

# Criminal procedure- probable cause article summar

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According to Fourth Amendment of the US Constitution, criminal law provides for probable cause. This refers to the standards through which law enforcement agencies are allowed to grounds to make arrests. This simply means that probable cause refers to a reasonable conviction that a person or suspect has committed a criminal offense (Shwegel, 2006). Probable cause is often necessary to merit the provision of a warrant for arrest or to perform a search on a suspect's person or property. Probable cause is a requirement in court as it offers a benchmark on which a grand jury perceives a crime as whether committed or not (Probable Cause, 2009). According to the US constitution, provisions for probable cause allow persons the right to secure their persons and property against unprovoked searches and seizures. However, there are some instances where searches and arrests can be done without warrants. This paper will examine an article from the Seattle Times in 2008, which speaks to the essence of search warrants specifically with regard to traffic stops.

The article documents the incident of a traffic stop in Skagit County in 2006. According to the article, following a unanimous ruling, the court held that the smell of pot is not sufficient probable cause to necessitate the arrest and search of all vehicle occupants (Jones, 2008). This article identifies warrant requirements, and the ruling sets the foundation for what may be in the offing regarding probable cause and criminal procedure.

Typically probable cause regarding vehicles and occupants should be affirmed by either a search warrant or warrant of arrest. However, in the case, in question, the officer conducted a warrantless search of the vehicle  
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and its occupants in the basis of sheer smell of marijuana emitted from the vehicle. Essentially, the sheer smell of illegal drugs may not be sufficient to support probable cause as the smell of illegal drugs may linger in a vehicle for several days or even weeks. The officer investigating such incident may be forced to result to additional legal outlets that allow for further investigation of the smell. The officer in question should, therefore, have called for a search and arrest warrant on the basis of just cause, i. e. the smell as illicit drugs in the vehicle. This would have given the officer leeway to search, and detain all vehicle occupants and the latter would have been convicted much easier and without the court's current decision. This is of paramount importance as the case's police spokesman asserted that, after the court's ruling, officers will be required to be keener in their investigations. (Jones, 2008).

Nonetheless, the court asserted that its decision did not mean that officers should walk away from vehicles reeking of illicit drugs. Interestingly, the conduct of warrantless search may be altered in future. Warrantless searches are justifiable if probable cause adheres to the doctrine of plain view (Shwegel, 2006). This doctrine allows officers to seize, without a warrant, people found in plain view possession of illegal substances during the conduct of a legal observation. However, in order to a seizure to qualify under the doctrine, discoveries have to meet the Horton criterion (Plain View, 2009). Firstly, the officer must be legally present at the location where evidence is in plain view. Secondly, the officer must have a legal right to access the evidence. Lastly, the character of the evidence must be apparently and immediately incriminating.

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