



Written by [Becky Akers](#) on June 11, 2010

The Fourth and Freedom

If you had to choose one amendment from the Bill of Rights that most undergirds liberty, which would it be? I'd probably go with the Second, because guns are freedom sculpted in metal. Even today, with all the restrictions that infringe the people's right to keep and bear, our ability to shoot back still has our rulers buffaloed. American governments at all levels have every advantage totalitarian governments do, from propaganda and secret police to technology that purports to reveal what their subjects are doing, saying, and even thinking, yet they hesitate to take those final steps that will turn the country into one giant gulag. Why? Because despite their best efforts, too many Americans still cherish their guns.

But the Fourth Amendment also does yeoman's work for liberty. Just as the Second arms us against tyranny, so the Fourth disarms the tyrants. It strips them of one of their favorite, deadliest weapons: the power to search anyone at any time for any reason or none at all.

Why is the power to search the power to destroy? First, because it uncovers contraband. Second, it utterly humiliates — and that's a best-case scenario; at worst, it provides an excuse for imprisonment. Third, it concentrates the executive and judicial functions that the Constitution firmly separates, augmenting the power of each.

Governments throughout history and around the world have always prohibited their subjects from possessing certain items. Sometimes, as in ancient Sparta or Rome, luxuries make the list; more usually, it's weapons, books deemed subversive, smuggled goods on which no tax has been paid, and other physical or intellectual threats to the State. Governments also ban stuff just to show who's boss: America's ridiculous War on Drug Users has attained that status, even if it began as a shot against [Mexican](#) and [Chinese](#) immigrants.

Flouting rulers' restrictions allows freedom to flourish. Americans who defy legislators' whims, whether by smoking pot or by tweaking their toilets so they flush more than 1.6 gallons or by refusing to buckle up, help highlight the whims as mere opinions that we should ignore. These dissidents can also improve our lives. For instance, the Fed's jihad against morphine condemns patients to needless suffering. Courageous doctors who follow their own judgment rather than the DEA's cruel strictures ease human agony.

Ignoring politicians infuriates them, and they retaliate by fining or imprisoning us. Ergo, hiding the





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evidence of our disagreement with them advances freedom: it keeps the rebels out of jail so they can influence their neighbors to disobey, too, until so many people are smoking pot or unbuckling up that the silliness is repealed.

But empowering government to search for outlawed drugs and open seatbelts strips that protection from the rebels. It turns all but the feistiest, most independent adults into cringing children who do exactly as they're told.

The Founding Fathers realized that power is the most addictive substance on earth: no matter how little or how much a government has, it always wants more. Even Alexander Hamilton, admiring proponent of a strong State, [observed in the Federalist Papers](#) that "there is, in the nature of sovereign power, an impatience of control, that disposes those who are invested with the exercise of it, to look with an evil eye upon all external attempts to restrain or direct its operations." Rulers constantly try to expand their authority, to use more force over more people more of the time. Searching citizens is an easy way to enhance power because it thoroughly squelches rebellion.

Totalitarian regimes are notorious for their long lists of contraband and their anytime-anywhere searches that discover who's enjoying something on the list. In 1945, the criminals in charge of one of those regimes went on trial at Nuremberg, Germany. Representing the United States there as chief prosecutor was Supreme Court Justice Robert Jackson; four years later, Jackson pondered the Fourth Amendment's centrality to freedom: "These rights, I protest, are not mere second-class rights but belong in the catalog of indispensable [sic] freedoms. Among deprivations of rights, none is so effective in cowering a population, crushing the spirit of the individual and putting terror in every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government." [Brinegar v. United States, 338 U.S. 160, 180 (1949)] This "weapon" combats not only political resistance but personal privacy and dignity – virtues as elemental to freedom as wind and water are to Nature.

Our rulers currently subject Americans to so many warrantless searches that most victims no longer even recognize them as unconstitutional. Health inspections of restaurants, in which the otherwise unemployable search the kitchens of the productive; safety inspections, in which the otherwise unemployable search the workrooms of the productive; code inspections, in which the otherwise unemployable search the construction sites of the productive — in each case, the State pretends that its minions are qualified to judge the habits of professionals. It also alleges that these warrantless searches protect us from danger; in reality, they channel billions of dollars into bureaucracies' coffers when the minions claim to find infractions of their endless and arbitrary regulations.

Insisting that governments at all levels honor our right to be free of arbitrary searches would perforce end the Wars on Drugs and Terror. It would save businesses struggling to survive in this horrific economy a fortune, in fines and in the costs of complying with absurd regulations. And it would shrink our interactions with the State as well as restore some balance to those remaining.

Not a bad tally for one little amendment.

Becky Akers, an expert on the American Revolution, writes frequently about issues related to security and privacy. Her articles and columns have been published by *Lewrockwell.com*, *The Freeman*, *Military History Magazine*, *American History Magazine*, the *Christian Science Monitor*, the *New York Post*, and other publications.



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