

# Making Our Fourth Amendment Right Real

## *Mapp v. Ohio*

A Lesson by Linda Weber

★★★  
Leonore Annenberg  
Institute for Civics  
★★★  
University of Pennsylvania

### SUMMARY

After the Bill of Rights was ratified in 1791, it became the responsibility of the new federal government, not the state governments, to ensure these protections for all Americans. More than 100 years later, the Supreme Court started applying some of these rights to the states on a case-by-case basis through the Fourteenth Amendment.

It wasn't until 1961, however, that the Court applied the Fourth Amendment guarantee against "unreasonable search and seizure" to state governments. The case was *Mapp v. Ohio*, and it relied on the same rule of evidence used in the 1914 federal case *Weeks v. United States*, the exclusionary rule. According to this rule, otherwise admissible evidence cannot be used in a criminal trial if it was obtained as the result of illegal conduct by law enforcement officers. The exclusionary rule helped define what is meant by "unreasonable search and seizure."

*We hold that all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court.* Justice Tom C. Clark, *Mapp v. Ohio* (1961)

This lesson is based on a video about the landmark Supreme Court search-and-seizure case that also makes state governments responsible for protecting our Fourth Amendment right. With the exclusionary rule, this right becomes real for all of us.

### NOTES AND CONSIDERATIONS

- This lesson presumes that students are familiar with the background story and Court's opinion in *Brown v. Board of Education* (1954) and understand basic legal terminology.
- Technology is relied on to facilitate learning and instruction.
- This is a self-contained lesson with resources and activities that can be adapted to different teaching styles, length of classes, and levels of students.

### Snapshot of Lesson

**Grades:** Middle School; High School (Focus)

**Subject Focus:** Civics/Government

**Estimated Time:** Three 50-minute classes

**Alignment to National Standards for Civics and Government:**

Grades 5-8; Grades 9-12

**Materials/Equipment Needed:**

- Annenberg Video: *The Constitution Project: Search and Seizure — Mapp v. Ohio*
- Computer lab with Internet connections and projector for class viewing

**Materials Included:**

Readings and Resources

- Annotated Video Transcript
- Chapter 15: The Right to Protection Against Illegal Search and Seizure from *Our Rights* by David J. Bodenhamer
- Third & Fourth Amendments from *Our Constitution* by Donald Ritchie & Justicelearning.org
- Constitutionalism; Federalism; Government, Constitutional and Limited; Justice; Rights; Rule of Law from *Understanding Democracy, A Hip Pocket Guide* by John J. Patrick

Student Handouts

- Class-Prep Assignment
- Student's Video Guide
- Video Study Questions
- Project: A Contextual Timeline
- Rubric for A Contextual Timeline
- Activity: Legal or Illegal? You Be the Judge
- Lesson Quiz

Teacher Resources

- Teacher's Video Guide
- Keys for student work
- Teacher's Timeline Notes
- Essentials for American Constitutional Democracy

**National Standards for Civics and Government**

Standards level detail: grades 5-8; grades 9-12

## TOPICS

- colonial America
- exclusionary rule
- Fourth Amendment
- justice
- rights and responsibilities of citizens
- role, responsibilities, and limits of government
- rule of law
- unreasonable search and seizure
- Supreme Court
- U.S. Constitution
- criminal law
- conflict resolution

## NATIONAL STANDARDS

Document: *National Standards for Civics and Government* (1994) Center for Civic Education  
<http://www.civiced.org/index.php?page=stds>

### Grades 5-8 Organizing Questions

The national content standards for civics and government are organized under five significant questions. The following outline lists the high-level organizing questions supported by this lesson.

- I. What are civic life, politics, and government?
  - A. What is civic life? What is politics? What is government? Why are government and politics necessary? What purposes should government serve?
  - B. What are the essential characteristics of limited and unlimited government?
  - C. What are the nature and purposes of constitutions?
  
- II. What are the foundations of the American political system?
  - A. What is the American idea of constitutional government?
  - B. What are the distinctive characteristics of American society?
  - C. What is American political culture?
  - D. What values and principles are basic to American constitutional democracy?
  
- III. How does the government established by the Constitution embody the purposes, values, and principles of American democracy?
  - A. How are power and responsibility distributed, shared, and limited in the government established by the United States Constitution?
  - C. How are state and local governments organized and what do they do?
  - E. What is the place of law in the American constitutional system?
  
- V. What are the roles of the citizen in American democracy?
  - B. What are the rights of citizens?
  - C. What are the responsibilities of citizens?
  - D. What dispositions or traits of character are important to the preservation and improvement of American constitutional democracy?
  - E. How can citizens take part in civic life?

## Grades 9-12 Organizing Questions

The national content standards for civics and government are organized under five significant questions. The following outline lists the high-level organizing questions supported by this lesson.

- I. What are civic life, politics, and government?
  - A. What is civic life? What is politics? What is government? Why are government and politics necessary? What purposes should government serve?
  - B. What are the essential characteristics of limited and unlimited government?
  - C. What are the nature and purposes of constitutions?
  
- II. What are the foundations of the American political system?
  - A. What is the American idea of constitutional government?
  - B. What are the distinctive characteristics of American society?
  - C. What is American political culture?
  - D. What values and principles are basic to American constitutional democracy?
  
- III. How does the government established by the Constitution embody the purposes, values, and principles of American democracy?
  - A. How are power and responsibility distributed, shared, and limited in the government established by the United States Constitution?
  - B. How is the national government organized, and what does it do?
  - C. How are state and local governments organized and what do they do?
  - D. What is the place of law in the American constitutional system?
  
- V. What are the roles of the citizen in American democracy?
  - B. What are the rights of citizens?
  - C. What are the responsibilities of citizens?
  - D. What civic dispositions or traits of private and public character are important to the preservation and improvement of American constitutional democracy?
  - E. How can citizens take part in civic life?

Note: A more detailed standards-level alignment related to these questions can be found in the “Standards” section at the end of this lesson plan.

# STUDENT OUTCOMES

## Knowledge, skills, and dispositions

Students will . . .

- Reconstruct the chronology of events and decisions related to the topic of search and seizure.
- Gain insight into the reasoning behind Supreme Court decisions.
- Understand the development, use and controversy surrounding the exclusionary rule.
- Appreciate the role of ordinary citizens in our system of justice.
- Recognize the challenges involved in keeping us safe and protecting our rights under the Fourth Amendment.
- Make real-world connections.

## Integrated Skills

### 1. Information literacy skills

Students will . . .

- Extract, organize and analyze information from different sources.
- Use skimming and research skills.
- Organize information into usable forms.
- Build background knowledge to support new learning.
- Use technology to facilitate learning.

### 2. Media literacy skills

Students will . . .

- Gather and interpret information from different media.
- Use online sources to support learning.

### 3. Communication skills

Students will . . .

- Write and speak clearly to contribute ideas and information and express own point of view.
- Write in response to questions.
- Respect diverse opinions and points of view.
- Develop and interpret visual models.
- Develop interpretive skills.

### 4. Study skills

- Take notes
- Manage time and materials

### 5. Thinking skills

Students will . . .

