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Review of *The Fourth Amendment in Flux: The Roberts Court, Crime Control, and Digital Privacy.*Michael C. Gizzi and R. Craig Curtis. Reviewed by Daniel Liechty

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who have more "pure" cultural heritage, Filipino Americans find it awkward to fall into these same racial categories.

On the other hand, certain cultural and linguistic advantages inherited from the Spanish and U.S. colonial period enable Filipinos to integrate in multi-ethnic social contexts with greater adaptability than other Asian Americans. In addition, it facilitates Filipino American ability to straddle Latino and Asian racial categories. How they negotiate panethnic boundaries, in turn, brings to light the flexibility and inclusiveness of race.

Developing more intimate ties with Latinos than with other Asians, Filipinos can only think of chopsticks, Japanese mountains, pho noodles and so on when talking about Asian Americans. They distance themselves from each other for lack of cultural recognition and social interaction. At the same time, "their status as racial minorities still hinders some whites from regarding them as full-fledged Americans" (p. 33).

Accordingly, it is a tough job to balance being Filipino and being American. Whether and how to maintain ethnicity in immigrant countries is a common racial dilemma for all ethnic minorities. Nevertheless, in the present age of economic globalization and cultural integration, we should discard minority stereotypes, increase understanding and celebrate differences through mutual respect and equal exchange. As no culture flourishes in isolation, every culture needs to absorb foreign cultural elements to renew itself, and one's cultural identity must be forged out of the co-existence of multiple cultures.

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Michael C. Gizzi and R. Craig Curtis, *The Fourth Amendment in Flux: The Roberts Court, Crime Control, and Digital Privacy.* University of Kansas (2016), 188 pages, $19.95 (paperback).

> 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. (4th Amendment to the U.S. Constitution)

While most of the public attention in civil liberties focuses on First Amendment and perhaps Second Amendment issues, other amendments of the Bill of Rights are also fundamental to our consciousness as Americans. I will admit that before reading this book, I myself would have been a little shaky as to exactly what is contained in the Fourth Amendment. Oh yes, the "Search and Seizure" amendment, right.

Even so, the images that ran through my head in immediate reaction to those words was one of Colonial soldiers barging into a house and taking whatever they wanted. Obviously, this book has been a real education for me, as I know it will be for many others of the readers of this journal. Furthermore, far beyond simply becoming better and more informed American citizens for reading this book, the cases in point pertaining to illegal search and seizure impact our research and service delivery in the social services very directly. As we move from a world of "persons, houses, papers and effects," into a world of email, smart phones, laptops, electriconic records-keeping and the ability of governments, as well as large private institutions, to vacuum up and reconstruct bits of information like never before, what is the current thinking about the balance between public need and privacy, the parameters of professional confidentiality, and the limits of legitimate investigation?

In laying out the common issues currently enveloped by the Fourth Amendment, Gizzi and Curtis take a loosely historical approach, guiding us through the discussions of the past in order to bring us into the discussions of the present. Following some previous scholars, they adopt a framework that looks at the balance of "due process" versus "crime control" as a way of understanding and evaluating this history of how the courts view Fourth Amendment issues. A court that highly values due process is likely to return decisions on Fourth Amendment issues that favor individuals and defendants, while a court that values crime control is more likely to return decisions that favor the state and law enforcement.

The Fourth Amendment played only a minor role in the minds of Americans before the 1960s. The reason for this is that it applied only to situations in which federal law enforcement officials were involved. Local law enforcement more or less functioned according to the general mores of the communities

in which they existed, and even state-level law enforcement was rarely impeded by federal rules. This changed radically in the years in which Earl Warren served as the chief justice of the supreme court (1953-1969). Especially during the latter years of the Warren Court, the court leaned heavily in the direction of "due process," and handed down decisions that were aimed very clearly at letting law enforcement know there were Fourth Amendment limits to their authority and the means of their investigations.

All who have ever watched a film or TV crime drama are well aware of some of those decisions, such as the requirement to read a suspect his or her "Miranda" rights upon arrest, and the need to have a warrant signed by a judge before searches can take place. This seems so bedrock to our current understanding of the American system now that it is rather jarring to remember that such "exclusionary" laws (excluding evidence from trial that was gained outside of the parameters of proper search and seizure) did not even apply to state and local cases before 1961. It was really in a few short years, during the decade of the 1960s that the Warren Court handed down decisions that largely upended many of the common practices of the legal system up to that time.

