

# The concept of privacy under the fourth amendment

Law



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## Katz v. United States: The Concept of Privacy under the Fourth Amendment

**Procedural History** This case began in 1967, in Los Angeles, when Charles Katz used a public telephone booth to have a conversation about an illegal gambling bet. While using the public telephone booth to place bets with bookies, in Boston and Miami, he was unaware that a police officer was listening to him through a listening device placed next to the booth (Hess & Orthmann, 2008). He was arrested and charged for transmitting illegal information. In court, Katz challenged the court when he claimed the FBI trespassed into his privacy, and this made the Supreme Court rule in his favour.

### Facts

FBI agents placed a listening device next to the booth, and recorded the conversation that Katz was making. Katz was being suspected of transmitting illegal information.

### Issue

Did the FBI agents legally record Katz's conversation? Did the FBI agents violate the fourth amendment rights by recording this information?

### Verdict

The United States Supreme Court ruled that the FBI and the Police Department violated Katz's right to privacy.

### Analysis

The right to privacy is stipulated in the 4th amendment of the United States Constitution (Hess & Orthmann, 2008). The court argued that making a telephone call is a personal affair; therefore, the FBI and Police Department illegally recorded Katz's phone call. This is because the 4th amendment

barres any state agency to engage in unlawful seizures and searches of American Citizens (Hess & Orthmann, 2008).

### Conclusion

The 4th amendment of the U. S. Constitution defines what is needed to trespass into any American's right to privacy. It also defines what privacy right means. This amendment is what made the U. S. Supreme Court rule in favour of Katz.

### Justice Harlan's Formulation of the Privacy Test

This test asks two questions; first, whether a person has a subjective, or actual expectation of privacy. This is evaluated in the context of individual behaviour, case by case, and is focused on the subjective or actual belief of the victim, who is the subject of the search (Hess & Orthmann, 2008).

Second, whether or not there is an objective expectation of society. This tests whether there is a substantial expectation of privacy.

The majority of the court rejected trespass doctrine, holding that the 4th amendment does not protect things that an individual exposes to the public, but what an individual expects to keep private, in all places, including public areas (Hess & Orthmann, 2008).

### Reference

Hess M. K, Orthmann C. H. (2008). Introduction to Law Enforcement and Criminal Justice. New York: Cengage Learning.