- Describe and recall information.
- Make personal connections.
- Explain ideas or concepts.
- Draw conclusions.
- Analyze and evaluate issues.
- Use sound reasoning and logic.
- Evaluate information and decisions.
- Critique arguments.

### 6. Problem-solving skills

Students will . . .

- Identify issues and facts.
- Analyze cause and effect relationships.
- Examine reasoning used in making decisions.
- Evaluate proposed solutions.
- Ask meaningful questions.
- Base decisions on sound reasoning.

### 7. Participation skills

Students will . . .

- Contribute to small and large group discussion.
- Work responsibly both individually and with diverse people.
- Express own beliefs, feelings and convictions.
- Show initiative and self-direction. Interact with others to deepen understanding.

## ASSESSMENT

Evidence of understanding may be gathered from student performance related to the following:

- Class-Prep Assignment
- Responses to video study questions
- Project: A Contextual Timeline
- Activity: Legal or Illegal? You Be the Judge
- Lesson Quiz
- Class participation

## VOCABULARY

A man's house is his castle.

ACLU

amicus curiae brief

appeal

Bill of Rights

Boston Tea Party

brief

civil liberties

civil right

Constitution

contraband

criminal case

defendant

dissenting opinion

due process

evidence

exclusionary rule

Fifth Amendment

First Amendment

Fourteenth Amendment

Fourth Amendment

framers

good faith exception

grand jury

illegal

incorporation

justice

law

legislative branch

liberty

magistrate

majority opinion

obscenity laws

overrule

overturn

precedent

principle

probable cause

remedy

right to privacy

rights

rule

rule of law

rules of evidence

sedition literature

self-incrimination

statute

Supreme Court

tyranny

unconstitutional

unreasonable search and

seizure

warrant

writ of assistance

### Resources for Definitions

**FindLaw—Law Dictionary**

<http://dictionary.lp.findlaw.com/>

**National Standards for Civics and Government: Glossary**

[http://www.civiced.org/index.php?page=stds\\_glossary](http://www.civiced.org/index.php?page=stds_glossary)

**NOLO's Free Dictionary of Law Terms and Legal Definitions**

<http://www.nolo.com/dictionary>

**Understanding Democracy, A Hip Pocket Guide—John J. Patrick**

<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>

**Merriam-Webster Online**

<http://www.merriam-webster.com/>

## LESSON OVERVIEW

### Goal

Students will...

- Learn about the people, events and decisions that made state governments accountable for protecting our Fourth Amendment right in the landmark search-and-seizure case of *Mapp v. Ohio* (1961)
- Gain insight into the development, use and controversy surrounding the exclusionary rule.
- Develop an appreciation for what is required of all Americans to help ensure the protection of individual rights and society under the Fourth Amendment.

### Class-Prep Assignment

Students complete an independent assignment to build background knowledge for the video they will watch and study during the first in-class session.

### DAY 1: Getting Even

Students participate in a guided study of the video *The Constitution Project: Search and Seizure—Mapp v. Ohio* to learn about the case that also made state governments responsible for protecting our Fourth Amendment right.

### DAY 2: Connect the Dots — A Contextual Timeline

Students develop a contextual timeline to “retell” the story in the video of *Mapp v. Ohio* in chronological order by identifying and placing significant historical events and Supreme Court decisions within the larger context of U.S. history.

### DAY 3: Legal or Illegal? You Be the Judge

#### When the People Decide

Students experience the challenge of deciding search-and-seizure cases under the Fourth Amendment as they “rule” on the legality of real scenarios, then compare their decisions to those made by the Supreme Court. They also take a Lesson Quiz to conclude the study.

Our decision, founded on reason and truth, gives to the individual no more than that which the Constitution guarantees him, to the police officer no less than that to which honest law enforcement is entitled, and, to the courts, that judicial integrity so necessary in the true administration of justice.

Justice Tom C. Clark  
*Mapp v. Ohio* (1961)

### Class-Prep Assignment

The following assignment provides important background knowledge and context for the video *The Constitution Project: Search and Seizure—Mapp v. Ohio* and should be completed as an independent activity before the first in-class session.

#### Readings:

- Chapter 15: The Right to Protection Against Illegal Search and Seizure from *Our Rights* by David J. Bodenhamer  
Note: This chapter closely parallels the content in the video.

Copies are available from the teacher or the chapter may be viewed at the following link.  
<http://www.annenbergclassroom.org/page/our-rights>

- Third & Fourth Amendments from *Our Constitution* by Donald Ritchie & Justicelearning.org (Skim to read the parts related to the Fourth Amendment)

Copies are available from the teacher or the chapter may be viewed at the following link.

[http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Third%20and%20Fourth%20Amendments\\_Our%20Constitution.pdf](http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Third%20and%20Fourth%20Amendments_Our%20Constitution.pdf)

#### Student Materials: (Included)

- Class-Prep Assignment

#### Procedure:

1. Distribute and review the Class-Prep Assignment. Allow students enough time to complete it at home in advance of the first in-class session.
2. Remind students to bring their completed work to class.

## TEACHING ACTIVITIES: Day by Day

### DAY 1: Getting Even

**Overview:** Students participate in a guided study of the video *The Constitution Project: Search and Seizure – Mapp v. Ohio*.

**Goal:** Gain information, understanding and appreciation for the principles, people and processes that make state governments also responsible for protecting our Fourth Amendment right.

#### Materials/Equipment Needed:

##### Technology

- Computer lab with Internet connection
- Video: *The Constitution Project: Search and Seizure –Mapp v. Ohio* (25 min.)  
Available from Annenberg Classroom: <http://www.annenbergclassroom.org/page/all-videos>

##### Student Handouts (Included)

Select the materials appropriate for the chosen Guided Study Option.

- Student’s Video Guide (Includes transcript with Pause & Reflect boxes after each section)
- Video Study Questions (Includes questions only grouped by section)
- Video Transcript (Includes section headings only)

##### Teacher Resource (Included)

- Teacher’s Video Guide: *The Constitution Project: Search and Seizure –Mapp v. Ohio*

#### Guided Viewing:

Due to the pace of the video and the complexity of the content, this approach provides multiple opportunities for students to absorb and process what they are seeing and hearing during the video.

To support a guided study of the content, the following topical sections are identified and time marked in the video study guide. Pause & Reflect questions are also included for each section.

1. Constitutional Context
2. Background Story for *Mapp v. Ohio*
3. Writs & Warrants
4. Warrantless Searches
5. Exclusionary Rule: Origin & Rationale
6. Mapp’s Case in the Supreme Court
7. Reasoning Behind the *Mapp* Decision
8. Exclusionary Rule: Exceptions & Controversy
9. Keeping Us Safe v. Protecting Our Rights

#### Guided Study Options:

##### • **Teacher-Guided Study**

The teacher leads the class through a discussion-based study by following the Teacher’s Video Guide. Students may be given the Video Study Questions to assist with note-taking.

##### • **Small Group Study**

In small study groups, students work through the video using the Student’s Video Guide. They view each section, then interact to discuss and complete the questions.

##### • **Self-Guided Study**

Students work independently through the video using the Student’s Video Guide and answer the questions.

### DAY 2: Connect the Dots—A Contextual Timeline

**Overview:** Students develop a contextual timeline to “retell” the story in the video of *Mapp v. Ohio* in chronological order by identifying and placing significant historical events and Supreme Court decisions within the larger context of U.S. history.

