



# 2019 NINTH CIRCUIT CIVICS CONTEST



## The 4<sup>TH</sup> AMENDMENT in the 21<sup>ST</sup> CENTURY

*What is an  
"Unreasonable Search  
and Seizure"  
in the Digital Age?*



*Cash  
Prizes!*  
1<sup>st</sup> \$2,000  
2<sup>nd</sup> \$1,000  
3<sup>rd</sup> \$500



An essay and video contest for high school students in the western United States and Pacific Islands. Contest rules, entry instructions and more information will be available **January 2, 2019**, at <http://www.ca9.uscourts.gov/civicscontest>

Entries accepted beginning **February 1, 2019**. Deadline for entries is **April 1, 2019**. Sponsored by the U.S. Federal Courts for the Ninth Circuit.

# The 4<sup>TH</sup> AMENDMENT in the 21<sup>ST</sup> CENTURY

## *What is an "Unreasonable Search and Seizure" in the Digital Age?*

The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." For more than 50 years, courts have applied the Fourth Amendment to new technology. In the landmark case of Katz v. United States, 389 U.S. 347 (1967) (Harlan, J. concurring), the United States Supreme Court determined that the Fourth Amendment applies when someone has a "reasonable expectation of privacy." The Court held that police violated the Fourth Amendment by attaching a listening device to a public telephone booth to secretly record telephone conversations.

In 2012, in United States v. Jones, 565 U.S. 400 (2012), the Supreme Court held that installing a Global Positioning System (GPS) tracking device on a vehicle to monitor its movements constituted a search subject to the limitations of the Fourth Amendment. The opinion did not rely upon the principle of an "expectation of privacy," stated in Katz, but instead held that the placement of the GPS device on the vehicle was a trespass, which constituted a search.

In 2014, the Supreme Court decided Riley v. California, 134 S. Ct. 2473 (2014), and held that the Fourth Amendment bars police from reviewing the contents of a cell phone that is in the possession of an individual who has been arrested, unless they first obtain a search warrant. The Court explained that "[m]odern cell phones are not just a technological convenience. With all they contain and all they may reveal, they hold for many Americans 'the privacies of life.' The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought."

Last year, in Carpenter v. United States, No. 16-402, 585 U.S. \_\_\_\_ (2018), the Supreme Court held that the Fourth Amendment requires a search warrant for the government to track past locations of a cell phone using records from a wireless service provider. In considering GPS technology, which allows a service provider to find and record the location of a cell phone, the Court observed that the technology had "afforded law enforcement a powerful new tool to carry out its important responsibilities . . . this tool risks Government encroachment of the sort the Framers, after consulting the lessons of history, drafted the Fourth Amendment to prevent."

The Supreme Court has not considered whether the Fourth Amendment applies to drones equipped with cameras and other surveillance devices, which may be operated by or on behalf of the government. However, it has applied the Fourth Amendment to other technologies used for surveillance, including thermal imaging, Kyllo v. United States, 533 U.S. 27 (2001), and aerial observation and photography from an airplane or helicopter. California v. Ciraolo, 476 U.S. 207 (1986); Florida v. Riley, 488 U.S. 445 (1989); Dow Chemical Co. v. United States, 476 U.S. 227 (1986).

The prompt for the Ninth Circuit Civics Contest is:

**Discuss all or some of the referenced Supreme Court cases and analyze their impact, if any, on your life.**

Your essay and/or video should consider the significance of the Fourth Amendment and discuss how it protects information the government or others may obtain from your smart phone, voice activated intelligent personal assistant, other electronic devices, and social media postings. You should also consider how Fourth Amendment rights may apply to drones, GPS, and other surveillance technology.

Individual students should submit an essay of 500 to 1,000 words. Individuals and teams of up to three students should submit a 3-5 minute video on the theme. A student may participate in both the essay and video competitions, but may submit only one essay and be involved in producing only one video.

The contest is open to high school students in nine western states and two Pacific island jurisdictions. Students from public, private, parochial and charter schools and home-schooled students of equivalent grade status may enter.

**CASH PRIZES** *for Winners of the Essay and Video Competitions*

**1<sup>st</sup> place: \$2,000\***   **2<sup>nd</sup> place: \$1,000**   **3<sup>rd</sup> place: \$500**

**\*Plus! Travel and accommodations to attend the 2019 Ninth Circuit Judicial Conference in Spokane, Washington**