# The Fourth Amendment and New Age Tech

**Natisha Mitchell, Nicholas Booth, Ahmed Hussein, Juan Delacruz**  
Professor Patricia Johnson, Africana Studies 320

## Introduction

The constitution of the United States was constructed to protect the rights of American citizens. The Fourth Amendment gives people the right “to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” The Fourth Amendment guarantees privacy; however, “unreasonable searches and seizures” has unfortunately become increasingly indiscriminate by the technological advances, especially targeting people in minority communities.

- We will be presenting Supreme Court cases and media articles that assist in illustrating the way the Fourth Amendment may need enhancements or a better grasp by the people we entrusted to enforce the law in our country.
- We interviewed law enforcement employees whom we assumed have the knowledge of the law and the rights it provides its citizens.

## Research Question

Do individuals have the Fourth Amendment right against unreasonable searches and seizures when it comes to cell phones and other technologies?

## Research Methods

- We conducted interviews with law enforcement employees to determine whether or not knowledge of the Fourth Amendment exists.
- We used court cases to research what the Supreme Court has interpreted and concluded in regards to warrantless searches and seizures of cell phones.
- Riley v. California is a landmark Supreme Court case that illustrates exactly what our research entails.
- We used media and newspaper articles to support our research.
- With articles from *The New York Times*, we got supportive evidence that furthered our research. “Smartphones and the 4th Amendment” is one of the articles, where the writers, which consist of 19 Times esteemed journalists who make up the editorial board, state the legality and what the police understand about it.

## Background

- **Riley v. California, 573 U.S. ___ (2014)** was a landmark United States Supreme Court case in which the Court unanimously held that the warrantless search and seizure of digital contents of a cell phone during an arrest is unconstitutional.
- David Leon Riley was arrested on August 22, 2009, after a traffic stop resulted in the discovery of loaded firearms in his car. The officers took Riley’s phone and searched through his messages, contacts, videos, and photographs. Based in part on the data stored on Riley’s phone, the officers charged him with an unrelated shooting that had taken place several weeks prior to his arrest.
- Kyllo v. United States, 533 U.S. 27 (2001) held that the use of a thermal imaging, or FLIR, device from a public vantage point to monitor the radiation of heat from a person’s home was a “search” within the meaning of the Fourth Amendment, thus requiring a warrant. A thermal imaging device was used by officials outside the defendant Danny Lee Kyllo’s home in Florence, Oregon. According to the District Court that presided over Kyllo’s evidentiary hearing, the device could not “penetrate walls or windows to reveal conversations or human activities. The device recorded only heat being emitted from the home.” The device showed that there was an unusual amount of heat radiating from the roof and side walls of the garage compared with the rest of his house. (The assumption is that to grow marijuana indoors, one needs to provide a large amount of light in order for the plants to photosynthesize.) This information was subsequently used to obtain a search warrant, where federal agents discovered over 100 marijuana plants growing in Kyllo’s home.

## Findings

- The Department of Justice (DOJ) created a Post-constitutional interpretation of the Fourth Amendment that allows it to access millions of records of Americans using only subpoenas, not search warrants.
- Supreme Court: police need a warrant to search cell phones during a stop and frisk.
- The government isn’t allowed to wiretap American citizens without a warrant from a judge.
- Authorities can often obtain your emails and texts by going to Google or AT&T with a court order that doesn’t require showing probable cause of a crime.
- Police can get phone records without a warrant thanks to a 1979 Supreme Court case, Smith v. Maryland.
- Cell phone carriers can provide authorities with a phone’s location.
- The government can track IP addresses.
- Authorities typically need only a court order to get data from Google Drive, Dropbox, SkyDrive, and other services that allow users to store data on servers.

## Interviews

*left blank intentionally*

## Conclusion

As technology advances, our constitutional rights must continue to be protected. When it comes to searches and seizures, there have been many unlawful searches and seizures of technology, more specifically smartphones. Many court cases have made it to the Supreme Court regarding this issue; the one we covered in our project was Riley v. California. The Supreme Court ruled that it is unconstitutional to search through a person’s personal technological device without a warrant. The minority (black, Latino) population has had a larger number of incidences regarding this matter.

## References