**Goal:** Students develop skills in historical analysis and interpretation by thinking through the cause-and-effect connections between historical events and Supreme Court decisions that led to the protections we have today under the Fourth Amendment.

#### Materials

##### Resources

- Video: The Constitution Project: *Search and Seizure – Mapp v. Ohio* (25 min.)  
Available from Annenberg Classroom: <http://www.annenbergclassroom.org/page/all-videos>
- Video Transcript: *The Constitution Project: Search and Seizure – Mapp v. Ohio*
- Chapter 15: The Right to Protection Against Illegal Search and Seizure from *Our Rights* by David J. Bodenhamer
- Third & Fourth Amendments from *Our Constitution* by Donald Ritchie & Justicelearning.org
- Annenberg Classroom: Issue Page —Unreasonable Search and Seizure  
<http://www.annenbergclassroom.org/issue/unreasonable-search-and-seizure>

##### Student Handouts (Included)

- Project: A Contextual Timeline
- Rubric for a Contextual Timeline
- Legal or Illegal? You Be the Judge

##### Teacher Materials (Included)

- Teacher’s Timeline Notes
- Answers & Explanations: Legal or Illegal? You Be the Judge

##### Other Needs

- 3x5 cards
- Highlighters
- Software tools to facilitate information gathering and organization if available
- Computer lab with Internet access

#### Procedure:

1. Students work in pairs, study groups, or independently on this project.
2. Distribute and review the project and rubric for a contextual timeline.
3. Use this period for note-taking, then assign timeline development for homework.

## TEACHING ACTIVITIES: Day by Day

### DAY 3: Legal or Illegal? You Be the Judge

**Overview:** Students experience the challenge of deciding search-and-seizure cases under the Fourth Amendment as they “rule” on the legality of real scenarios, then compare their decisions to those made by the Supreme Court. They also take a Lesson Quiz to conclude the study.

**Goal:** Develop understanding and appreciation for the challenges faced by the Supreme Court as it seeks to interpret and apply the Fourth Amendment in a changing society.

#### Materials/Equipment Needed:

##### Student Handout (Included)

- Legal or Illegal? You Be the Judge
- Lesson Quiz

##### Teacher Resource (Included)

- Answers & Explanations: Legal or Illegal? You Be the Judge
- Lesson Quiz (KEY)
- Essentials for American Constitutional Democracy
- Rule of Law from *Understanding Democracy, A Hip Pocket Guide* – John J. Patrick

##### Additional Needs

- Computer lab with Internet access

#### Procedure:

1. Reflect on the meaning of “unreasonable” in the Fourth Amendment, then consider the recent case of *Kentucky v. King* (2011) by posing this question:

*If police are outside a house, and they can smell burning marijuana and hear the sounds of evidence being destroyed, are they allowed to enter without a warrant?*

(This question is part of an interactive quiz from the National Constitution Center that students will use for this lesson.)

<http://blog.constitutioncenter.org/how-well-do-you-know-the-4th-amendment/>

2. Pass out the student activity Legal or Illegal? You Be the Judge.

Review the instructions. Students must respond to all scenarios first, then enter their responses and check their answers by using the interactive quiz from the National Constitution Center.

If the Internet is not available to all students, use the Teacher Resource page to provide answers for this activity. If there is time, share and discuss the explanations.

3. Tally class scores for each of the scenarios.

4. Debrief by discussing any or all of the following depending on the time.

- a. Will there ever be a clear definition of unreasonable?
- b. Predict what might happen if there was a hard line drawn.
- c. Is “unreasonable” a matter of perspective?
- d. What is an appropriate response if we believe our rights have been violated?
- e. What essential principles, values and traits of character are needed to ensure justice for all?
- f. Is justice always fair?
- g. Identify the different “actors” involved in a search-and-seizure case (e.g., criminal, public servant, victim, innocent, government, judge, lawyer, police, society, private individual), then discuss the commitments, behavior, attitudes, interactions, interests, rights and responsibilities associated with each role.
- h. Compare and contrast life under the rule of law vs. the rule of men.

5. Pass out the Lesson Quiz for students to take in class with or without access to their notes.

## EXTENSION ACTIVITIES

### Have more time to teach?

1. Explore contemporary challenges related to interpreting the Fourth Amendment’s protection against “unreasonable search and seizure.”

- *United States v. Jones* (2012) – Digital privacy issue

Slip opinion

<http://www.supremecourt.gov/opinions/11pdf/10-1259.pdf>

Oral arguments

[http://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/10-1259.pdf](http://www.supremecourt.gov/oral_arguments/argument_transcripts/10-1259.pdf)

CNN article summarizing the case:

“Justices rule against the police, say GPS surveillance requires warrant”

[http://articles.cnn.com/2012-01-23/justice/justice\\_scotus-gps-tracking\\_1\\_gps-device-search-warrant-justices-rule?\\_s=PM:JUSTICE](http://articles.cnn.com/2012-01-23/justice/justice_scotus-gps-tracking_1_gps-device-search-warrant-justices-rule?_s=PM:JUSTICE)

A blog on the case from the National Constitution Center:

*U.S. v. Jones* was a landmark digital privacy decision—but what about privacy in 2025?

<http://blog.constitutioncenter.org/u-s-v-jones-was-a-landmark-digital-privacy-decision%e2%80%94but-what-about-privacy-in-2025/>

- *Kentucky v. King* (2011) - Warrantless Searches OK’d by Supreme Court

Court’s opinion

<http://www.supremecourt.gov/opinions/10pdf/09-1272.pdf>

Annenberg Classroom: Speak Out

<http://www.annenbergclassroom.org/speakout/does-the-supreme-courts-ruling-on-a-warrantless-search-undermine-the-fourth-amendment>

Blogs from the National Constitution Center

- How well do you know the 4th Amendment?

<http://blog.constitutioncenter.org/how-well-do-you-know-the-4th-amendment/>

- You be the judge: Drug dealers and the Fourth Amendment

<http://blog.constitutioncenter.org/you-be-the-judge-drug-dealers-and-the-fourth-amendment/>

2. Compare and contrast the Fourth Amendment with a copy of the federal search-and-seizure warrant shown in the video.

A federal search-and-seizure warrant may be obtained from the following link:

<http://www.uscourts.gov/FormsAndFees/Forms/CourtFormsByCategory.aspx>

3. Learn more about decision-making and judicial interpretation at the Supreme Court.

- View the video: *Conversation on the Constitution: Judicial Interpretation* (37 min.)

<http://www.annenbergclassroom.org/page/a-conversation-on-the-constitution-judicial-interpretation>

Justices Stephen G. Breyer and Antonin Scalia and a group of students discuss the different theories of how to interpret and apply the Constitution to cases.

