

Explain the 2 clauses  
and 3 key elements  
contained in the  
fourth amendment  
that s...



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The right of every individual from unreasonable searches and seizure is based on the most fundamental right to life, liberty and property and to avoid the abuse of authority that the government may conduct through unreasonable interference to the privacy of an individual. The point of the Fourth Amendment as provided in the case of *Johnson vs. United States* (1948) is not to deny law enforcement the support of usual inferences “ which reasonable men draw from evidence”. Its protection is so that those inferences be drawn by a neutral and detached magistrate instead of being judged by officers engaged in “ competitive enterprise of ferreting out crimes”. As provided by the second clause and explained in the *Johnson* case a valid search warrant must contain the following requirement: 1.) It must be issued by a neutral and detached magistrate; 2.) there must be presented to the magistrate an adequate showing of probable cause supported by oath or affirmation, usually in the form of an affidavit from a police officer; 3.) the warrant must describe with particularity the place to be searched and the items or persons to be seized. A neutral magistrate as provided in *Shadwick v. City of Tampa* (1972) must be “ neutral and detached” and “ capable of determining whether probable cause exists for the requested arrest or search.” Probable cause on the other hand means contemplates facts and circumstances within an officer’s personal knowledge that are sufficient “ to warrant a man of reasonable caution in the belief that an offense has been or is being committed.” *Carroll v. United States* (1925). And the standard of particularity as required for a valid warrant that the description be sufficiently precise in so that the officer executing the warrant can “ with reasonable effort ascertain and identify the place intended (*Steele v. United States*)

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States [1925]) and that it leaves nothing to the discretion of the officers to inquire further (Marron v. United [1927])). Cases: Carroll v. United States, 267 U. S. 132 (1925), Johnson vs. United States, 333 U. S. 10, 13-14 (1948) Marron v. United States 275 U. s. 192, 196 (1927) Shadwick v. City of Tampa, 407 U. S. 345, 350 (1972) Steele v. Unites States, 267 U. S. 498, 503 (1925)