

The Bill of Rights: The Fourth Amendment

Task 1:

1. Read the text of the Fourth Amendment.

The **Fourth Amendment** of the U.S. Constitution provides, "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. . ."

- **Probable cause** – a reasonable, intelligent person would say there was adequate reason to suspect someone of illegal activity.
- What does the Fourth Amendment protect Americans from? What must government officials get to conduct a search? Hi-lite the appropriate phrase in the Fourth Amendment.

Task 2:

1. Review ***TLO v. New Jersey***. Turn to Workbook page, _____
2. Briefly discuss why an assistant principal searched T.L.O.'s purse and the Supreme Court's decision.

Task 3:

Read a part of the Supreme Court's opinion in *New Jersey v. T.L.O.*

Opinion

WHITE, J., Opinion of the Court

JUSTICE WHITE delivered the opinion of the Court.

New Jersey v. T.L.O.

"Our consideration of the proper application of the Fourth Amendment to the public schools, however, has led us to conclude that the search that gave rise to the case now before us did not violate the Fourth Amendment."

"With respect to the question of the legality of the search before it, the court agreed with the Juvenile Court that a warrantless search by a school official does not violate the Fourth Amendment so long as the official has reasonable grounds to believe that a student possesses evidence of illegal activity or activity that would interfere with school discipline and order."

- Under what circumstance did the Supreme Court decide a warrantless search is allowed by school officials?

- Discuss: Do you agree or disagree with the Supreme Court’s arguments?

Task 4:

Read the *New York Times* article on ***Riley v. California, 2013***.

- Note: This case involved a police officer’s search of a cell phone of a person who was arrested.

<p><i>Major Ruling Shields Privacy of Cellphones</i> Supreme Court Says Phones Can’t Be Searched Without a Warrant By Adam Liptak, June 25, 2014</p> <p>WASHINGTON — In a sweeping victory for privacy rights in the digital age, the Supreme Court on Wednesday <u>unanimously ruled</u> that the police need warrants to search the cellphones of people they arrest.</p> <p>While the decision will offer protection to the 12 million people arrested every year, many for minor crimes, its impact will most likely be much broader. The ruling almost certainly also applies to searches of tablet and laptop computers, and its reasoning may apply to searches of homes and businesses and of information held by third parties like phone companies.</p> <p>Chief Justice John G. Roberts Jr., writing for the court . . . added that old principles required that their [phones] contents be protected from routine searches. One of the driving forces behind the American Revolution, Chief Justice Roberts wrote, was revulsion against “general warrants,” which “allowed British officers to rummage through homes in an unrestrained search for evidence of criminal activity.”</p> <p>“The fact that technology now allows an individual to carry such information in his hand,” the chief justice also wrote, “does not make the information any less worthy of the protection for which the founders fought.”</p> <p>On the other side of the balance, Chief Justice Roberts said, is the data contained on typical cellphones. Ninety</p>	<p>Hi-lite the following:</p> <ul style="list-style-type: none"> • What do police need to search cell phones? • Why will this ruling be much broader than searches of cell phones? • What was a driving force in the American Revolution? • What do typical cell
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<p>percent of Americans have them, he wrote, and they contain “a digital record of nearly every aspect of their lives — from the mundane to the intimate.”</p> <p>Chief Justice Roberts acknowledged that the decision would make law enforcement more difficult. “Cellphones have become important tools in facilitating coordination and communication among members of criminal enterprises, and can provide valuable incriminating information about dangerous criminals,” he wrote. “Privacy comes at a cost.”</p> <p>But other technologies, he said, can make it easier for the police to obtain warrants. Using email and iPads, the chief justice wrote, officers can sometimes have a warrant in hand in 15 minutes.</p>	<p>phones contain?</p> <ul style="list-style-type: none"> • Why was Roberts not worried about the burden this would put on police departments?
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Summarize the Court’s unanimous opinion in *Riley v. California*.

- State their decision in the case first: Do police need a warrant to search cell phones?
- Next, Include the reasoning of the justices.

Task 5: Assignment:

Think about:

- The TLO decision **allowed** students to be searched without warrants if there was a reasonable suspicion they were involved in illegal activities or in violation of school rules.
- The Riley decision **disallowed** the police from searching cell phones of people who have been arrested, but did not say anything about schools or student searches.
- A new case is before the Supreme Court that involves school officials searching a student’s cell phone. The **TLO** decision suggests this would not violate a student’s Fourth Amendment rights, while the **Riley** decision could be expanded and applied to students and searches of phones, making such a search a violation of the Fourth Amendment. This conflict must be resolved.
- After deciding the case in your group, write the Court’s Opinion. Your Opinion will be either the majority or the minority opinion depending on how you vote on the case.

