

## THE FOURTH AMENDMENT TO THE CONSTITUTION

The 4th Amendment to the U.S. Constitution protects people from being searched or having their things taken away from them without any good reason. If the government or any law enforcement official wants to do that, he or she must have a very good reason to do that and must get permission to perform the search from a judge. In order for a police officer to search and arrest someone, he or she will need to get permission or a warrant to do so from a judge. In order to get a warrant, the police officer must have evidence or probable cause that supports it. The police officer, or whoever has the evidence, must swear that it is true to his or her knowledge. However, it is not a guarantee against all searches and seizures, only those that are considered unreasonable under the law. Also, the Fourth Amendment applies to the government, but not to searches done by organizations or people who are not doing it as a representative of government, such as private security officers. Some searches can be done without a warrant without breaking the law, for instance when the police officer has good reason to think that a crime is happening.

The Constitution, through the Fourth Amendment, reads as follows:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Elements of the Fourth Amendment:

- A. Protection against unreasonable searches and seizures
- B. Search warrants cannot be issued unless
  - a) there exists probable cause
  - b) supported by oath
  - c) the place to be searched is described
  - d) the person or things to be seized are described

## **PROBABLE CAUSE – TERRY V. OHIO**

In 1968, the U.S. Supreme Court decided that the “stop and frisk” procedure used by law enforcement personnel is justifiable whenever a police officer believes that stopping and frisking a person was necessary for their own safety or that of others. An officer may perform a search for weapons without a warrant, even without probable cause, when the officer reasonably believes that the person may be armed and dangerous. The Court did not however, extend its ruling to include frisking with the intent to uncover and obtain evidence. Under Terry, a police officer can only do what is necessary to make certain that the suspect doesn’t have a weapon.

Private security officers are not held to the same restrictions or the same protections that are granted to law enforcement personnel. Security officers are permitted to protect themselves and others and are permitted under law, to make certain that a suspect does not have a weapon on them. However, in all cases, the actions taken by the security officer must be considered reasonable. Security officers should review all policies and regulations with their employer so that they know and understand them.