- View the video: *Origin, Nature and Importance of the Supreme Court* (37 min.)  
<http://www.annenbergclassroom.org/page/a-conversation-on-the-origin-nature-and-importance-of-the-supreme-court>  
 Chief Justice John G. Roberts Jr. and a group of students discuss the Supreme Court: its history, how it selects and decides cases, and the role of an independent judiciary.
  - Interpreting the Constitution
    - o “The Court and Constitutional Interpretation”  
<http://www.supremecourt.gov/about/constitutional.aspx>
    - o Chapter 5: How is the Constitution Interpreted? from *Our Constitution* by Donald Ritchie & Justicelearning.org  
[http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Chapter%205\\_Our%20Constitution.pdf](http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Chapter%205_Our%20Constitution.pdf)
- 4. Learn more about the role of James Otis in the birth of independence in America.**  
 Read an award-winning high school essay on James Otis.  
[http://www.tcr.org/tcr/essays/EPrize\\_Writs.pdf](http://www.tcr.org/tcr/essays/EPrize_Writs.pdf)
- 5. Learn more about the Bill of Rights.**
- View the video: *Story of the Bill of Rights* (16:20)  
<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>
  - Play the Bill of Rights Game  
<http://www.annenbergclassroom.org/page/the-bill-of-rights-game>

## RESOURCES

### ***Mapp v. Ohio (1961)***

- United States Reports  
 367 U.S.643.236  
<http://ftp.resource.org/courts.gov/c/US/367/367.US.643.236.html>
- OYEZ: Case Summary  
[http://www.oyez.org/cases/1960-1969/1960/1960\\_236](http://www.oyez.org/cases/1960-1969/1960/1960_236)
- Cornell University Law School  
 Syllabus, Opinion, Dissent  
[http://www.law.cornell.edu/supct/search/display.html?terms=mapp%20v.%20ohio&url=/supct/html/historics/USSC\\_CR\\_0367\\_0643\\_ZO.html](http://www.law.cornell.edu/supct/search/display.html?terms=mapp%20v.%20ohio&url=/supct/html/historics/USSC_CR_0367_0643_ZO.html)
- FindLaw  
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=367&invol=643>

### **Fourth Amendment**

- Annenberg Online Video Documentaries  
 Story of the Bill of Rights (16:20)  
 Fourth Amendment (1:38)  
<http://www.annenbergclassroom.org/page/the-story-of-the-bill-of-rights>
- Interactive Constitution  
 National Constitution Center  
<http://blog.constitutioncenter.org/how-well-do-you-know-the-4th-amendment/>

- Fourth Amendment  
<http://www.annenbergclassroom.org/page/fourth-amendment>
- U.S. Constitution: Fourth Amendment  
[http://criminal.findlaw.com/crimes/criminal\\_rights/your-rights-search-and-seizure/fourth-amendment-us-constitution-annotated.html](http://criminal.findlaw.com/crimes/criminal_rights/your-rights-search-and-seizure/fourth-amendment-us-constitution-annotated.html)
- Fourth Amendment: Search and Seizure  
<http://www.gpoaccess.gov/constitution/pdf/con015.pdf>
- iCivics (Interactives)  
The Constitution and Bill of Rights  
<http://www.icivics.org/subject/constitution-and-bill-rights>
- Criminal Procedure Capsule Summaries  
Overview of Fourth Amendment Principles  
<http://www.lexisnexis.com/lawschool/study/outlines/html/crimpro/crimpro01.htm>

### **Search and Seizure**

- Annenberg Issue Page: Unreasonable Search and Seizure  
<http://www.annenbergclassroom.org/timeline/right-against-unreasonable-search-and-seizure>  
<http://www.annenbergclassroom.org/issue/unreasonable-search-and-seizure>
- Learn about Search and Seizure  
[http://criminal.findlaw.com/crimes/criminal\\_rights/your-rights-search-and-seizure/](http://criminal.findlaw.com/crimes/criminal_rights/your-rights-search-and-seizure/)

### **Court System**

- Annenberg Classroom  
The Role of the Courts  
<http://www.annenbergclassroom.org/page/the-role-of-the-courts>
- Supreme Court of the United States  
<http://www.supremecourtus.gov>
- United States Courts  
<http://www.uscourts.gov>

### **Online Books from Annenberg**

- *Understanding Democracy, A Hip Pocket Guide* – John J. Patrick  
<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>
- *Our Constitution*—Donald Ritchie and Justicelearning.org  
<http://www.annenbergclassroom.org/page/our-constitution>
- *Our Rights*—David J. Bodenhamer  
<http://www.annenbergclassroom.org/page/our-rights>

“The knock at the door, whether by day or by night, as a prelude to a search, without authority of law but solely on the authority of the police, did not need the commentary of recent history to be condemned as inconsistent with the conception of human rights enshrined in the history and the basic constitutional documents of English-speaking peoples.”

Justice Felix Frankfurter  
*Wolf v. Colorado* (1949)

# Student Materials

- **Class-Prep Assignment Sheet**
- **Student's Video Guide: *The Constitution Project: Search and Seizure—Mapp v. Ohio***
- **Video Study Questions**
- **Project: A Contextual Timeline**
- **Rubric for A Contextual Timeline**
- **Legal or Illegal? You Be the Judge**
- **Lesson Quiz**

## Class-Prep Assignment Sheet

The following assignment provides important background knowledge and context for the video *The Constitution Project: Search and Seizure—Mapp v. Ohio* and related class work.

### Instructions

Read the following resources, then complete the Questions and review the Vocabulary.

- Chapter 15: The Right to Protection Against Illegal Search and Seizure from *Our Rights* by David J. Bodenhamer  
Note: This chapter closely parallels the content of the video.

Copies are available from the teacher or the reading may be viewed at the following link.

<http://www.annenbergclassroom.org/page/our-rights>

- Third & Fourth Amendments from *Our Constitution* by Donald Ritchie & JusticeLearning.org (Skim to read the parts related to the Fourth Amendment.)

Copies are available from the teacher or the reading may be viewed at the following link.

[http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Third%20and%20Fourth%20Amendments\\_Our%20Constitution.pdf](http://www.annenbergclassroom.org/Files/Documents/Books/Our%20Constitution/Third%20and%20Fourth%20Amendments_Our%20Constitution.pdf)

### Questions

The following questions are largely based on the Chapter 15 reading. Whenever possible, add specific quotes to support your answers. Should another source be used, write the title of the book in parentheses following the quote. All quotes, therefore, will come from Chapter 15 unless otherwise indicated. If you copy and paste text, remember to use quotation marks.

1. What is the primary purpose of the Bill of Rights?
2. Write the full text of the Fourth Amendment.
3. Tell why the right to protection “against unreasonable searches and seizures” could be considered uniquely American.
4. Identify the following and tell how they were used:  
Writ of assistance:  
General search warrant:
5. Identify James Otis and explain the impact that he had on the colonists.
6. Explain this statement: “The colonial and revolutionary experience provided examples to guide interpretation [of the Fourth Amendment], but it left no settled answers.”
7. What is the problematic language in the Fourth Amendment that needs clarification so decisions can be made in a court of law?
8. What is the significance of *Boyd v. United States* (1886)?
9. The principles in the Constitution need defining so they can be enforced. Which body and branch of government is responsible for defining what the law means? Which branch of government is responsible for enforcing the law?

