

4th amendment

[History](#)



4th Amendment Name: Institution: 4th Amendment The Fourth Amendment in America's constitution by the Supreme Court contains several exceptions to violation of one's rights.

According to this amendment, the police may conduct searches on a person or his surrounding without a warrant of arrest. One such exception is the search-incident -to -arrest. Under this exception, the police can search the occupant of a vehicle, as well as all sections of it without a warrant upon arrest of the person. They are required to do this in situations where they suspect the arrestee's capability to destroy evidence of the crime present within the car. Moreover, they may search the car for weapons that they suspect the arrested person may use to harm the police officers. An example of a case that involved this exception was the one between Arizona and Gant. Gant's crime involved using a suspended driver's license.

After locking him in a police car with handcuffs on, the officers searched his car. They found cocaine on the backseat. Upon taking him to court, Gant argued that the search violated his rights. According to him, he did not pose any threat to the officers as he was in a police car with handcuffs on him. Additionally, he argued that no additional evidence could be found in the car as his was a traffic offence (Pink, 2004). In my opinion, Gant's argument was right. Certain offenses such as those related to traffic laws do not call for a search-incident-to-arrest. This is because one does not expect to find additional evidence of the crime inside the confinement of the vehicle.

For example, in Gant's case, the only evidence that could be helpful was the suspended license, which the police officers were holding. Moreover, the

arrestee was handcuffed and in the back of a police car. As such, he could not gain access to any weapon in his car. Consequently, searching his car for a weapon that he could use on the officers was not a reasonable idea in my opinion. The cocaine and traffic offenses need ruling as two different cases. As such, the traffic offence did not deserve a search on the suspect's vehicle (Cornwell, 2013). Another exception of warrant requirements in America is the protective sweeps.

Under this exception, the police officers may search the premises and surroundings of an arrestee if they suppose harmful intent on them by the suspect. One such example was the case between Arizona and Fisher. In May 2006, Fisher suspected to be responsible for an assault crime. Upon reaching his home, the police found the suspect and two other people and the description of the criminal matched with that of Fisher (Clancy, 2008). Although they were cooperative, the police ransacked their house and in the process found several rolls of marijuana. After his conviction in court, Fisher appealed his case arguing that the search conducted in his house was not justified (Means, 2007).

In my opinion, the police should not have conducted the search. The suspect was outside the house and cooperated with the police. As such, there were no suspicions of his intended harm on the police officers. Moreover, his case was of an assault that had taken place a number of days earlier.

As such, there was no reason to suspect that Fisher could intend to destroy evidence related to the crime (Means, 2007). The fact that police officers did not find any evidence of the gun used in the assault crime proves the

irrationalism of the search. According to a video on the Fourth Amendment of America's constitution, the violation of the conditions of a search-incidence-to-arrest is evident. After Gant was arrested for the use of a suspended driver's license, the police went further to search his car (Means, 2007).

Despite the fact that he was locked in a police car with handcuffs on him, the officers claimed to search for any weapon that the offender could use to harm them. This was a violation of the amendment since Gant was in the police vehicle and as such, was in no position to harm the officers. Furthermore, there was no additional evidence that could be relevant to this crime.

The offender had violated traffic rules, and as such, the driver's license was the only item related to the crime. These circumstances prove the irrationality of the search conducted by police officers on Gant's car. References Clancy, T. K. (2008).

The Fourth Amendment: Its history and interpretation. Durham, N. C: Carolina Academic Press. Pike and Fischer, Inc.

(2004). You be the judge: Real life scenarios that test and improve your understanding of the law : a training guide from Pike & Fischer, Inc.'s Law officers' bulletin. Silver Spring, Md: Pike & Fischer Inc.

Cornwell, J. K. (2013). The Glannon guide to criminal procedure: Learning criminal procedure through multiple-choice questions and analysis. Means, R.

, & Labor Relations Information System (Firm). (2007). The law of policing: Federal constitutional principles. Portland, Or: Labor Relations Information System.