

Police Inspections on the River

Hi Lex,

The information below describes the relationship between a person's Fourth Amendment Rights and law enforcement's authority to stop a vessel. This is taken, almost verbatim, from the student manual that we use at our Marine Law Enforcement Training Course. Not all officers attend our training, of course, and even then they are not obligated to follow our training. As far as vessel stops are concerned, if a law enforcement officers signals a boater to stop, they should comply. Always bear in mind that these officers are there to ensure the safety of everyone using our waters, and they may have a valid reason for requesting the stop. However, the officer conducting the stop must be able to explain why they made the stop; they witnessed a violation, have probable cause, or they are offering a safety check. If it is the latter, the boater has the right to politely decline, and should not be further detained.

"The 4th Amendment guarantees 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.

The key term here is "unreasonable." Of course, not all searches and seizures are illegal. The keys to the search and seizure law are probable cause and the expectation of privacy. The United States Supreme Court has recognized many clear exceptions to the warrant requirement; in these cases, a search or seizure is deemed reasonable and constitutional absent a warrant, provided probable cause and certain circumstances exist.

Unless you have a "reasonable expectation of privacy" in

a certain place or thing, it may be searched and/or seized by the police without a search warrant. In other words, the Fourth Amendment doesn't apply to any place or thing in which you don't have a reasonable expectation of privacy. Examples of places or things where you may have a reasonable expectation of privacy include: your home, or anywhere you actually live, including a rented apartment or a hotel room; the trunk of your car; luggage or other containers that aren't transparent or see-through, even if you're carrying it in a public place, like an airport or bus station; and your business office

Places you do not have a reasonable expectation of privacy may include: things that are in "plain view," that is, exposed or out in the open that anyone can see. Example: something that can be seen from a public road; a property you have consent to enter; portions of your business office or building that's open to the public, such as a reception area; and public places, likes restaurants and parks. This includes a walkway or path to a residence where it would be expected a guest, mail or delivery person would have access.

The USCG is the only law enforcement agency in the country that can stop and board a vessel without a warrant. This authority is granted under a right to conduct a "Boarder Search" and the "1790 Revenue Act". Police and peace officers (acting pursuant to their special duties and within their geographical area of employment) must have a reason to stop a vessel. A stop would be lawful when an officer witnesses a violation such as excessive speed, registration violation, improper registration numbers, a PWC operating too close to a boat's wake, operating near a danger buoy, an overloaded boat, etc. etc. A stop would also be lawful if the officer has Probable Cause to believe that a crime has been committed, including reckless operation, BWI, or a non-marine related crime committed on the water. Although officers may not stop a vessel for a safety check alone, they may check safety equipment after a legally authorized stop or a legitimate department authorized check point."

I hope this helps.

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