10. Why do you think the practice of admitting illegally seized evidence as proof that a crime was committed was acceptable for over 100 years before the Court began to rein it in?
11. What is the significance of *Weeks v. United States* (1914)?
12. Is the exclusionary rule part of the Constitution?
13. After the ruling in *Weeks*, explain why the author said, “The Fourth Amendment, it appeared, gave Americans a right but not a complete remedy.”
14. Summarize the relevant background facts in Dollree Mapp’s story that eventually became the grounds for the decision in *Mapp v. Ohio* (1961).
15. What is the significance of *Mapp v. Ohio*?
16. Did the American people get a “complete remedy” in *Mapp v. Ohio*? Explain.
17. Is the exclusionary rule a “hard and fast” rule? Explain.
18. Give 4 examples of Court-allowed exceptions to the exclusionary rule.
19. Compare and contrast “a rule” and “a law.” Consider some English idioms we have about rules.
  - Rules are made to be broken.
  - There are exceptions to every rule.
  - The exception proves the rule.
  - Bend the rules.
  - Stretch the rules.
  - As a rule.

Could some of those idioms be applied to the exclusionary rule? Explain.

20. Why were the police and prosecutors infuriated by the decision in *Mapp*? Was their anger justified?
21. In search-and-seizure cases, protecting individual rights and promoting the common good often are at odds. Deciding how to tip the scales of justice is not easy for any criminal court. Through its decisions, the Supreme Court has provided guidelines, such as the exclusionary rule and its exceptions, to help balance the rights of individuals with the need for order. Though the cases are different, the same question must always be considered in each one. What is the question and why is it so important for every case?
22. Explain how the Fourth Amendment protects our privacy and also helps ensure the security of our society.
23. Consider the challenges ahead for protecting our Fourth Amendment right. How do we balance our right to privacy with our need for security in a rapidly changing technological society with devices that make our private lives more comfortable and flexible yet have the potential to make our society more vulnerable? How do we protect Fourth Amendment rights when matters of national security are at stake?
24. Why, in the author’s opinion, is the Constitution, an 18th century document, able to help us sort through critical search-and-seizure issues in the 21st century and beyond?
25. With warrantless searches, the colonists lived in fear of a knock at the door by the authorities. Today, we live in a society where we do not fear a knock at the door. What helps protect us from an unauthorized or surprise invasion of privacy by the police?

## Vocabulary

The following terms and phrases are used by the speakers in the video you will see in class. Do a self-check to make sure you understand those with legal definitions.

A man's house is his castle	law
ACLU	legislative branch
amicus curiae brief	liberty
appeal	magistrate
Bill of Rights	majority opinion
Boston Tea Party	obscenity laws
brief	overrule
civil liberties	overturn
civil right	precedent
Constitution	principle
contraband	probable cause
criminal case	remedy
defendant	right to privacy
dissenting opinion	rights
due process	rule
evidence	rule of law
exclusionary rule	rules of evidence
Fifth Amendment	sedition literature
First Amendment	self-incrimination
Fourteenth Amendment	statute
Fourth Amendment	Supreme Court
framers	tyranny
good faith exception	unconstitutional
grand jury	unreasonable search and seizure
illegal	warrant
incorporation	writ of assistance
justice	

## Resources for Definitions

- FindLaw—Law Dictionary  
<http://dictionary.lp.findlaw.com/>
- National Standards for Civics and Government: Glossary  
[http://www.civiced.org/index.php?page=stds\\_glossary](http://www.civiced.org/index.php?page=stds_glossary)
- NOLO's Free Dictionary of Law Terms and Legal Definitions  
<http://www.nolo.com/dictionary>
- Merriam-Webster Online  
<http://www.merriam-webster.com/>

**\*\* Bring this sheet with you to class. \*\***

## Video Guide

**Note:** The following transcript is divided into sections to support guided viewing. These sections are not noted in the video. However, they are indicated in the transcript at transitional points where one may stop, check for understanding, and process what was seen and heard. A Pause & Reflect box is included after each section with questions.

### Speakers in the Video:

1. NARRATOR
2. PROF. CAROLYN LONG, Washington State University
3. VINCENT WARREN, Executive Director, Center for Constitutional Rights
4. PROF. RICHARD LABUNSKI, University of Kentucky
5. DOLLREE “DOLLY” MAPP, resident of Cleveland, Ohio
6. SUSAN HERMAN, President, ACLU
7. CRAIG UCHIDA, Former Director of Criminal Justice Research, NIJ
8. PROF. KERMIT ROOSEVELT, University of Pennsylvania Law School
9. RICHARD THORNBURGH, Former U.S. Attorney General
10. JAMES OTIS (Actor)
11. PROF. GEOFFREY STONE, University of Chicago Law School
12. THEODORE OLSON, Former U.S. Solicitor General
13. PROF. AKHIL AMAR, Yale Law School
14. JUSTICE FELIX FRANKFURTER, Supreme Court Justice (audio)
15. A.L. KEARNS, Lawyer for Dollree Mapp
16. BERNARD A. BERKMAN, ACLU Lawyer (audio)
17. POLICEMAN (audio)
18. DAVID BOIES, Attorney, Boies, Schiller & Flexner LLP

**Time: Beginning – 1:30**

### 1. Constitutional Context

**NARRATOR:** This film is a project of the Leonore Annenberg Institute for Civics of the Annenberg Public Policy Center of the University of Pennsylvania in partnership with the Annenberg Foundation Trust at Sunnylands. “Citizenship is every person’s highest calling.” – Ambassador Walter H. Annenberg

### The Constitution Project: SEARCH and SEIZURE MAPP v. OHIO

**NARRATOR:** The case of *Mapp v. Ohio* might seem like it was made for TV. Look at this. It’s got a bomb, gambling, a world famous boxing promoter, a determined heroine, and a cop who breaks the rules when they get in his way. But to people that study the Constitution, what makes *Mapp v. Ohio* really exciting is the Fourth Amendment.

**PROF. RICHARD LABUNSKI:** The Fourth Amendment is vital.

**PROF. CAROLYN LONG:** The Fourth Amendment requires that we be free from unreasonable searches and seizures.

**NARRATOR:** The Fourth Amendment gives us a right to privacy, preventing government from searching or taking us, our homes, papers, or property without a good reason. It says so right here. The government has to show probable cause, that is, a good reason to suspect that you have done something wrong. And in many cases it has to issue a warrant...to put its reasons and what it’s looking for down in writing.

**VINCENT WARREN:** That protects you from the police or the government generally invading your privacy.

**PROF. RICHARD LABUNSKI:** It really is an essential right of the people.

**Stop: 1:30**

**Pause & Reflect #1  
Constitutional Context**

1. What right does the Fourth Amendment give us? What protections?
2. Write the full text of the Fourth Amendment from your Class-Prep Assignment.

**Transition**

After a principle is established by the Constitution it becomes the law of the land. In practical terms, what is the next challenge for the federal government?

Who interprets the Constitution...decides what the law means?

Who enforces the laws?

**Time: 1:30 – 4:40**

**2. Background Story for *Mapp v. Ohio***

**NARRATOR:** But, there's a problem. The Constitution doesn't exactly say how to make sure this right is enforced. Back in 1957, Dolly Mapp thought she knew.

**DOLLREE "DOLLY" MAPP:** I had to stand up for my rights.

**NARRATOR:** She did. And when police rang Dolly Mapp's doorbell, they had no idea they were about to open the door to a new era in American civil liberties. But they did have a pretty good idea they were going to get a fight from Dolly Mapp.

