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#### **4th Amendment Privacy Shrinking with Technology**

When dealing with illegal search & seizure issues under the Fourth Amendment protection cases, courts evaluate whether the defendant had a "legitimate expectation of privacy" in the first place.

As a general rule, courts look at both the individual's and the societal expectation of privacy for that determination. The courts will look to both the "subjective expectation of privacy" and the "objective expectation of privacy."

For instance, any person expects to have privacy while using a public restroom and the majority of people in society finds this desire of privacy reasonable. So, if police officers spy upon a person inside a restroom without a valid reasonable basis and see a packet of drugs that the person had hidden, the search is considered illegal. On the other hand, if police agents spot a weapon or drugs on the front seat of a car, the search is not protected because most people would not consider this place private since would agree that the front seat of a car is publicly exposed.

These cases are connected to what is called "the plain view doctrine". Under this rule, governmental agents can conduct warrantless searches and seize evidence of criminal activities that are in their plain view - in public - and as long as the agents have a "legal right to be in that place". The plain view doctrine even in traditional searches can become rather complicated. The proliferation of technology has greatly increased the complexity of a plain view analysis of a search.

The increasing presence of technology in our daily routines in fact may significantly erode our right and expectation of privacy. This can be seen with the growing use of surveillance video cameras in public places.

Clearly, if any person commits a serious illegal act such as drugs trafficking or robbery in front of a public camera, most would argue that police should have a right to take action without worrying about an illegal search and seizure. In fact, there is a significant body of case-law that has ruled individuals videotaped in public view have no reasonable expectation of privacy. As such the use of video evidence could not be challenged under the 4th Amendment. Most have no problem with stripping criminals of their privacy rights.

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The more difficult issue is the encroachment on the privacy of law-abiding citizens through the use of these videos. For the instance, there is a growing trend to install video cameras over public roads, highways, shopping centers, schools and a host of other public places. The reality is that there are many private acts, other than criminal acts, that occur in public.

Keeping in mind that your car is considered a public place to the degree it's interior is in plain view. Would any of us really want everything that occurs in our car to be exposed to public view? There is answer is probably no but the reality is that it already is. So as is often the case, our zeal in tracking down bad guys has left the great majority of good guys quite exposed.

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