temporarily private place whose momentary occupants' expectations of freedom from intrusion are recognized as reasonable. * * *

JUSTICE BLACK, dissenting.

* * * Tapping telephone wires, of course, was an unknown possibility at the time the Fourth Amendment was adopted. But eavesdropping (and wiretapping is nothing more than eavesdropping by telephone) was "an ancient practice which at common law was condemned as a nuisance. In those days the eavesdropper listened by naked ear under the eaves of houses or their windows, or beyond their walls seeking out private discourse." There can be no doubt that the Framers were aware of this practice, and if they had desired to outlaw or restrict the use of evidence obtained by eavesdropping, I believe that they would have used the appropriate language to do so in the Fourth Amendment. They certainly would not have left such a task to the ingenuity of language-stretching judges. * * *

* * * By clever word juggling the Court finds it plausible to argue that language aimed specifically at searches and seizures of things that can be searched and seized may, to protect privacy, be applied to eavesdropped evidence of conversations that can neither be searched nor seized. Few things happen to an individual that do not affect his privacy in one way or another. Thus, by arbitrarily substituting the Court's language, designed to protect privacy, for the Constitution's language, designed to protect against unreasonable searches and seizures, the Court has made the Fourth Amendment its vehicle for holding all laws violative of the Constitution which offend the Court's broadest concept of privacy. * * *

The Fourth Amendment protects privacy only to the extent that it prohibits unreasonable searches and seizures of "persons, houses, papers and effects." No general right is created by the Amendment so as to give this Court the unlimited power to hold unconstitutional everything which affects privacy. Certainly the Framers, well acquainted as they were with the excesses of governmental power, did not intend to grant this Court such omnipotent lawmaking authority as that. The history of governments proves that it is dangerous to freedom to repose such powers in courts. * * *

CALIFORNIA V. GREENWOOD

486 U.S. 35, 108 S.Ct. 1625, 100 L.Ed.2d 30 (1988).

JUSTICE WHITE delivered the opinion of the Court. * * *

In early 1984, Investigator Jenny Stracner of the Laguna Beach Police Department received information indicating that respondent Greenwood might be engaged in narcotics trafficking. * * *

On April 6, 1984, Stracner asked the neighborhood's regular trash collector to pick up the plastic garbage bags that Greenwood had left on the curb in front of his house and to turn the bags over to her without mixing their contents with garbage from other houses. The trash collector cleaned his truck bin of other refuse, collected the garbage bags from the street in front of Greenwood's house, and

turned the bags over to Stracner. The officer searched through the rubbish and found items indicative of narcotics use. She recited the information that she had gleaned from the trash search in an affidavit in support of a warrant to search Greenwood's home.

Police officers encountered both respondents at the house later that day when they arrived to execute the warrant. The police discovered quantities of cocaine and hashish during their search of the house. Respondents were arrested on felony narcotics charges. They subsequently posted bail.

The police continued to receive reports of many late-night visitors to the Greenwood house. On May 4, Investigator Robert Rahaeuser obtained Greenwood's garbage from the regular trash collector in the same manner as had Stracner. The garbage again contained evidence of narcotics use.

Rahaeuser secured another search warrant for Greenwood's home based on the information from the second trash search. The police found more narcotics and evidence of narcotics trafficking when they executed the warrant. Greenwood was again arrested.

The Superior Court dismissed the charges against respondents on the authority of *People v. Krivda,* 5 Cal.3d 357, 96 Cal.Rptr. 62, 486 P.2d 1262 (1971), which held that warrantless trash searches violate the Fourth Amendment and the California Constitution. The court found that the police would not have had probable cause to search the Greenwood home without the evidence obtained from the trash searches.

The Court of Appeal affirmed. * * *

The California Supreme Court denied the State's petition for review of the Court of Appeal's decision. We granted certiorari, and now reverse.

The warrantless search and seizure of the garbage bags left at the curb outside the Greenwood house would violate the Fourth Amendment only if respondents manifested a subjective expectation of privacy in their garbage that society accepts as objectively reasonable. Respondents do not disagree with this standard.

