to listen in on his conversation. In court these tapes were the evidence used to convict Katz, but Supreme Court Justice Justin Harlen determined “that an enclosed telephone booth is an area where, like a home, and unlike a field, a person has a constitutionally protected reasonable expectation of privacy.” Just like a phone conversation, email is considered private communication and should be protected by search warrants; however, a person’s physical location is not private, and thus, the tracking of individuals through GPS systems should not require a warrant.

The purpose of email is to send a private letter through the internet to certain individuals. This private letter is meant for the correspondents’ eyes only and no one else should be able to access the email account. When people set up their individual email accounts, they set it up with password protection thinking that no one else can get into the account. Since the password implies that the account is private, the government must get a warrant in order to access the account and view the emails, regardless of when the email was written and sent. Setting up a password protected email account meets Justice Harlan’s Fourth Amendment protection criteria, “an actual expectation of privacy” that “society is prepared to recognize as reasonable.”

On the other hand, tracking the location of a person through a GPS system should not require a search warrant since someone’s location is private and there is no “expectation of privacy.” An email password indicates the privacy, but there is no similar indication regarding privacy of location; anyone is able to see another’s physical location. Thus, warrants are not needed in order to use GPS tracking.

Justice Potter Stewart stated that "the Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection . . . . But what he seeks to preserve as private even in an area accessible to the public, may be constitutionally protected.” In email, there is a sense of privacy with password protection and a warrant is needed. However, a person moving from place to place is public information and there is no need for a warrant.