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# PERSPECTIVES

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## Breaking down barriers...legally

**AN EMERALD EDITORIAL**

*Police are gaining increasing power to search property at the cost of civil liberties*

It's 2 a.m. You've been asleep for about an hour after another long night of studying. Suddenly, you hear a shattering of glass and shouting as several shadowy figures race into your home.

Half-asleep and completely confused, you reach for something to protect yourself — a gun, knife, baseball bat or even a heavy lamp. At that moment, a bright light is flashed in your eyes, someone shouts, "Police!" and before you can react, you are shot several times and killed.

Not likely? Not about to happen to you, a law-abiding citizen who would never attract police attention in the first place? Perhaps.

But, according to the Supreme Court, perfectly legal.

A recent court decision overturned a 9th Circuit Court of Appeals ruling that police must announce their presence before breaking property — such as kicking down a door or breaking a locked window — in order to conduct a warranted search.

The Supreme Court has already ruled that police can enter a home unannounced, if they have a warrant, when they suspect the lives of officers might be in danger, the suspect could destroy evidence or the suspect could escape. Now those concerns are weighed equally regardless of whether the police need to destroy property in order to enter the premises.

While police concerns about safety and the legitimacy of their investigations make sense, they need to be balanced against the necessary rights of the individual. Unfortunately, recent police actions and court decisions have suggested the balance is overwhelmingly skewed.

The 9th Circuit Court's reasoning was, in part, that police jeopardized their own safety and the safety of those being searched by breaking into a home unannounced. This concern for safety is only one of the reasons we worry about giving police too much freedom in determining the manner their search should take.

Fourth Amendment provisions

requiring searches be warranted were created to prevent police from having undue power over the lives of private citizens. One important aspect of these provisions is that the courts, and not the police, approve warrants.

Unfortunately, the courts are not in a position to control the way in which the warrant is served. Perhaps the Supreme Court's ruling would be more acceptable if it required police to obtain court approval of forced entry. As it stands now, however, police discretion has been expanded without judicial interference and at the cost of personal liberties.

Too many people are willing to dismiss the ongoing breakdown of civil liberties protections because "the police are the good guys, and the criminals are the bad guys." By this logic, criminals are somehow less entitled to constitutional protections.

There are several problems with this reasoning. Above all else, few are more in need of their rights than accused criminals, who face a huge number of prejudices and social stigmas.

Moreover, just because a person's home is about to be searched doesn't mean they are a criminal.

In addition to the presumption of innocence that still theoretically exists in our system, many people are falsely accused of crimes by the police. For example, the search that led to the recent Supreme Court decision was intended to locate a fugitive who was not, in fact, residing within the searched home.

Police frequently base searches upon less than solid evidence. When seeking a warrant, investigators need only present reasons for issuance, regardless of any contradictory information they might have obtained.

CHRIS HUTCHINSON/Emerald



tracted recent criticism for being unjust. Eric Blumenson and Eva Nilsen wrote a lengthy indictment of police confiscation procedures in drug cases in the March 9 Nation. According to the authors, an increasing reliance upon money generated from confiscating drug-related property has led to several problems.

These inequities have included, according to Blumenson and Nilsen, "distorted law-enforcement priorities," "unjust treatment" and "police lawlessness." The authors argue that law enforcement is increasingly emphasizing anti-drug laws and arrest procedures that maximize the potential for confiscation of property, often at the cost of just treatment, due process and fair warrant procedures.

In one particular case, a massive police team descended upon the \$5 million ranch of Donald Scott based upon a claim by an informant that Scott was growing marijuana. According to Blumenson and Nilsen, the police were completely unable to corroborate the claim, yet they proceeded to seek a warrant and conduct an extensive search.

Remember the "unlikely" scenario from the beginning of this editorial? When police burst into Scott's home, they found him holding a gun out of fear and confusion. Scott was shot twice in the chest and killed.

Guess what. Police found no marijuana plants or other drugs or related paraphernalia.

In a report by the Ventura County district attorney, officials concluded that the police had acted irresponsibly, basing the warrant and search itself upon what The Nation writers termed "a lack of credible evidence." Finally, the report concluded the search had been partly inspired by a desire to confiscate the ranch.

So, perhaps your civil rights aren't in danger from recent attacks on fair search procedures. Perhaps the scenario of a late-night raid isn't likely. But the reason may not be that you are a law-abiding citizen, but that you don't own an expensive enough home.

If that doesn't make you value the Fourth Amendment and the Constitution as a whole, perhaps nothing will.

*This editorial represents the opinion of the Emerald editorial board. Responses may be sent to ode@oregon.uoregon.edu.*

While police do usually act in the interest of societal safety, there is a mound of empirical evidence that this is not always the case. Recent headlines have declared numerous cases of police brutality across the nation. Racism has long been considered a factor in unequal treatment of citizens by some police forces. And some large, urban police agencies have attracted attention from human rights groups, such as Amnesty International, which issued a scathing report on the Los Angeles Police Department. Searches in particular have at-

**CORRECTION**

The photo shown on the cover of the "Better Minds and Bodies" supplement (ODE, March 4) and the photo accompanying the story "Braving the Rapids" should have been credited to Bruce Mason of the Outdoor Program. The Emerald regrets the oversight.



**LETTERS TO THE EDITOR**

**God cherishes all**

We wish to proclaim Barry Williams does not speak for all Christians (ODE, Feb. 25). As members of the Reconciling Ministry at the Wesley Foundation, we seek to make our campus ministry a welcoming environment — an open community where all can gather in fellowship and worship. As a reconciling ministry, we offer a spiritual home and safe place for all members of the campus community.

We are called by God to speak out with welcoming voices to gay, lesbian and bisexual people. Working together, we attempt to create an open, accepting and

non-judgmental atmosphere for all people.

To say God feels "fierce, burning anger" toward the lesbian, gay and bisexual community goes against the fundamental principles of our faith. We believe in a God that loves and cherishes all people.

**Janet Cromwell**  
Pastor, Wesley Foundation  
and three cosigners

**Princeton plays 'right'**

This is in response to Joel Hood's opinion on the Princeton men's basketball team (ODE, March 5). Hood has everything wrong, and I cannot believe that

someone who is a true basketball fan can find fault with the way Princeton plays. Princeton portrays everything that is right with basketball. They play fundamental basketball. They play the "right" way. If you cannot appreciate a nice bank shot, bounce pass or back door cut, then I don't know what you're looking for.

Maybe you are a fan of very talented athletes who have no discipline, no fundamentals and maybe even choke their coaches. If so, you can sit home and watch the second round of the tournament on TV with UCLA.

**Scott Patton**  
Psychology