

# Example of warrantless searches term paper

[Health & Medicine](#), [Alcoholism](#)



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## Introduction

The right to privacy is perhaps one of the most fundamental cornerstones of America's democracy. The constitution under the Fourth Amendment ensures that all Americans have a right to privacy and this privacy can only be violated through a search warrant as defined by the constitution. The Supreme Court has since determined the nature and circumstances under which a warrant can be issued. However, one the most pertinent issue arises from searching a vehicle of suspect without a warrant. Several states have argued that if a suspect poses danger and there is evidence of probable cause, police officers may search the vehicle without having to get a warrant (Fisanick, 28). However, this has been viewed by many scholars and law experts as a breach of the Fourth Amendment. This paper evaluates the different aspects of warrantless searches and the legal implication thereof. The paper will provide a succinct historical analysis of the development of

the topic and will review the position of the Supreme Court with regard to the matter.

## **History of Warrantless Searches**

The history of warrants and the need for one goes back to a case heard by the Supreme Court. In the case *Katz v. United States* heard by the Supreme Court, it was decided that for a search to be performed that affects the privacy of the suspect, then such a search must be accompanied by a warrant (Grant, 32). This developed the principle of warrants where law enforcement bodies must obtain a warrant from a "neutral and detached magistrate". This case spelt out that searches performed on suspects without following the due process of the Judiciary is per se a breach of the Fourth Amendment. However, the Supreme Court was very keen to leave room for exception with regard to the warrant principle. Here the court appreciates some circumstances where law enforcement that requires a warrant may not help in stopping a crime. For this reason, automobile search was included in the exception rule but also with conditions.

The first cases of an automobile search were first reported in a 1925 case that has since provided the landmark ruling that assists law enforcement even to date. In the *Carroll v. United States* the United States Supreme Court heard the premise of cases that defined what is now referred to as the Carroll Doctrine (Lally, 413). This case took place at a time when the United States had instituted prohibition laws against the sale and distribution of liquor. Here a man called Carroll and his accomplice had been identified by undercover police agents as smugglers of liquor. The agents identified and marked the car that was used to transport the illegal liquor. Sometimes after

this identification, the police came about the car on the highway, stopped the car and on searching the car, they found 68 bottles of the illegal liquor. The suspect went to court and argued that the police did not have a warrant that allowed them to search the vehicle.

The Supreme Court held that the police were not at fault in searching the car as the police found probable cause to believe the suspect were transporting illegal liquor in the car. Additionally, the court now classified motor vehicle as forms of personal property that can easily be moved out of the warrant jurisdiction if law enforcement officers took time off to go obtain a warrant from a sitting judge. This has since set a precedent under which police officers and general enforcement are to be guided when it comes to violating personal privacy.

As more and more cases have emerged pertaining privacy and vehicle searches, the provision and exceptions in under the Carroll Doctrine have been expanded with time. In a separate case, the Supreme Court expanded the exception to include vehicles under police custody (impounded vehicles). The Chambers vs. Maroney cases had different circumstances as compared to the Carroll case (Logan, 58). Here, the police had received reports of an armed robbery and the description of the clothing of the robbers.

Subsequently, the robbers were apprehended and the car impounded by the police. The police then proceeded to search the impounded vehicle and found firearms and stolen property in the car. The suspects appealed the outcome of the judicial process arguing that the police had searched the car without a warrant. The Supreme Court held that the police would have searched the car upon seizure or at the police station. In general though, the

judges concluded that there was no difference between searching the vehicle upon arrest or at the station as long as there was probable cause.

## **Legal Implications**

The cases under which searches can be performed without warrants have presented several legal issues. Fisanick argues that after the Carroll cases, different courts have since presented differing verdicts and in most cases confusing in nature (21). Most courts directed that police officers may be allowed to search vehicles without warrants only under circumstances that may warrant arrests. Thus different courts have provided different verdicts and none has since provided a definite precedent. Other cases moved away from the Chambers verdict in which the arrested individual was not in the car during the arrest. Additionally, other cases that do not meet the probable cause threshold have considered such warrantless searches to be illegal and do not a court case.

There is also a legal issue that arises when a driver is stopped on the highway due to speeding. The question that arises from this vector is legality of searching an individual's vehicle when stopped on the highways. In a case, *Knowles v. Iowa* of 1998, the court held that it was unconstitutional for the police to search the car including the trunk after the driver was stopped for speeding (Lally 84). The Supreme Court held that the search was not conducted under the precept of probable cause or under circumstance that would warrant an arrest.

## **Relevance of the Topic on the Contemporary Society**

The current society heavily relies on cars and vehicles to move around.

Additionally, some citizens have made their cars the ' safe-havens' and thus hold a lot of personal and private matters. However, in the same breath, vehicles have been used to a greater extent to perpetrate several instances of crime. Thus searching these vehicles could go along in deterring such crime. Nevertheless, Logan argues that there is a fine line between upholding the constitutional right to privacy and crime deterrence by breaching this constitutional provision (58). This puts more pressure on the performance of the police when it comes to handling matters constitutional and law enforcement simultaneously. Grant asserts that the issues that surround searching a vehicle have not changed over time. A vehicle is a mobile enclosure that could hide contraband goods such as drugs or kidnapped persons. A police officer has the option of searching the vehicle under some conditions.

The rule that guides the police unit is that there must be probable cause that would lead to arresting the occupants of the vehicle. In this sense, the police should be in a position to argue that the occupant would have been arrested whether with the search of the vehicle or not. Then such a search would be deemed legal. Meeting the first requirement of probable cause also extends to vehicle impounded by the police and the occupants arrested.

Several advantages accompany such definition of allowed warrantless search by the Supreme Court. For instance, the Carroll doctrine has provided a foundation under which several cases have been decided. Police units and other law enforcement bodies have been allowed to perform warrantless

searches but under strict conditions.

However, this situation may be exploited by law enforcement personnel. The possibility of such exploitation lies in the determination of probable cause. This is due to the fact that determination of probable cause is a subjective matter and that such a matter will give the courts an open-ended issue that may not be determined.

## **Conclusion**

While the Fourth Amendment ensures the privacy of every citizen, the Supreme Court has identified several but determined circumstances under which this constitutional right may be breached by the state. A warrantless search is one such exception that may be allowed. However, it is only under the precept probable cause that a warrantless search may be allowed.

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