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Fourth Amendment Searches: The Motor Vehicle Exception to the Warrant Requirement

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Research Guides

Fourth Amendment Searches: The Motor Vehicle Exception to the Warrant Requirement

Guide Information

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Overview

To say that cars are pervasive in American culture is an understatement. The car has evolved from a means of transportation to a prized personal possession and a symbol of the American dream. The attainment of a driver's license is a well-established rite of passage. Between the daily commute and personal travel, Americans rack up hundreds of hours and thousands of miles in their cars every year. With all of this time on the road, it is not surprising that vehicles are also one of the most heavily regulated personal possessions for Americans. We are tasked with the annual chore of renewing our tags and paying taxes. The second that we step into our cars and turn the ignition, we are suspectible to significant law enforcement and subject to hefty fines for failure to comply with motor vehicle standards and traffic laws.

Although American drivers are fairly well-versed in traffic laws, many are unaware of their rights in regard to searches of their vehicles. Although the Fourth Amendment propounds a right of the people against unreasonable searches and seizures sans a warrant, the Supreme Court has carved out a very specific and broad exception to this warrant requirement for motor vehicles. As the materials in this bibliography will detail, in 1925, the Supreme Court first established the capacity for warrantless searches of automobiles. Since 1925, the Court has expanded this exception to include not only cars but also motor homes, not only owners of vehicles but also their passengers, and not only the vehicle itself but also any containers within the vehicle.

Scope

This bibliography serves as a starting point in understanding constitutional law regarding the motor vehicle exception to the warrant requirement with a focus on the exception as dictated by the Supreme Court of the United States. The case law regarding this subject is voluminous, and the cases cited within are merely a spring board for research.
From 1925 through the 1970's, the Supreme Court made a series of rapid decisions upholding the almost unfettered use of warrantless searches for automobiles. Since that time, the amount of appeals brought before the Supreme Court has dwindled; however, the issue continues to be litigated actively in state courts and district courts. This research guide is intended to assist attorneys with initiating research on this subject matter and to assist laypersons with attaining a basic understanding of their rights in regard to car searches. All hyperlinks to cases, where available, redirect the reader to one of many free-access websites for case law. Readers may also utilize Westlaw or Lexis for additional research at cost.

About the Author

Kelly Connors is a rising second year, part-time student at Georgia State University College of Law; her anticipated graduation date is May 2013. Ms. Connors has undergraduate degrees from the University of Georgia in Criminal Justice and Psychology. Following graduation from UGA, Ms. Connors was employed with the Department of Family and Children Services, the Georgia Bureau of Investigation, and Department of Labor's Disability Adjudication Services. Since 2005, Ms. Connors has been employed with a healthcare law firm and specializes in Social Security disability claims. For more information, please contact Professor Nancy Johnson via email at njohnson@gsu.edu.

Disclaimer

This research guide does not purport to be all-inclusive of the relevant case law on the subject of automobile searches. Although this area of law is not rapidly changing, it is critical that all cases be checked to ensure they are still good law. Any information provided in this guide is not to be taken as the opinion of the author or Georgia State University College of Law in regards to how to exert Fourth Amendment rights. If you feel your rights have been violated, you should consult with an attorney.

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Primary Sources

Fourth Amendment

U.S. CONST. amend. IV.

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.

Fourth Amendment Enforcement: the Exclusionary Rule and the Warrant Requirement

THE EXCLUSIONARY RULE

The language of the Fourth Amendment omits critical information regarding the appropriate remedy for violation of the amendment. What happens when "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches" is violated?

Weeks v. United States, 232 U.S. 383 (1914).

The Supreme Court answered that question by creating what is known as the exclusionary rule. Under the exclusionary rule, all evidence obtained by an unreasonable search is inadmissible in court. At the time of its original inception, the Supreme Court restricted the exclusionary rule to federal court proceedings.

Mapp v. Ohio, 367 U.S. 643 (1961).

More than forty years later, the Supreme Court reversed *Weeks* by holding that all evidence obtained through an illegal (i.e. unreasonable) search was inadmissible in state courts as well. The court held that to grant the right against unreasonable searches without providing a remedy is to effectively deny the right.