They assert, however, that they had, and exhibited, an expectation of privacy with respect to the trash that was searched by the police: The trash, which was placed on the street for collection at a fixed time, was contained in opaque plastic bags, which the garbage collector was expected to pick up, mingle with the trash of others, and deposit at the garbage dump. The trash was only temporarily on the street, and there was little likelihood that it would be inspected by anyone.

It may well be that respondents did not expect that the contents of their garbage bags would become known to the police or other members of the public. An expectation of privacy does not give rise to Fourth Amendment protection, however, unless society is prepared to accept that expectation as objectively reasonable.

Here, we conclude that respondents exposed their garbage to the public sufficiently to defeat their claim to Fourth Amendment protection. It is common knowledge that plastic garbage bags left on or at the side of a public street are

readily accessible to animals, children, scavengers, snoops,[4] and other members of the public. Moreover, respondents placed their refuse at the curb for the express purpose of conveying it to a third party, the trash collector, who might himself have sorted through respondents' trash or permitted others, such as the police, to do so. Accordingly, having deposited their garbage "in an area particularly suited for public inspection and, in a manner of speaking, public consumption, for the express purpose of having strangers take it," respondents could have had no reasonable expectation of privacy in the inculpatory items that they discarded.

Furthermore, as we have held, the police cannot reasonably be expected to avert their eyes from evidence of criminal activity that could have been observed by any member of the public. Hence, "[w]hat a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection." *Katz v. United States.* We held in *Smith v. Maryland,* 442 U.S. 735 (1979), for example, that the police did not violate the Fourth Amendment by causing a pen register to be installed at the telephone company's offices to record the telephone numbers dialed by a criminal suspect. An individual has no legitimate expectation of privacy in the numbers dialed on his telephone, we reasoned, because he voluntarily conveys those numbers to the telephone company when he uses the telephone. Again, we observed that "a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties." * * *

Our conclusion that society would not accept as reasonable respondents' claim to an expectation of privacy in trash left for collection in an area accessible to the public is reinforced by the unanimous rejection of similar claims by the Federal Courts of Appeals. In addition, of those state appellate courts that have considered the issue, the vast majority have held that the police may conduct warrantless searches and seizures of garbage discarded in public areas.

* * * a

JUSTICE BRENNAN, with whom JUSTICE MARSHALL joins, dissenting. * * *

The Framers of the Fourth Amendment understood that "unreasonable searches" of "paper[s] and effects"—no less than "unreasonable searches" of "person[s] and houses"—infringe privacy. * * * In short, so long as a package is "closed against inspection," the Fourth Amendment protects its contents, "wherever they may be," and the police must obtain a warrant to search it just "as is required when papers are subjected to search in one's own household." * * *

Our precedent, therefore, leaves no room to doubt that had respondents been carrying their personal effects in opaque, sealed plastic bags—identical to the ones

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[4] Even the refuse of prominent Americans has not been invulnerable. In 1975, for example, a reporter for a weekly tabloid seized five bags of garbage from the sidewalk outside the home of Secretary of State Henry Kissinger. Washington Post, July 9, 1975, p. A1, col. 8. A newspaper editorial criticizing this journalistic "trashpicking" observed that "[e]vidently . . . 'everybody does it.'" Washington Post, July 10, 1975, p. A18, col. 1. We of course do not, as the dissent implies, "bas[e] [our] conclusion" that individuals have no reasonable expectation of privacy in their garbage on this "sole incident."

[a] Justice Kennedy took no part in the consideration or decision of this case.

they placed on the curb—their privacy would have been protected from warrantless police intrusion. * * *

Respondents deserve no less protection just because Greenwood used the bags to discard rather than to transport his personal effects. Their contents are not inherently any less private, and Greenwood's decision to discard them, at least in the manner in which he did, does not diminish his expectation of privacy.[2]

A trash bag, like any of the above-mentioned containers, "is a common repository for one's personal effects" and, even more than many of them, is "therefore * * * inevitably associated with the expectation of privacy." * * * A single bag of trash testifies eloquently to the eating, reading, and recreational habits of the person who produced it. A search of trash, like a search of the bedroom, can relate intimate details about sexual practices, health, and personal hygiene. Like rifling through desk drawers or intercepting phone calls, rummaging through trash can divulge the target's financial and professional status, political affiliations and inclinations, private thoughts, personal relationships, and romantic interests. It cannot be doubted that a sealed trash bag harbors telling evidence of the "intimate activity associated with the 'sanctity of a man's home and the privacies of life,' " which the Fourth Amendment is designed to protect.

