

Know Your Rights



Greenville

NORTH CAROLINA

POLICE DEPARTMENT

The Fourth Amendment of the United States of America

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.

What does this mean?

- The US Constitution promises to protect you, your home and your belongings against unreasonable searches by law enforcement.
- The “reasonable expectation of privacy” is considered a lot more important for your *home* instead of your car.
- If a law enforcement officer has probable cause, they can obtain a search warrant.
- The search warrant must state the place to be searched, the person and/or the things to be seized, supported by their oath or affirmation.

Exceptions to search warrants under the Fourth Amendment:

Consent when you waive your rights and let an officer search your vehicle. You can limit the search to certain areas such as the cabin only.

Exigent circumstances allow an officer that believes a crime has been committed or is being committed to preserve evidence and safety. You can be directed to exit your vehicle for a search *if they have probable cause*.



Vehicular Stops

Law enforcement does not need probable cause to stop you while driving your vehicle. All they need is “articulable reasonable suspicion.”

Articulable reasonable suspicion is a much lower standard than probable cause. Basically, it is a “hunch” that is supported by specific facts than can be articulated by the police officer.

Probable cause is a significantly higher standard than articulable reasonable suspicion. Probable cause is sufficient reason based upon known facts to believe a crime has been committed or probably will be committed or that certain property is connected with a crime. Probable cause must exist for a law enforcement officer to make an arrest without a warrant, search without a warrant, or seize property in the belief the items were evidence of a crime.

Search of a Vehicle

Being stopped requires articulable reasonable suspicion or probable cause. A search requires probable cause.

A stop can be initiated by articulable reasonable suspicion and then develop to probable cause based on different circumstances, such as the odor of marijuana.

Plain View Doctrine allows a law enforcement officer to look into your vehicle and use whatever they see to develop probable cause that could lead to an arrest. A vehicle does not have the same reasonable expectation of privacy as a home.

Search of a Home

The home has the highest reasonable expectation of privacy. Law enforcement cannot search your home or private area without a legal and properly executed search warrant.

Exceptions:

- **Open Fields Doctrine** allows the area around your house open to the public to be searched without a warrant.
- When **consent** is given to allow a search.
- **Exigent circumstances** such as an emergency taking place or preservation of evidence of a crime.
- Anything visible in **plain view** without entering the home.
- Lockers, government property, etc.

Search of a Person

Stop & Frisk safety pat-down allows a law enforcement officer, after detaining a person with “reasonable suspicion” that the person may be dangerous, to perform a “safety pat down” to ensure safety for the officer and others. There must be minimal intrusion into a person’s privacy. Therefore, the officer cannot immediately dig into the pockets of a person without permission. However, if there is a bulge that indicates the presence of a possible weapon, they can reach in and grab it to protect themselves. Note that this will lead to criminal charges if contraband (drugs) are found on a person.

Detainment vs. Arrest

The difference between a detention and an arrest are important because your rights change drastically from one to the other.

Detainment means a law enforcement officer will temporarily stop a person in a public place without transporting the person to another location, for the purpose of (1) requiring the person to justify their presence and activity in the location, and (2) to identify themselves. A reasonable person would believe they could leave in a short period of time. The US Supreme Court supports that approximately 20 minutes is a reasonable time for detaining a person.

Arrest of an individual requires law enforcement to have probable cause. An arrest is characterized by the idea that a reasonable person would not feel free to leave due to the actions of law enforcement officers. This usually means that the officers take an individual into custody.



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