THE WARRANT REQUIREMENT

As the text of the Fourth Amendment indicates, no warrants shall be issued except upon probable cause.

Katz v. United States, 389 U.S. 347, 357 (1967).

The Supreme Court vehemently asserted that "searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment -subject to only a few specifically established and well-delineated exceptions."

The exclusion of motor vehicle searches from the warrant requirement is one such exception.

Case Law: Creation and Application of the Motor Vehicle Exception to the Warrant Requirement

Creation and Basis of the Exception

Movable Vehicles

Carroll v. United States, 267 U.S. 132 (1925).

This case created the motor vehicle exception. During prohibition, an informant advised federal agents that a car was carrying bootleggers. The agents pulled over the car and performed a very extensive search of the vehicle, including ripping upholstery and pulling items from the car. Agents recovered alcohol from a hollowed out section of the backseat. The Supreme Court upheld the warrantless search based on a finding that the nature of a vehicle as movable meant that it was not practical to obtain a warrant before conducting a search. As long as the officers had probable cause to believe that the car contained alcohol, then they could search it without obtaining a warrant.

Chambers v. Maroney, 399 U.S. 42 (1970).

In *Chambers*, the Court extended the motor vehicle exception to cars that were not moving. Officers had probable cause to believe that occupants of a car had committed a late-night robbery. The car was stopped, and the occupants were arrested. The vehicle was taken to the police station and searched (without a warrant). The Supreme Court upheld the search as falling within the motor vehicle exception. The Court determined that since the officers had probable cause that a crime was committed and since it was unreasonable to expect the officers to conduct a search late at night on the side of the road, they did not have to obtain a warrant even after taking the car to the station. *See also Cady v. Dombrowski*, 413 U.S. 433 (1973) (holding that a warrantless search of a car that had been disabled in an accident and moved to a commercial garage did not violate the Fourth Amendment because the vehicle was towed at an officer's request to clear it from the roadway and because exigent circumstances existed since the owner of the vehicle was a police officer whose service revolver had not been located).

South Dakota v. Opperman, 428 U.S. 364 (1976).

The Court has held that officers are allowed to conduct warrantless "inventory searches" of impounded vehicles in order to protect the owner against theft. Here, the defendant's vehicle was impounded due to multiple parking violations. From outside the vehicle, an officer observed several personal items sitting in plain view on the seats and floor. He ordered the car to be unlocked and conducted a standard inventory search, which revealed marijuana in the glove compartment. The Supreme Court upheld the search as falling within the motor vehicle exception despite the fact that the exigency of mobility was no longer in play. *See United States v. Arriaza*, 401 F. App'x 810 (4th Cir. 2010) (finding that an impounded vehicle was subject to motor vehicle exception and a warrantless search because it was a readily mobile vehicle even if it was not currently susceptible to

movement).

Diminished Expectation of Privacy

Cardwell v. Lewis, 417 U.S. 583 (1974).

Defendant was suspected in a murder case. One aspect of the murder involved running the victim's car off an embankment, and the police had recovered trace evidence of transfer paint and tire treads from the scene. Several months later, they obtained a warrant for defendant's arrest. Without advising defendant of the warrant, they asked him to appear at the police station for questioning. Defendant parked his car in a public, commercial lot about a block from the police station. He was arrested, and the car was towed to a police impound lot where the exterior of the car, including the tire treads and bumper were searched. The treads and paint taken from the bumper matched the trace evidence found at the scene. The Supreme Court upheld the warrantless search as valid on the basis that the exterior of the car was so readily exposed to the public that there could not be any reasonable expectation of privacy.

California v. Carney, 471 U.S. 386 (1985).

The Court further extended the motor vehicle exception by finding that it applies to mobile homes. Defendant was suspected of exchanging marijuana for sex. After Drug Enforcement Agents observed a youth exiting from the mobile home, they questioned him, and the youth reported that he had obtained marijuana from defendant. The agents entered the mobile home and recovered marijuana. Defendant sought to suppress the drugs on the grounds that his mobile home should be considered a place of heightened expectations of privacy more akin to a home. The Supreme Court expressly rejected this contention and held that the motor vehicle exception to a warrant did apply to a mobile home because it was a vehicle that traversed public highways and hence had a diminished expectation of privacy.

