

# The pros and cons of the fourth amendment essay sample



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While, the Fourth Amendment to the United States Constitution is one of the more significant bulwarks of American criminal law, it frequently prevents justice from being done. The protections that the Fourth Amendment offers are vital to the maintenance of free society. The right to be free from unreasonable search and seizure and to have a warrant issue only upon probable cause is fundamental safeguards to ensuring that innocent people are not wrongfully deprived of their liberties. In modern society however, some of the reasons for the Amendment are outdated and its net result allows guilty people to go free.

The Fourth Amendment still has a sacred role in our society. One need only look to stories in the evening news of police and prosecutorial misconduct and false accusations to understand the Amendment's continued benefits. Further, the Fourth Amendment has interpreted fluidly over the years so as to allow for warrantless searches where circumstances so justify. (GPO Access 2002). The amendment still operates to ensure that the accused have rights and are found guilty beyond a reasonable doubt before being deprived of the liberty.

The framers of the constitution had no reason to foresee the eventual advent of video surveillance, hard-drive recovery techniques and DNA analysis. These, and other, technological advances of the last 30 years tend to obviate the mechanical and circumstantial nature of proof that prevailed for most of civilized history. A failure to properly obtain a warrant when a which excludes a criminals DNA evidence (GPO Access 2002) or when a criminal was previously recorded on video committing a crime should not result in the criminal going free. This does not make our country a better place.

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The underlying concept of the Fourth Amendment is still an invaluable tool to protect out fundamental liberties and freedoms as Americans. Modern technology, however, has obviated the need for certain of the strict exclusionary rules and the Amendment has not kept pace. As a result, the Amendment sometimes is the cause of injustice and not a shield against it.

#### References

GPO Access (2002). *Fourth Amendment-Search and Seizure*

www. gpoaccess. gov. pp. 1313, 1343. Retrieved on 5 July 2010 from: