



Search and Seizure Analysis

Abstract "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" (Hudson, 2010, p. 363). In this essay we will explore what is reasonableness under the Fourth Amendment. A discussion of consensual encounters vs. detentions concerning search and seizure, we will also discuss important cases that shape the fundamentals procedures of search and seizure. According to Rutledge (2010) p. 109, reasonableness may have up four factors to consider: justification, scope, place, and manner of execution. He also makes a valid point to state that even if an officer were to have the first three factors, justification, scope, and place the fourth is the most important because it could invalidate the search and seizure if its not done properly.

A justifiable search could have many factors that would allow an officer to conduct a proper search or make a lawful detention and stops. One of them is a search warrant, which carries a limited authority to detain persons present and also search the property detailed on the warrant. Another is a criminal profile; an example would be of a drug dealer that would fit the physical description given to the officer. Anonymous tip, multiple informant's, an example is like two or more persons able to identify someone that has committed a crime, and of course police observation.

However if the officer sees something suspicious he/she has to articulate why such person has broken the law and given him/her probable cause to do a warrantless search or detention on such said person. Scope falls in the actual process of the search, meaning that you could only reasonably search with in the search area, an example that my teacher Mr. Enos discussed in class, was if your searching for alcohol in a vehicle then you could only search were alcohol could be reasonably hidden inside a car.

Place refers to a public or private area, an example is you could search the immediate area of a public place like a park, but you can't search someone's back yard without a warrant. Lastly the Manner of Execution, which refers too the manner in which the officer carries out the search and his/her understanding of the individuals rights, and example would be that you could do a weapon pat down, which is literally just a pat down of the individuals clothe and don't actually searching pockets and such.

Also it helps the officer to diffuse the situation if the officer was to ask not demand and example would be "could I pat you down for my own protection?" (Rutledge 2010, p. 111). Consensual encounters are when an individual has agreed to talk to an officer on his/her own free will; such said person can at any time terminate the conversation and

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**Charles Audet, Pierre Hansen, Giles
Savard**



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