Containers within a Car

United States v. Chadwick, 433 U.S. 1 (1977).

In *Chadwick*, police suspected that a footlocker being transported via train contained marijuana. They waited until the passenger disembarked and loaded the footlocker into the trunk of a car. Then, they arrested the passenger. The footlocker was taken to a federal building and searched, which revealed a large quantity of marijuana. The Supreme Court struck down the search in an opinion that pinpointed the lack of an expectation of privacy as the reason that the motor vehicle exception exists. The Court held that because cars are heavily regulated by the government, there is a diminished expectation of privacy. However, this expectation was not diminished in regards to the footlocker that was placed in the car. *See also* *Arkansas v. Sanders*, 442 U.S. 753 (1979) (holding that a search of a car after a suitcase suspected of containing marijuana was placed in it constituted an illegal search because the police purposely waited for the suitcase to be placed in the car before encountering the suspect so that the police created the exigent circumstance).

Robbins v. California, 453 U.S. 420 (1981).

The police noticed a car driving erratically. They pulled over the car and smelled marijuana. A warrantless search of the car was conducted, and the police located two bricks of marijuana. The bricks were heavily wrapped in green plastic and had to be opened to reveal the narcotics. The Supreme Court ruled that opening the packages without a warrant constituted an illegal search. The bricks were not distinguishable; therefore, the defendants had an expectation of privacy.

Shortly following the decision in *Robbins*, the Supreme Court retreated from its prior position regarding containers and reversed the holdings in *Chadwick, Sanders,* and *Robbins*.

United States v. Ross, 456 U.S. 798 (1982).

The police had probable cause to suspect that the defendant was selling narcotics from the trunk of his car. The police pulled the car over, conducted a search, and found a closed container. The container was opened and revealed heroin. The Supreme Court upheld the warrantless search stating that when the police have probable cause to search a car, they also have probable cause to search any containers within the car that may contain the illicit items that they are looking for. Hence, since the police had probable cause to search the car for narcotics, it was permissible for them to search any containers that may contain the narcotics. *See* *United States v. Johns*, 469 U.S. 478 (1985) (finding that removing containers believed to contain narcotics and not opening them for three days after seizure still fell within the motor vehicle exception to obtaining a warrant since the delay was reasonable and defendant continued to have a diminished expectation of privacy).

California v. Acevedo, 500 U.S. 565 (1982).

The Supreme Court overturns the *Sanders'* decision that made a distinction between a container in a car being searched and the car being search for a container. Police obtained information from another law enforcement agency that a package of marijuana would be picked up at a FedEx location. The police followed the person who picked up the package and watched him go to a house. Eventually, defendant emerged from the house with a brown package and got into his car. The police stopped the car and searched it. The package was opened and revealed narcotics. The Court held that the search was legal and rejected the prior distinction made in *Sanders*. Therefore, if the police have probable cause for either the container or the car, then they do not need a warrant to search a container in the car.

Search of Passengers' Effects

Wyoming v. Houghton, 526 U.S. 295 (1999).

Can a passenger's effects be searched? Three people were traveling in a car when the police pulled it over. The driver had a syringe in his pocket and admitted to drug use. The police searched the car and found a purse owned by one of the passengers. Drug paraphenalia was found inside the purse, and the owner was arrested. She moved to suppress the evidence on grounds that the police had no probable cause to suspect her of a crime. The Supreme Court rejected this argument and held that a "passenger exception" would open the door to criminals averting the law by stashing contraband with passengers of the car. The Court ruled that if the contraband the police have probable cause to suspect is in the car can be contained in a passenger's effects, then those effects can be searched. *But see* *United States v. Di Re*, 332 U.S. 581 (1948) (holding that a warrantless search of a car does not extend to a search of the person of an occupant even if it is reasonable that the occupant could be secreting contraband on the grounds that mere presence in a car does not result in an individual waiving his rights).

Search of Vehicle Incident to Arrest

New York v. Belton, 453 U.S. 454 (1981).

A police officer observed a car traveling at excessive speed. The officer pulled over the car, noticed the smell of burnt marijuana, and saw a packet that he believed contained drugs. The officer requested the four occupants exit the vehicle, and he arrested all of them for unlawful possession of marijuana. The officer then searched the passenger compartment of the car and found a jacket belonging to defendant. When the officer unzipped one of the pockets of the jacket, he found cocaine. The Court upheld the search of the vehicle and any "containers" within the vehicle as a search incident to custodial arrest and based this conclusion on the concept that the vehicle was within the immediate control of the arrestees and hence created an exigent circumstance whereby the officer was justified in ensuring that the arrestees could not access weapons or destroy evidence.

Thornton v. United States, 541 U.S. 615 (2004).

Defendant was driving, and an officer became suspicious that he had committed a crime. The officer discovered that the tag on defendant's vehicle did not match the vehicle.

Before the officer could stop defendant, defendant pulled into a parking lot, parked his car, and exited the vehicle. The officer confronted defendant regarding the tags and asked defendant if he could search him. The search uncovered marijuana and crack cocaine. Defendant was arrested and placed into the police cruiser. The officer then returned to defendant's vehicle and conducted a search, finding a gun under the seat. The Supreme Court upheld the search of the car as a search incident to arrest and rejected the notion that the police officer had to encounter defendant while he was still in the car to be able to later search the car. The Court held that the car of a "recent occupant" could be searched incident to arrest due to the same public safety and officer safety concerns espoused in *Belton*. *Compare* *Arizona v. Gant*, 129 S.Ct. 1710 (2009) (holding that a search of a vehicle incident to arrest of a recent occupant for driving on a suspended license and who had been handcuffed and was sitting in a patrol car when the search was initiated was invalid because it was no longer reasonable to believe that the arrestee might access the vehicle or that the vehicle may contain evidence of the offense for which defendant was arrested). *Compare also* *Preston v. United States*, 376 U.S. 364 (1964) (finding that a search of a car that occurred after the occupant had been arrested and taken to the station and after the car had been towed to a garage was invalid because the search was too remote in time to have been incidental to the arrest).

Border Searches

8 U.S.C. § 1357(a)(3) (2006)

Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without a warrant within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle . . .

Almeida-Sanchez v. United States, 413 U.S. 266 (1973).

A Mexican citizen was stopped approximately 25 miles from the U.S. Border. She was traveling on a road that had no direct connection to the border. A warrantless search of the vehicle uncovered a large quantity of marijuana. The Supreme Court struck down the search as invalid and held that for a search to be considered a "border search," there must be an indication that the vehicle actually crossed the border. Otherwise, the motor vehicle exception would only apply if the officer had probable cause to suspect that a crime had been committed. The Court invalidated the use of "roving patrols" by border agents.

United States v. Flores-Montano, 541 U.S. 149 (2004).

Defendant was driving a station wagon and attempting to cross over the United States border from Mexico. Customs officials inspected the vehicle and determined that the gas tank sounded solid. After dismantling the gas tank, they uncovered more than 80 pounds of marijuana. The Court upheld the search as constitutionally valid on the basis of the government's paramount interest in preventing drug smuggling into the states and rejected the notion that the customs officials needed reasonable suspicion in order to dismantle the gas tank. The Court further held that the defendant had no reasonable expectation of privacy in regards to the gas tank.

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Secondary Sources

Law Journal Articles

Below are law review articles that contain relevant information and discussions regarding the Fourth Amendment motor vehicle exception. These sources are organized alphabetically by author and can be found on Lexis, Westlaw, or HeinOnline for a fee.

Arthur H. Abel & Donald E. Moore, ***Criminal Law-California v. Carney: Fashioning a "Motor Home Exception" to the Warrant Rule***, 60 Notre Dame L. Rev. 216 (1984).

This pre-*Carney* article provides significant insight into the potential complications of applying the motor vehicle exception to a motor home and how the Supreme Court could address the concerns of privacy inherent in a motor home. The authors initially posture that the Court could establish a rule for motor homes that comports with the use of the vehicle at the point in time immediately preceding the police encounter. Therefore, if the motor home is mobile prior to the encounter, the police would apply the motor vehicle exception due to the exigency of mobility; however, if the motor home was not moving, then the police should obtain a warrant before searching. However, the authors then disregard this manner of application of the exception as being too heavily burdensome on police. Instead, the authors assert an option of conducting a "roadside sweep" of the motor home to ensure that no dangerous individuals are secreted within. After the sweep, officers would have to obtain a warrant in order to open cupboards like occurred in *Carney*.

