



Written by [Bob Adelman](#) on September 8, 2017

## Two Fourth Amendment Cases Prove the Constitution Still Works

A nurse in Utah and a couple in Texas stood up for their rights as guaranteed to them in the Bill of Rights. The Utah nurse hasn't filed suit, but the Texas couple did, and in both cases law-enforcement officials have been exposed and shamed for their illegal conduct. Both cases were aided with the help of videos taken of the incidents.

[The first](#) has caught national attention and has stirred national outrage. On July 26 Alex Wubbels was on duty as head nurse of the University of Utah Hospital's burn unit when a truck driver was wheeled in suffering from severe burns. He had been hit by a driver fleeing police and was comatose when he arrived in the ER.



Salt Lake City police detective Jeff Payne arrived at the hospital with instructions to obtain a blood sample from the comatose driver to test for illicit substances and ran into nurse Wubbels who knew the hospital's rules: There would be no blood drawn unless 1) Payne was there to place the driver under arrest; 2) he had a warrant to perform the procedure; or 3) he had obtained the driver's consent.

None of these applied. Nurse Wubbels checked with her supervisor who confirmed the hospital's rules: No blood would be drawn on the comatose driver by Payne.

Several videos of the incident are available [at YouTube](#) which, taken altogether, have been viewed more than a million times. At the 6:51 minute mark on the longest one, detective Payne loses his temper owing to frustration and arrests Wubbels. After nearly 20 minutes sitting in the back seat of Payne's cruiser, she is released. The days that followed were no doubt a blur for nurse Wubbel, what with media interviews, statements, and public appearances. She received a public apology from the city's mayor "on behalf of" the city's police department. She most notably did not receive an apology from detective Payne who has been "placed on paid administrative leave."

Last Thursday nurse Wubbells was reliving the experience for NBC News. She told them, "At the very least there needs to be some significant discussion about what [the officer's] duties are to society. And I am still confused. I'm a health care worker. The only job I have is to keep my patients safe." What happened that day "was not peaceful. This was not even civil."

Nurse Wubbel got support from the nurses' union National Nurses United, which called the incident "outrageous," with Jean Ross, the group's president, adding: "As the videos and news accounts make clear, there is no excuse for this assault, or her arrest, which sends a chilling message about the safety of nurses and the *rights of patients*." (Emphasis added.)

The hospital policies reflect the on-the-ground implementation of the Constitution's Fourth Amendment,



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which declares that “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 the persons or things to be seized.”

As noted by Amy Swearer, a visiting legal fellow of the Heritage Foundation, “It is a long-standing rule that drawing blood is a ‘search’ within the meaning of the Fourth Amendment because it is ‘an invasion of bodily integrity [which] implicates an individual’s most personal and deep-rooted expectations of privacy.’”

Swearer also disposed of arguments by Payne that these were “exigent circumstances” that overrode the comatose driver’s rights and the hospital’s rules designed to protect him from such illegal searches. “Exigent circumstances,” she explained, only exist in the most pressing, most urgent, most immediate situation where a delay is likely to result in the destruction of crucial evidence of a crime.

In his response to Officer Payne’s claim that Nurse Wubbel was interfering with a police investigation — a ruse too often used when others aren’t available — Swearer pointed out that that only applies when certain actions “hinder, delay, or prevent the investigation,” which Nurse Wubbel wasn’t doing. On the contrary, as the videos clearly show she was polite, courteous, and professional in explaining to the increasingly exasperated Payne the hospital’s rules.

Nurse Alex Wubbels has not ruled out legal action.

That isn’t the case with Huntly and Susan Dantzler who live in a rural area of Gillespie County, Texas. On May 3, 2015, they were awakened by two police officers pounding on their front door at 6:35 a.m. Police demanded to see their son, Huntly Dantzler, Jr., who, through an anonymous tip that later proved to be false, was thought to be harboring a woman whom he had drugged at a local bar earlier that night.

The Dantzlars knew their rights, and they claimed them. They informed the officers that Huntly, Jr. wasn’t at home. The officers, after a 15-minute conversation that became louder over time, pulled Huntly from the front door, pushed him to the ground and handcuffed him. They then turned to his wife who, despite witnessing her husband being taken down, continued to protest that the officers wouldn’t be allowed to search their house. Seeing her husband in great distress, she allowed one of the officers to enter the house on the condition that he check only Huntly, Jr.’s bedroom to confirm that he wasn’t there. The officer, taking advantage, searched the entire house and confirmed that what the couple had been claiming was accurate after all: Huntly, Jr. wasn’t at home.

In December 2015, they filed suit against the officers who, according to the complaint, “engaged in an invasion and search of the Plaintiff’s home without reasonable grounds and against the will and protestations of the Plaintiffs.” The complaint continued:

Additionally, the Defendants effected a seizure of one of the Plaintiffs [Huntly, Sr.] without sufficient cause and using unreasonable and excessive force, caused significant personal injury and damage to the Plaintiffs....

The Defendants, acting under a claim of right and without the voluntary consent of the Plaintiffs, conducted a search of the Plaintiff’s resident without probable cause ... thereby depriving the Plaintiffs of their rights under the Fourth Amendment to the United States Constitution.

The Dantzler’s complaint also charged the officers with false arrest under Texas law, and assault and battery. The complaint was explicit: “Defendant Westbrook [one of the officers] intentionally and with



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malice made harmful and offensive contact with the person of Plaintiff Dantzler and there committed assault and battery.”

The Dantzlars demanded a jury trial.

This was followed by much legal wrangling, including a motion by the Dantzlars for a summary judgment in their favor. This, of course, was opposed by the legal team representing the officers in February of this year.

More wrangling ensued until September 1 when the U.S. District Court for the Western District of Texas granted nearly all of what the Dantzlars sought. Under the law a summary judgment is granted when plaintiffs show “that there is no genuine dispute as to any material fact and [thus] is entitled to judgment as a matter of law.” The video and audio from the officers’ dashcam, coupled with video taken by Susan Dantzler on her cellphone at the time, provided irrefutable evidence of the illegal search, false arrest, and assault and battery of her husband.

In celebrating that victory, John Whitehead, president of the Rutherford Institute which represented the Dantzlars, [said](#):

What makes this case so striking is the contrast between American citizens who not only know their rights but are exercising them [compared to] government officials — in this case, the police — who are either completely ignorant of what the law requires (namely, a search warrant and probable cause) or who don’t believe the laws of the land, namely the Fourth Amendment, apply to them.

The next move for the Dantzlars is likely to be a demand for monetary damages, while Nurse Wubbel appears to be weighing her options. What is crystal clear is that, in each incident, Americans knew their rights and stood up against officers who didn’t, or who ignored them. There are at least three lessons to be learned in these incidents: Videotaping of the incidents provided irrefutable evidence of the transgressions that the officers could not rebut. These incidents likely provide incentive for other law-enforcement officials to step carefully in the future when tempted to violate Americans’ precious rights. Finally, and perhaps most importantly for those involved in the freedom fight like members of The John Birch Society, is the comfort in knowing that, in these cases at least, the Fourth Amendment to the Constitution of the United States is still in force.

Image of the arrest of Nurse Wubbels: Screenshot of [YouTube video by Video Leak Police](#)

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