**DOLLREE "DOLLY" MAPP:** I could not just ignore this. My freedom was at stake.

**NARRATOR:** Before dawn on May 20<sup>th</sup>, 1957, a small bomb went off at this house in Cleveland, Ohio. The owner of the house, Donald King, wasn't hurt, but he was pretty scared and he called the police to investigate.

**PROF. CAROLYN LONG:** Don King was well known to law enforcement. He was suspected of running an illegal gambling business, known as the numbers game.

**NARRATOR:** The numbers game was essentially a lottery, long before lotteries were run by states. In 1957 this kind of gambling was highly illegal. Sometimes that led to violence between the people called clearinghouse operators.

**PROF. CAROLYN LONG:** The clearinghouse operator is the one who sort of oversees the whole operation.

**NARRATOR:** And Donald King, who later became world famous as Don King, promoter of Muhammad Ali and other boxing champions...not to mention that hair. Young Donald King had a record and a number of encounters with police over the numbers game. So when his house was bombed, he called the division of the police department he knew personally.

**PROF. CAROLYN LONG:** He called the Bureau of Special Investigations.

**NARRATOR:** This division was in charge of cracking down on the numbers game, and it was headed by Detective Carl Delau. Carl Delau was not just an 11-year veteran of the Cleveland Police Department, but a World War II vet as well. A hard-nose cop, he didn't like people he thought were connected to the numbers game, and he figured King's house was bombed by one of them.

**SUSAN HERMAN:** When the police were investigating this, there were a number of other racketeers who they suspected of involvement in this bombing.

**NARRATOR:** Three days after the bombing, Delau got a tip that a possible suspect might be hiding in a house on Milverton Road. He knew who lived there... Dollree Mapp.

**PROF. CAROLYN LONG:** He had suspected that she was involved in gaming for some time.

**NARRATOR:** Dollree Mapp

**DOLLREE “DOLLY” MAPP:** Most my friends call me Dolly. Very few called me Dollree.

**NARRATOR:** OK, Dolly Mapp was known around town. Tough, outgoing, and driven, she was married to local boxing star Jimmy Bivens. Later she was engaged to World Light Heavyweight Champion Archie Moore. She owned this house in Shaker Heights, one of Cleveland’s nicest neighborhoods, living upstairs and renting out the basement. She was a fighter then, and she’s a fighter now.

**PROF. CAROLYN LONG:** She’s a very determined person. She doesn’t suffer fools. She’s very forthright. In many respects, she’s a woman ahead of her time.

**DOLLREE “DOLLY” MAPP:** I take care of myself. I’m not going to sit down and let you know what you run over me.

**NARRATOR:** Sgt. Delau knew this wasn’t going to be easy. He told the two officers with him...

**PROF. CAROLYN LONG:** I know Dollree, and she’s not going to let us in this house.

**CRAIG UCHIDA:** But they believed that the suspect was there.

**PROF. KERMIT ROOSEVELT:** When they showed up at the house, they just said that we’d like to come inside and talk to you.

**SUSAN HERMAN:** And Ms. Mapp said to them, “Do you have a search warrant?”

**Stop: 4:40**

**Pause & Reflect #2**  
**Background Story for *Mapp v. Ohio***

3. Briefly recount Dolly’s story thus far.
4. What did you learn about Dollree Mapp? Respond in 1 or 2 words or phrases.
  - her life situation
  - knowledge
  - civic dispositions
5. What did you learn about law enforcement practices in 1957?
6. When the police showed up at Dolly’s door, what did she want to see? Why?

**Transition**

What do you think Dolly knew about search warrants?

**NARRATOR:** Most of us have learned about search warrants from TV or the movies. But a warrant actually comes from the Fourth Amendment.

**CRAIG UCHIDA:** A search warrant must be very specific about what is to be searched, where is it going to be searched, and who is going to be searched. And it must be signed by a judge who is neutral who can read the document and determine that probable cause actually exists for going into this person's house, or car, or place of business.

**SUSAN HERMAN:** The whole idea of a search warrant is to get a second opinion from a neutral and detached magistrate about whether the police really have enough cause to search your home for whatever they are looking for.

**CRAIG UCHIDA:** And so that piece of paper really does represent the Fourth Amendment.

**NARRATOR:** To the framers, liberty was not a vague notion or something to be fought for far away from home, it was just the opposite. Liberty was urgent. It was deeply personal. The framers understood the importance of liberty exactly because they had experienced tyranny inside their own homes.

**RICHARD THORNBURGH:** The Fourth Amendment was a response to a specific grievance.

**CRAIG UCHIDA:** The British had what was called the writs of assistance. And the writs of assistance gave British troops the right to just search anybody's house and look for contraband, look for all kinds of different things.

**PROF. CAROLYN LONG:** And so it was very much a blank check for people to engage in searches. And people were quite alarmed at this.

**SUSAN HERMAN:** So the whole idea of the illegal searches and seizures was something that was tremendously important to the framers. I've always had my own suspicion that part of it was because probably a lot of them had seditious literature in their basements, they were revolutionaries.

**NARRATOR:** OK, now, you probably heard of this. The Boston Tea Party was an early symbol of resistance to British rule. But 12 years before that in 1761, attorney James Otis fought the British empire over writs of assistance in a Boston courtroom

**JAMES OTIS (Actor):** A man's house is his castle.

**SUSAN HERMAN:** He was arguing about the importance of privacy, about why it was just offensive to people and to democracy itself to allow the government to have that much power that they could just search and seize at will.

**JAMES OTIS (Actor):** These writs of assistance, if declared legal, would totally annihilate this sacred human right.

**NARRATOR:** But for us, future President John Adams heard the real Otis, and not this actor.

**JAMES OTIS (Actor):** A man's right to his home is derived from nature.

**NARRATOR:** After hearing Otis make his final argument, Adams said

**SUSAN HERMAN:** Then and there the child Liberty was born.

**NARRATOR:** That's how central the idea of restricting searches and seizures is to American democracy.

**PROF. GEOFFREY STONE:** The idea of somebody knocking on the door or breaking down the door at 2 in the morning to toss you out of bed and possibly to take you into custody without ever telling you why or showing any justification was the kind of power that needed to be reined in because in order to have a successful self-governing society individual citizens have to understand that they are in charge.

**THEODORE OLSON:** So the colonials put in the Fourth Amendment the right to be free from unreasonable searches and seizures, now we have come to understand that an unreasonable search and seizure is something that is done without a warrant so the judge decides whose home gets to be invaded.

**Stop: 8:11**

**Pause & Reflect #3  
Writs & Warrants**

7. Compare and contrast warrants in colonial America with those today.
8. Summarize the argument James Otis made in court.
9. Explain the meaning and significance of these statements by James Otis:
  - “A man’s house is his castle.”
  - “A man’s right to his home is derived from nature.”
10. Discuss: “In order to have a successful self-governing society individual citizens have to understand that they are in charge.”  
How are citizens in charge in a self-governing society?

**Transition**

At the time of *Mapp*, the federal government and the state governments didn’t operate under the same rules when it came to requiring the use of warrants. Why?