The Court properly rejects the State's attempt to distinguish trash searches from other searches on the theory that trash is abandoned and therefore not entitled to an expectation of privacy. As the author of the Court's opinion observed last Term, a defendant's "property interest [in trash] does not settle the matter for Fourth Amendment purposes, for the reach of the Fourth Amendment is not determined by state property law." In evaluating the reasonableness of Greenwood's expectation that his sealed trash bags would not be invaded, the Court has held that we must look to "understandings that are recognized and permitted by society." Most of us, I believe, would be incensed to discover a meddler—whether a neighbor, a reporter, or a detective—scrutinizing our sealed trash containers to discover some detail of our personal lives. That was, quite naturally, the reaction to the sole incident on which the Court bases its conclusion that "snoops" and the like defeat the expectation of privacy in trash. When a tabloid reporter examined then-Secretary of State Henry Kissinger's trash and published his findings, Kissinger was "really revolted" by the intrusion and his wife suffered "grave anguish." N.Y. Times, July 9, 1975, p. A1, col. 8. The public response roundly condemning the reporter demonstrates that society not only recognized those reactions as reasonable, but shared them as well. Commentators variously characterized his conduct as "a disgusting invasion of personal privacy," Flieger, Investigative Trash, U.S. News & World Report, July 28, 1975, p. A18 (editor's page); "indefensible * * * as civilized behavior," Washington Post, July 10, 1975, p.

[2] Both to support its position that society recognizes no reasonable privacy interest in sealed, opaque trash bags and to refute the prediction that "society will be shocked to learn" of that conclusion, the Court relies heavily upon a collection of lower court cases finding no Fourth Amendment bar to trash searches. But the authority that leads the Court to be "distinctively unimpressed" with our position, is itself impressively undistinguished. Of 11 Federal Court of Appeals cases cited by the Court, at least two are factually or legally distinguishable, and seven rely entirely or almost entirely on an abandonment theory that the Court has discredited. A reading of the Court's collection of state-court cases reveals an equally unimpressive pattern.

A18, col. 1 (editorial); and contrary to "the way decent people behave in relation to each other," ibid. * * *

That is not to deny that isolated intrusions into opaque, sealed trash containers occur. When, acting on their own, "animals, children, scavengers, snoops, [or] other members of the general public," *actually* rummage through a bag of trash and expose its contents to plain view, "police cannot reasonably be expected to avert their eyes from evidence of criminal activity that could have been observed by any member of the public."

Had Greenwood flaunted his intimate activity by strewing his trash all over the curb for all to see, or had some nongovernmental intruder invaded his privacy and done the same, I could accept the Court's conclusion that an expectation of privacy would have been unreasonable. Similarly, had police searching the city dump run across incriminating evidence that, despite commingling with the trash of others, still retained its identity as Greenwood's, we would have a different case. But all that Greenwood "exposed * * * to the public" were the exteriors of several opaque, sealed containers. * * *

The mere *possibility* that unwelcome meddlers *might* open and rummage through the containers does not negate the expectation of privacy in its contents any more than the possibility of a burglary negates an expectation of privacy in the home; or the possibility of a private intrusion negates an expectation of privacy in an unopened package; or the possibility that an operator will listen in on a telephone conversation negates an expectation of privacy in the words spoken on the telephone. "What a person * * * seeks to preserve as private, *even in an area accessible to the public,* may be constitutionally protected." *Katz.* We have therefore repeatedly rejected attempts to justify a State's invasion of privacy on the ground that the privacy is not absolute. See *Chapman v. United States,* 365 U.S. 610 (1961) (search of a house invaded tenant's Fourth Amendment rights even though landlord had authority to enter house for some purposes); *Stoner v. California,* 376 U.S. 483 (1964) (implicit consent to janitorial personnel to enter motel room does not amount to consent to police search of room); *O'Connor v. Ortega,* 480 U.S. 709 (1987) (a government employee has a reasonable expectation of privacy in his office, even though "it is the nature of government offices that others—such as fellow employees, supervisors, consensual visitors, and the general public—may have frequent access to an individual's office"). * * *

