

A danger to fourth amendment rights

Law



Unit Introduction The Fourth Amendment claims that people have the right to feel secure in their papers, houses, effects and papers, against any unreasonable seizures and searches, and shall not be violated unless upon a probable cause, supported by affirmation or an oath. This warrant should also describe the person, things or place to be searched or seized. This amendment also protects arbitrary freedom and the right to privacy. In Terry V Ohio(1962), the supreme court of United States, for the first time approved a seizure and a search based on less than probable cause. This created controversy, where many individuals claimed that the Supreme Court did not follow the fourth amendment and increased the tension with minority communities (Deborah, 1997).

Terry v Ohio (1962), addressed a number of reasons in seizure and search activities. The court decided that it was legal for police to frisk, question and stop any person whom the law enforcement officers believed that he was acting suspiciously. This is referred to a lower standard than what the fourth amendment refers to a probable cause. Deborah (1997) claims that such frisking and question is against the Fourth Amendment rights while majority think that allowing seizures and searches was a serious blow against the fourth amendment, because it is less than a probable cause. Many seizures and searches are based on probable cause, and the Supreme Court has approved those that are suspicious. This was a serious blow to the Fourth Amendment because all these searches were based on less than a probable cause, while the amendment requires that all searches and seizures should have a probable cause.

Additionally, the majority should have adopted Justice Douglas position because he disagrees with the court decision, and contends that the Fourth

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Amendment entails that every search and seizure to have a probable cause. He also goes ahead and explains that when the court decides to have an exception, then the Americans will lose their protection of privacy. However, despite his concern, Terry v Ohio (1962) law remains. Police are still allowed to question and frisk individuals who look suspicious without any reason or cause to believe they are involved in crime.

Reference

Deborrah. P(1997), A Mapp v Ohio: Evidence and Search Warrants. New Jersey: Enslow Publishers.