**Time: 8:11 – 10:58**

**4. Warrantless Searches**

**NARRATOR:** But look at this, unreasonable, warrant, probable cause...what’s missing from the Fourth Amendment is a way to make sure the police obey it. Not only that, most crime is handled by local police and state courts, and several states never enforced the use of warrants so police just stopped getting them. If they searched a house without one, that evidence would be used in a trial anyway so...

**PROF. CAROLYN LONG:** Police officers knowing that a warrant was not necessary would conduct warrantless searches because they knew that there were no ramifications for their actions. And so there was nothing to deter them from acting in an illegal fashion.

**NARRATOR:** So when Sgt. Delaurang Dolly Mapp’s doorbell, he didn’t have a warrant and she didn’t invite him in. She believed she had rights to protect her.

**DOLLREE “DOLLY” MAPP:** I hadn’t committed a crime, so why are you here. I called a lawyer.

**PROF. KERMIT ROOSEVELT:** She was a legally sophisticated person. She went back. She talked to an attorney and the lawyer said don’t let them in if they don’t have a warrant.

**SUSAN HERMAN:** So the police went away. Three hours later they come back again.

**PROF. CAROLYN LONG:** They broke a window. And then they pried open the door in order to gain entry to the house.

**DOLLREE “DOLLY” MAPP:** When I looked up, they were in my house.

**PROF. CAROLYN LONG:** So it’s important to recognize that Dollree had not let them in the home. In fact she continued to tell them they were not welcome, but they entered the home anyway.

**SUSAN HERMAN:** And they say, “We have a search warrant.” And Dollree Mapp says...

**DOLLREE “DOLLY” MAPP:** May I see the warrant?

**SUSAN HERMAN:** So the police officer there pulls out a piece of paper and waves it in front of her and starts putting it back.

**CRAIG UCHIDA:** She grabbed the piece of paper and put it down her blouse.

**NARRATOR:** Turned out that paper was not a warrant. The police never got one. At this point, though, they handcuffed Dolly Mapp and searched her house. They actually found their suspect downstairs so he was there, but he was also released the next day because it turns out he had nothing to do with the bombing. They didn’t find anything else related to the bomb, but in an upstairs dresser the police found some pornography that Dolly Mapp says was owned by one of her former boarders.

**SUSAN HERMAN:** They found some materials that led to her being prosecuted for obscenity, possession of obscene materials. One of the things they found up on the second floor were erotic comic books.

**NARRATOR:** OK, take a moment, it’s OK to giggle. Even Dolly and one of the officers laughed that day.

**DOLLREE “DOLLY” MAPP:** I didn’t think I was in any trouble. The officer enjoyed looking at ‘em himself.

**NARRATOR:** But the laughter ended quickly. Although they didn’t charge her with anything having to do with the bombing, Dolly was charged with possession of obscene materials for having this in her home. Even though it wasn’t hers she was facing one to seven years in prison and a fine of up to two thousand dollars.

**PROF. CAROLYN LONG:** Astonishing. It’s a terrible law. The Ohio law prohibited possession of obscene materials, so it was quite a broad anti-obscenity law.

**Stop: 10:58**

**Pause & Reflect #4  
Warrantless Searches**

11. Were federal or state law enforcement officers involved? Why does it matter?
12. What were the police after? What did they find?
13. How did law enforcement use the evidence gathered? Was it legal? Explain.
14. Identify possible Fourth Amendment violations in the investigation.

**Transition**

States have the authority to make their own laws. What recourse do individuals have if they believe a law infringes on their personal rights?

**NARRATOR:** At her trial here in the Cuyahoga Courthouse, Dolly and her attorney A.L. Kearns tried to have the evidence thrown out or excluded. They claimed the search was unconstitutional, since there was no warrant. That's called the exclusionary rule.

**PROF. KERMIT ROOSEVELT:** The exclusionary rule is a rule that says if police obtain evidence in violation of your Fourth Amendment rights through an unreasonable search or seizure, that evidence can't be introduced against you in a prosecution.

**NARRATOR:** The exclusionary rule in the American legal system goes back to 1914 in a case called *Weeks v. United States* where the court said that if a federal law enforcement officer found evidence illegally, that evidence could not be used against the defendant.

**SUSAN HERMAN:** This was tremendously important because it was the first time that the Supreme Court recognized that the Fourth Amendment sets out certain rules and that if the police don't follow those rules and they obtain evidence, that that evidence should not be used.

**NARRATOR:** OK, so a minute ago I pointed out that missing from the Fourth Amendment was any way to enforce it. The *Weeks* decision was the Supreme Court's way of trying to fix that. It said to police, if you don't have a warrant, you can't use the evidence. The exclusionary rule was the Court's way of enforcing the Fourth Amendment. But at the time of *Weeks*, the Fourth Amendment did not apply to the states. It's a little confusing, but here, check this out.

The Bill of Rights gives us all these wonderful rights and freedoms, but it only applied to the federal government. See, Congress shall make no law... and in the early 20<sup>th</sup> century the Court started to apply some of these fundamental rights to the states through the Fourteenth Amendment, written and ratified after the Civil War to reign in the states. This process is called incorporation. But the Court was split about how far to go.

**PROF. KERMIT ROOSEVELT:** And what happened eventually was the Court said, we're not going to say take the Bill of Rights as a whole it applies against the states, we're going to consider each right individually and we're going to ask is it sufficiently important that we think the states have to observe it.

**NARRATOR:** So 35 years after *Weeks*, the Supreme Court handed down a ruling on the Fourth Amendment in *Wolf v. Colorado*. The *Wolf* decision said that states have to incorporate the rights in the Fourth Amendment, but states don't have to use the exclusionary rule to enforce those rights, because the exclusionary rule isn't in the Constitution.

**PROF. KERMIT ROOSEVELT:** In the *Wolf* decision, the Supreme Court had said you got this right, a right to be free of unreasonable searches and seizures, but that right is quite distinct from the exclusionary rule.

**PROF. AKHIL AMAR:** The Supreme Court says, oh, the Fourth Amendment applies against the states, but not the exclusionary rule, because the exclusionary rule isn't really a key part of the Fourth Amendment, that's just something that we judges have come up with as a device for enforcing the Fourth Amendment.

**NARRATOR:** Justice Felix Frankfurter wrote the 6 to 3 majority opinion in *Wolf*, calling the exclusionary rule a judicial-made remedy that is not actually in the Constitution, so the states didn't have to use it.

**PROF. KERMIT ROOSEVELT:** The Constitution itself doesn't give you that remedy, then you're not necessarily going to have it in state courts.

**Stop: 14:10**

**Pause & Reflect #5**

**Exclusionary Rule: Origin & Rationale**

15. Restate the exclusionary rule.
16. What is the significance of the decision in *Weeks v. United States* (1914)?
17. Explain the process and purpose of incorporation. When did the Fourth Amendment get incorporated? Which case? Why wasn't the exclusionary rule included, too?
18. Justice Frankfurter called the exclusionary rule called a judicial-made remedy. Explain what he meant. Why would the Supreme Court establish such a rule?

**Transition**

The stage was set and, in the interest of justice, a new legal precedent was about to be made. What is a precedent?