Magnus Andersson, ***Wyoming v. Houghton The Supreme Court Moves One Step Closer to Abandoning the Warrant Requirement***, 35 Gonz. L. Rev. 121 (2000).

Andersson reviews the concurring and dissenting opinions in *Acevedo* and *Houghton* and concludes that the Court may be poised to render a finding that completely contradicts *Katz*'s statement that searches absent a warrant are per se unreasonable. The article discusses the high potential for the Court to disregard the warrant requirement in regards to motor vehicle searches. He opines that *Houghton*'s decision did not extend the motor vehicle exception but rather dictated an abandonment of the warrant requirement.

Carol A. Chase, ***Cars, Cops, and Crooks: A Reexamination of Belton and Carroll with an Eye Toward Restoring Fourth Amendment Privacy Protection to Automobiles***, 85 Or. L. Rev. 913 (2006).

Chase argues that the automobile has become a personal effect, of which we have the least amount of privacy afforded under the Fourth Amendment. The author opines that the Supreme Court has effectively destroyed Fourth Amendment protections in regards to automobiles through the decisions in *Carroll* and *Belton* and argues that *Belton* should be overruled due to the potential for abuse of the rule by law enforcement officials (i.e. the officer could simply hold the defendant near the car rather than putting him into the police cruiser in order to ensure that a warrantless search would be upheld). She further advocates for a modification of the *Carroll* rule to provide for a brief seizure of a vehicle thought to contain fruits of a crime rather than an entirely warrantless search.

David A. Harris, Essay, ***Car Wars: The Fourth Amendment's Death on the Highway***, 66 Geo. Wash. L. Rev. 556 (1998).

In this essay, the author espouses great concern over the growing police powers established by the motor vehicle exception. He concludes with a very detailed analysis of the societal "costs" of the exception and how the Supreme Court can overcome those "costs" while still providing adequate law enforcement capacity. The author proposes that traffic stops should only be used for reasonable efforts to enforce traffic laws, that questioning by officers during such stops should be limited to those questions that bear on the traffic offense, that officers should be required to advise motorists of their right to withhold consent to a search of the vehicle, and that the use of drug-sniffing dogs should be limited to only those situations were the officer has reasonable suspicion that contraband is present in the vehicle.

Harvard Law Review Association, ***The Automobile Exception***, 96 Harv. L. Rev. 176 (1982).

This article focuses primarily on the finding in *Ross* and how that decision overruled the Supreme Court's prior decisions in *Robbins*, *Sanders*, and *Chadwick*. The author harshly reviews the Court's decision, particularly in regard to the diminished expectation of privacy argument, and argues that the Court will only continue to broaden warrantless searches until it properly recognizes privacy values inherent in the Fourth Amendment.

Daniel J. Hewitt, Note, ***Don't Accept Rides from Strangers: The Supreme Court Hastens the Demise of Passenger Privacy in American Automobiles***, 90 J. Crim. L. & Criminology 875 (2000).

In this note, the author attacks the decision in *Houghton* on grounds that a warrantless search of a vehicle should not be extended to include the effects of a passenger unless there is particularized suspicion that the passenger has in fact committed a crime, for which the officer has probable cause. The author is a proponent of the Wyoming Supreme Court's "passenger's property rule," which was used as a basis for holding that the search of Houghton's purse was invalid before the decision was reversed by the United States Supreme Court.

James J. Tomkovicz, ***California v. Acevedo: The Walls Close in on the Warrant Requirement***, 29 Am. Crim. L. Rev. 1103, 1165 (1992).

This article provides a thorough review of the warrant requirement and the eventual dismissal of the warrant requirement in regards to automobiles. The author specifically refines the inquiry to whether the warrant requirement still exists outside the context of a home. He further rationalizes that there is no basis for the holdings in *Ross* and *Acevedo* absent a complete departure from the warrant requirement and opines that the Supreme Court is not being true to legal precedent by taking such a step away from an established rule of constitutional rights.

American Law Reports

The following American Law Reports provide additional resources for researching the Motor Vehicle Exception. Each article contains voluminous case analysis and citations.