Nor is it dispositive that "respondents placed their refuse at the curb for the express purpose of conveying it to a third party, * * * who might himself have sorted through respondents' trash or permitted others, such as police, to do so." In the first place, Greenwood can hardly be faulted for leaving trash on his curb when a county ordinance commanded him to do so and prohibited him from disposing of it in any other way. * * * More importantly, even the voluntary relinquishment of possession or control over an effect does not necessarily amount to a relinquishment of a privacy expectation in it. Were it otherwise, a letter or package would lose all Fourth Amendment protection when placed in a mail box or other depository with the "express purpose" of entrusting it to the postal officer or a private carrier; those bailees are just as likely as trash collectors (and certainly

have greater incentive) to "sor[t] through" the personal effects entrusted to them, "or permi[t] others, such as police to do so." Yet, it has been clear for at least 110 years that the possibility of such an intrusion does not justify a warrantless search by police in the first instance. * * *

FLORIDA v. RILEY

488 U.S. 445, 109 S.Ct. 693, 102 L.Ed.2d 835 (1989).

JUSTICE WHITE announced the judgment of the Court and delivered an opinion, in which THE CHIEF JUSTICE, JUSTICE SCALIA and JUSTICE KENNEDY join.

On certification to it by a lower state court, the Florida Supreme Court addressed the following question: "Whether surveillance of the interior of a partially covered greenhouse in a residential backyard from the vantage point of a helicopter located 400 feet above the greenhouse constitutes a 'search' for which a warrant is required under the Fourth Amendment and Article I, Section 12 of the Florida Constitution." The court answered the question in the affirmative, and we granted the State's petition for certiorari challenging that conclusion. * * *

We agree with the State's submission that our decision in *California v. Ciraolo*, 476 U.S. 207 (1986), controls this case. There, acting on a tip, the police inspected the back yard of a particular house while flying in a fixed-wing aircraft at 1,000 feet. With the naked-eye the officers saw what they concluded was marijuana growing in the yard. A search warrant was obtained on the strength of this airborne inspection, and marijuana plants were found. The trial court refused to suppress this evidence, but a state appellate court held that the inspection violated the Fourth and Fourteenth Amendments of the United States Constitution and that the warrant was therefore invalid. We in turn reversed, holding that the inspection was not a search subject to the Fourth Amendment. We recognized that the yard was within the curtilage of the house, that a fence shielded the yard from observation from the street and that the occupant had a subjective expectation of privacy. We held, however, that such an expectation was not reasonable and not one "that society is prepared to honor." * * * "In an age where private and commercial flight in the public airways is routine, it is unreasonable for respondent to expect that his marijuana plants were constitutionally protected from being observed with the naked eye from an altitude of 1,000 feet. The Fourth Amendment simply does not require the police traveling in the public airways at this altitude to obtain a warrant in order to observe what is visible to the naked eye."

We arrive at the same conclusion in the present case.[a] * * *

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[a] In *Bond v. United States*, 529 U.S. 334 (2000), involving the question of whether the squeezing of soft luggage passengers had placed in the overhead rack of a bus was a search, the Court rejected the government's reliance upon *Ciraolo* and *Riley*, stating that "[p]hysical invasive inspection is simply more intrusive than purely visual inspection." The Court then concluded: "When a bus passenger places a bag in an overhead bin, he expects that other passengers or bus employees may move it for one reason or another. Thus, a bus passenger clearly expects that his bag may be handled. He does not expect that other passengers or bus employees will, as a matter of course, feel the bag in an exploratory manner. But this is exactly what the agent did here. We therefore hold that the agent's physical manipulation of petitioner's bag violated the Fourth Amendment." Two dissenters in *Bond* objected that the squeezing did not "differ from the