The Case

Read the following case before the Supreme Court involving a search of a student's cell phone at school. Your group must decide if school administrators or the police should be allowed to search a student's cell phone without a warrant.

JRD v. Burbank

A 7th grade student, JRD, was using her cell phone in Science class during a test. The teacher, seeing the student texting, confiscated the phone and sent the phone and the student to the office with a referral. The student admitted to the Assistant Principal of Discipline that she was texting in class, but only to organize with a friend where to eat lunch on the field.

The Assistant Principal looked up the student's discipline record on his computer and discovered the student had a prior accusation of cheating on an assignment in 7th grade. However, the accusation was not proven, so no action was taken against the student. She also had been accused of plagiarizing for a writing assignment for English in sixth grade and had been given an "F" on the essay and Saturday School as a consequence.

With the accusations of prior cheating, the Assistant Principal decided to search the student's phone to see if she had been texting answers to the test she was taking when her teacher confiscated her phone. The Assistant Principal implied that JRD would be in more trouble if she did not allow him to look at the contents of her phone, so JRD gave him her pass code.

When the Assistant Principal searched JRD's previous text messages he saw that she had been texting during other classes earlier in the day, and that she had been texting during the test, but not answers to the exam. Her text messages were about where to eat at lunch. He decided to confiscate the phone for five days and contact her parents.

While the Assistant Principal was looking at JRD's text messages, however, he came across texts that showed JRD had helped to organize a fight that occurred earlier in the year. The fight took place at around 3:00 in the park next to the school. Several students were hurt, and the two main assailants were suspended for five days. In addition to the suspension, the fight was reported to the police, and the two students were arrested for assault. The students had to appear in court and pay a fine. When the Assistant Principal realized JRD was involved in the fight too, he suspended her for five days, confiscated her phone and called the police again. Based on the evidence in her phone's text messages, the police arrested JRD for involvement in the assaults, and she also had to appear in court and pay a fine.

JRD's parents believed it was wrong for the Assistant Principal to search their daughter's phone. They believed he coerced her with threats of more trouble if she did not give him her pass code, and that his search violated her Fourth Amendment rights to unreasonable searches and seizures, especially of a phone with private, personal information that had nothing to do with school. Also, he never would have known of her involvement in the fight earlier in the year if he had not searched her phone, and JRD would not have been arrested.

The lower state court agreed with the school and stated the Assistant Principal had the right to a warrantless search because of his suspicion about JRD cheating on an exam. The court also said that schools need to keep order and the safety of students as a priority over privacy concerns of individual students. The parents appealed the case, and the Ninth Circuit

Court of Appeals agreed with them. This court stated JRD's Fourth Amendment right of protection against unreasonable searches and seizures applied to a student's cell phone, especially because of the amount of private information on such phones. The Appeals Court believed the **Riley** decision should be extended to school searches of student cell phones. The case has been accepted by the Supreme Court. The Supreme Court must decide if school searches of cell phones are a violation of a student's Fourth Amendment rights.

The Supreme Court must decide the following Constitutional Questions:

- Should the police or school administrators be allowed to search cell phones of students who are involved in violations of school rules or who have committed illegal acts at or near school? Would such a search violate a student's Fourth Amendment rights against warrantless searches?
- Does a school's need for student and staff safety override the right to privacy and protection from unreasonable searches for individual students?

Your group, acting as the Supreme Court, must decide this case.

- Discuss the case and how it relates to **TLO and Riley** decisions.
- Vote to decide if the school's search of the cell phone violated the Fourth Amendment.
- Vote Results:

Yes, the search violated the Fourth Amendment: _____	No, the search did not violate the Fourth Amendment: _____
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Writing Assignment

Write either the majority or the minority opinion of the case. Your Opinion should be 3 to 4 paragraphs. Create a T-Chart first. Use the Green/Yellow/Red format for essays.

T-Chart:

Create an introduction

1 – 2 Body Paragraphs:

- Explain the Fourth Amendment.
- Summarize the case.
- Answer the question: Was the search of the student's cell phone reasonable and therefore allowed or was the search a violation of the Fourth Amendment?
- Explain your reasoning using the **Fourth Amendment, New Jersey v. T.L.O. or the New York Times article on Riley v. California.**
- Make sure you cite the above in parenthesis after you use them as a source:
 - (Fourth Amendment).
 - New Jersey v. T.L.O.).
 - (New York Times).

Create a conclusion