Andrea Levinson Ben-Yosef, Annotation, ***Validity of Warrantless Search of Motor Vehicle Based on Odor of Marijuana-State Cases***, 114 A.L.R. 5th 173 (2003).

This annotation begins with the proposition that, generally, an odor of marijuana wafting from a vehicle will give law enforcement officers probable cause to conduct a search of the vehicle. However, she continues by detailing various state and federal court decisions that have restricted the scope of a search secondary to the odor of marijuana. At this time, the Supreme Court has not ruled on the subject; however, the issue has been extensively litigated in lower courts.

James L. Buchwalter, Annotation, ***Application of Fourth Amendment to Automobile Searches-Supreme Court Cases***, 47 A.L.R. 2d 197 (2010).

This article provides detailed discussions of Supreme Court cases regarding the motor vehicle exception in terms of search of person, search of vehicle generally, search incident to arrest, container searches, inventory searches, roving border searches of vehicles, and fixed border searches of vehicles. Within each category, Buchwalter organizes cases according to whether a constitutional violation was found and the grounds for the Court's holding.

Emile F. Short, Annotation, ***Lawfulness of "Inventory Search" of Motor Vehicle Impounded by Police***, 48 A.L.R. 3d 537 (1973).

The article gives a broad-sweeping review of cases in which the inventory search was utilized to access a motor vehicle without first obtaining a warrant even though the vehicle was already impounded by police. The cases are divided into numerous categories, including specifications regarding items in plain view and search of trunks.

Books and Treatises

Joseph G. Cook, ***Exceptions to the Warrant Requirement-Vehicles-With Probable Cause***, in 2 Constitutional Rights of the Accused 3d § 4:60 (2010).

This treatise provides an extensive guide of federal and state cases, in which the motor vehicle exception was applied.

Christian Fisanick, ***Automobile Exception to the Warrant Requirement***, in Vehicle Search Law Deskbook § 2:2 (2010).

The author provides a chronological history of the motor vehicle exception from 1925 to 1996. This timeline is very beneficial since the Supreme Court has refined the motor vehicle exception over the years and occasionally reversed prior decisions.

Wayne R. LaFave, ***Search and Seizure: A Treatise on the Fourth Amendment***, in 3 Search & Seizure § 7.2 (4th ed. 2010).

In this treatise, LaFave begins with a discussion of *Carroll* and creation of the motor vehicle exception and then provides exhaustive review of the basis for the exception in terms of diminished privacy interests and the exigency of mobility. Finally, the author pinpoints concerns regarding containers within vehicles subject to search and searches of passengers and their effects.

Wayne R. LaFave, ***Border Searches***, 5 Search & Seizure § 10.5 (4th ed. 2010).

In another treatise by LaFave, he discusses the applicability of the motor vehicle exception to searches that occur at border checkpoints and merely within the vicinity of the border.

Laurie L. Levenson, ***Warrantless Searches-Automobile Search***, in California Criminal Procedure § 5:44 (2010-11 ed.).

This legal encyclopedia discusses the probable cause aspect of the motor vehicle exception with emphasis on probable cause that a crime has been committed resulting in the ability of law enforcement to search the entire vehicle.

- Criminal Procedure: A Contemporary Perspective (2nd. ed.) by James R. Acker & David C. Brody
  Call Number: KF9619.A72165 2004
  ISBN: 0763731692This textbook provides a break down of the Fourth Amendment's warrant requirement with subsequent discussion of the motor vehicle exception to that requirement.
- Criminal Investigation: Law and Practice (2nd. ed.) by Michael F. Brown
  Call Number: HV8073.B688 2001
  ISBN: 0750673524This textbook on criminal procedure explains the motor vehicle exception and categorizes searches according to their instigating factors, such as incident to arrest, containers, etc.

- Criminal Evidence: Principles and Cases (7th. ed.) by Thomas J. Gardner & Terry M. Anderson
  Call Number: KF9660.G368 2010
  ISBN: 0495599247This book provides an excellent chart for examining when the motor vehicle exception may be applied and in what manner the exception should be utilized.