As some of us can still remember from those years, while there were many who appreciated the logic of the Warren Court, guided by its sense that Constitutional Rights were primary, underlining the notion that law enforcement could not simply violate those rights and justify themselves later by the results, there were many others (Nixon thought of them as his "silent majority") who felt that the Warren Court had gone way too far in establishing protection of the rights of criminals even above the rights of law-abiding citizens. Whether or not that is a fair assessment (and at least initially, there were a good number of highly profiled cases of those likely guilty of crimes for which they were accused who got off on the basis of legal technicalities pertaining to the investigation process), a skilled politician like Richard Nixon immediately smelled an opportunity and began to drum up resentment against both President Johnson and Earl Warren for this elevation of civil liberties in their governing philosophies.

Nixon's rhetoric during the elections of both 1968 and 1972

(which I remember well) was chock full of bluster about "coddling criminals" and the need for reestablishment of law and order. Though he eventually had to resign in disgrace to escape impeachment for his own crimes against the U.S. Constitution, Nixon had opportunity to name four new Supreme Court justices, including a new Chief Justice, and in doing so made good on his promise to reverse the direction of the court. The subsequent Burger Court (1969-1983) spent its tenure handing down rulings in areas of exclusion, probable cause and privacy expectation that firmly favored the state and law enforcement. Due process considerations were subordinated to what Gizzi and Curtis call the "jurisprudence of crime control."

This general direction was solidified through the 80s and 90s by the Rehnquist Court (1986-2005), to the point that it is fair to assume that a jurisprudence of crime control has been the overarching philosophy of the American supreme court over all, with the Warren "due process revolution" representing but a late 60s blip on the screen for a few short years, though an important one at that. As Gizzi and Curtis maintain, in a situation in which a jurisprudence of crime control represents the guiding philosophy, we find about three quarters of court decisions favoring the state and law enforcement, and even those decided against the state and law enforcement are much more likely to be narrowly aimed at specific excesses, rather than to represent precedent-setting new understandings of personal and constitutional rights.

This brings us finally to the Roberts Court, 2005 and into the present. While initially it seemed as if the Roberts Court would simply continue in the mode of Rehnquist, Gizzi and Curtis notice some variables and variation that they see as suggesting we may be "in flux" in relation to at least some of the salient issues. One major of those variables (the unpredictability of Antonin Scalia on some issues) has been taken off the table—and as of this writing, President Trump has not yet named a replacement. Some of those variables are rather subtle, for example, the incremental difference that Obama appointments (Sotomayor replacing Souter and Kagan replacing Stevens) have made in the overall mix of the court. But the most important variable is simply that we have now entered the digital era, and the old liberal/conservative

divisions are up for grabs in terms of how cases of digital privacy are viewed. Furthermore, these are issues in which the general public, as well as well-healed private corporations, have enormous interest. Gizzi and Curtis end their book with an outline of future cases, the issues involved, and the competing dynamics that will impact the decisions ahead.

This is a very well written and engaging book. As said, if I did not think so before reading this book, I certainly do now think that Fourth Amendment issues are very important for researchers and service providers in the social services. It is a real treat to have guidance for these issues by writers who are not jargon-laden constitutional lawyers, but rather a pair (a criminal justice and a political science professor) who speak much more closely the language of our own discipline. I highly recommend this book for personal background reading, and also as a possible text for graduate-level courses in policy studies.

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Michael T. Maly and Heather M. Dalmage, *Vanishing Eden: White Construction of Memory, Meaning, and Identity in a Racially Changing City.* Temple University Press (2016), 170 pages, $74.50 (hardcover), $28.95 (paperback).

Privilege and power have long been discussed in scholarly efforts. Whiteness remains as an important construct in the context of privilege and power over time. American history is filled with examples on how the system is set up for white people to gain access to resources and power and withhold those from others. The tension portrayed between European Americans and African Americans in mass media reminds us that racism is still prevalent and persistent in American society, despite the social movements and efforts to end racial segregation and discrimination and their vastly different influences on the lives of both the privileged and the unprivileged. Prejudice and discrimination against people of color in housing, education, health care, work place, and the legal systems is manifest. However, white privilege is a challenging topic to talk about because often times white people do not recognize their privilege and power in relation to others. This book strengthens