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Interest Groups and Associations

Interest Groups

Flex Your Rights

Flex is an educational, non-profit organization that was founded in 2002. One of the Board of Advisors is Ira Glasser, who was Executive Director of the American Civil Liberties Union from 1978 to 2001. Flex attempts to educate the public about how to exert basic protections of the Bill of Rights during encounters with law enforcement. In 2003, Flex began producing docudramas, including Busted: The Citizen's Guide to Surviving Police Encounters, which is linked in the videos section.

Center for Constitutional Rights

CCR is a non-profit organization that provides legal representation and assistance on a wide variety of constitutional issues. The organization was founded more than 40 years ago during the Civil Rights Movement and continues to have its basis in civil rights litigation. In 2009, the organization garnered attention by placing an ad on a billboard in Times Square in New York City targeting Fourth Amendment rights against unreasonable searches and seizures in regards to stop-and-frisk situations. Currently, the organization is heavily involved in multiple cases concerning Guantanamo Bay detainees in an attempt to restore habeas corpus to these individuals.

American Civil Liberties Union

The ACLU is a well-known organization that combats social, racial, ethnical, and financial inequalities. One of the many rights that the ACLU protects is the right to privacy and freedom from unwarranted government intrusion, which includes Fourth Amendment protections. The organization works steadily in courts, legislatures, and social communities to advocate for and defend all rights. In the past 10 years, the ACLU has been increasingly aware of privacy concerns in regards to information technology and how the Fourth Amendment protects individuals against government access to information that we share electronically.

Band of Rights

This organization operates through the Marshall-Brennan Constitutional Literacy Project, which is based at American University Washington College of Law. The project aims to provide upper-level law students with the training necessary to educate public high school students regarding their constitutional rights. The website provides excellent information, including lesson plans for each Amendment.

Videos

BUSTED: The Citizen's Guide to Surviving Police Encounters

This video depicts Darryl and his friends being pulled over by a law enforcement officer. During the initial segment of the video, you witness Darryl handling the stop in a manner that the narrator views as less than ideal, resulting in Darryl giving up several of his constitutional rights and also consenting to a search of his car. At approximately 9:52 on the video, you see a substantially different version of the same encounter, during which Darryl adamantly protects his Fourth Amendment rights.

Are Roadblocks an Exception to the 4th Amendment?

This video depicts an attorney providing a review of constitutional caselaw in regards to roadblocks and border patrol stops.

Blogs and Websites

www.autoblog.com

As this blog emphasizes, the authors "obsessively cover the auto industry," including reviews of Supreme Court cases impacting the auto industry and car owners. A recent entry from Jonathon Ramsey entitled *Police Not Violating 4th Amendment by Placing GPS on Your Car When it isn't in Your Garage?* focuses on Fourth Amendment searches through the use of GPS technology.

www.avvo.com

In a legal guide posted by Alan James Brinkmeier, *Constitutional Law: Can the Police Search My Car?*, the author provides a very brief discussion of probable cause and specifically highlights issues surrounding *Houghton* and *Gant*. His ultimate conclusion is that precedents are so fact-intensive that it is best to consult with an attorney and to never give consent to a search of your car.

www.dwiblog.org

This blog is written by various attorneys who represent individuals for the offense of Driving While Intoxicated. In this particular blog entry, the authors provide a very basic description of what falls within the Fourth Amendment's privacy concerns, with emphasis on car searches based on probable cause.

www.georgiafederalcriminallawyerblog.com

This blog is published by Kish & Leitz, P.C. An entry dated November 3, 2010 provides background for an upcoming Supreme Court case, in which *Gant* and application of the exclusionary rule are discussed.

www.fourthamendment.com/blog

This blog provides extensive information regarding Fourth Amendment rights with respect to searches and seizures. The author provides links to recent slip opinions from federal courts and commentary on recent decisions.

www.noangst.blogspot.com

A blog entry posted by Mike on April 17, 2005 entitled *The Fourth Amendment* describes a friend's encounter with police search of her vehicle. Although Mike does not provide exactly accurate information regarding police authority to search vehicles, he nonetheless rationalizes that the motor vehicle exception should exist, albeit with "severe limitations."

www.srislawyer.com

This link is provided by attorneys who represent individuals for various criminal offenses in Maryland and Massachusetts. This article provides an excellent overview of the motor vehicle exception, including the categories of cases in which the Supreme Court has determined that the exception applies.

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