**Time: 14:10 – 17:28**

**6. Mapp's Case in the Supreme Court**

**DOLLREE "DOLLY" MAPP:** So here's what all this means for our case and for Dolly Mapp. Ohio didn't recognize the exclusionary rule; instead, the state allowed evidence found illegally to be used in court. So the pornography that police discovered at Dolly's house was introduced into her trial, and a jury found Dolly guilty for breaking Ohio's obscenity law.

**PROF. CAROLYN LONG:** She was sentenced to the maximum, which was seven years plus a two thousand dollar fine.

**DOLLREE "DOLLY" MAPP:** Seven years, for what? My case wasn't right. It was illegal to do this to me.

**DOLLREE "DOLLY" MAPP:** Dolly's lawyer appealed, but mainly on the issue that Ohio's obscenity law violated the First Amendment protecting freedom of speech and her case went all the way to the United States Supreme Court. That's when the American Civil Liberties Union, or ACLU, joined in.

**SUSAN HERMAN:** The ACLU asked for permission to file a brief in this case in order to support the argument that Dollree Mapp's lawyer was making that her conviction violated the First Amendment.

**PROF. CAROLYN LONG:** An amicus curiae brief is what we call a friend of the court brief. It's a brief that is written by outside parties which lay out legal arguments that pertain to the case before the Court. The amicus brief written by the ACLU focused primarily on the legality of the anti-obscenity law.

**NARRATOR:** After arguing the First Amendment case that Dolly had a right to own any book she wanted...for 20 pages... the ACLU brief added 11 lines at the very end, almost as an afterthought. It turned back to the search of Dolly's home without a warrant and asked the court to overturn the *Wolf* decision and apply the exclusionary rule to the states.

**NARRATOR:** On March 29<sup>th</sup>, 1961, oral arguments at the United States Supreme Court were equally complicated. Was the *Mapp* case a First Amendment case about free speech or was it a Fourth Amendment case about unlawful search and seizure? You can almost understand how Dolly Mapp's attorney A.L. Kearns got a little confused. His argument confused Justice Felix Frankfurter.

**PROF. CAROLYN LONG:** He was rambling, and at one point, Frankfurter interrupted him to ask him what the case was about...what was the question before the court.

**JUSTICE FELIX FRANKFURTER (audio):** Are you asking us to overrule the *Wolf* case in this Court? I noticed it isn't even cited in your brief.

**NARRATOR:** Remember, Justice Frankfurter actually wrote the *Wolf* decision and he didn't want to see it overturned. He strongly believed that the exclusionary rule was not a right and should be left up to the states. When pressed on the issue, attorney Kearns just sounded lost.

**JUSTICE FELIX FRANKFURTER (audio):** Well, that means you're asking us to overrule *Wolf against Colorado*.

**ATTORNEY KEARNS (audio):** No

**NARRATOR:** Fortunately for Dolly, the ACLU attorney, Bernard Berkman, was also granted 15 minutes to address the Court, recognizing just how badly things were going. The very first thing he said was...

**BERNARD BERKMAN (audio):** The American Civil Liberties Union is very clear that we are asking this Court to reconsider *Wolf versus Colorado* and to find that evidence which is unlawfully and illegally obtained should not be permitted into a state proceedings.

**Stop: 17:28**

**Pause & Reflect #6**

**Mapp's Case in the Supreme Court**

19. Recount the trouble that Dolly's case faced in the Supreme Court.

**Transition**

Put yourself in Justice Frankfurter's shoes.

Discuss the unique challenges that you had to face and overcome.

**Time: 17:28 – 19:33**

**7. Reasoning Behind the *Mapp* Decision**

**NARRATOR:** The ACLU made the case that the state of Ohio should not be allowed to use the evidence found in Dolly Mapp's home against her because it was obtained illegally. The state of Ohio acknowledged that the police had no warrant, but argued that the *Wolf* decision should stand and the state should decide for itself whether or not it could use evidence illegally obtained without a warrant. In the end, the Court decided to overturn *Wolf* by a 6 to 3 margin in *Mapp*. The majority ruled that the search and seizure at Dolly's house was unlawful because it was done without a warrant so the evidence should have been excluded...and that the exclusionary rule should apply to the states through the due process clause of the Fourteenth Amendment. Justice Tom Clark wrote the majority decision.

**PROF. KERMIT ROOSEVELT:** Justice Clark's view was basically that Fourth Amendment rights are worthless if the exclusionary rule is not available, because if the police know they can use the evidence against you, why not go ahead and break down the door. There's no meaningful disincentive to police.

**NARRATOR:** Justice Hugo Black had actually joined the majority in *Wolf* back in 1949 because he didn't think the exclusionary rule was a fundamental right. This time he changed his mind.

**PROF. AKHIL AMAR:** By the early Sixties, Hugo Black has decided that the exclusionary rule is part of the Constitution, maybe not the Fourth Amendment alone, but the Fourth Amendment in combination with the Fifth Amendment's self-incrimination clause.

**NARRATOR:** Justice Black thought that using evidence obtained illegally in court was like forcing someone to testify against yourself, which is banned by the Fifth Amendment. Taken together, a constitutional basis emerges which not only justifies but actually requires the exclusionary rule. Justice Potter Stewart ruled in *Mapp*'s favor, but on the First Amendment issue that Ohio's obscenity law was too broad. And Justice John Harlan criticized the majority for using the exclusionary rule to overturn a precedent even though it can't be found in the Constitution.

**Stop 19:33**

**Pause & Reflect #7**  
**Reasoning Behind the *Mapp* Decision**

20. Explain the reasoning used for making the exclusionary rule a part of the Constitution when it is not stated in the Constitution.

Consider these words: explicit, implicit, inherent, inferred, exact, specific

Review principles used for interpreting written words.

**Transition**

Based on the reasoning of the justices, what do you think will be required of the states?

**Time: 19:33– 23:07**

**8. Exclusionary Rule: Exceptions & Controversy**

**PROF. KERMIT ROOSEVELT:** He was saying basically this is something that the justices think is a good idea; they want the states to have to do this and so they are going to make them do it even though it's not what the Constitution says. In dissent, Justice Harlan was joined by Justice Frankfurter. This take on *Mapp* and the exclusionary rule pretty much frames the controversy about this case to this day. It's complicated stuff. The police chief said the *Mapp* ruling led to tighter police procedure and more professionalism.

**CRAIG UCHIDA:** That case had very important ramifications for every police department in the United States and every police officer in the United States.

**NARRATOR:** Craig Uchida was the Director of Criminal Justice Research at the National Institute of Justice. He worked with police departments across the country to improve their performance.

**CRAIG UCHIDA:** *Mapp* had a huge effect on police behavior and the subsequent rulings in the 1960s as well.

**NARRATOR:** Starting with the *Mapp* case, the Supreme Court under Chief Justice Earl Warren began to apply criminal procedure protections found in the Bill of Rights to the states through incorporation of the Fourteenth Amendment. Some people have labeled it the Due Process Revolution. After *Mapp*, the Court under Warren ruled that everyone, in every state, should have legal counsel, and that everyone in custody should have their rights clearly explained to them to avoid self-incrimination.

**POLICEMAN (audio):** You have the right to remain silent. Anything you say can and will be used against you in a court of law.

**DAVID BOIES:** Criminal procedure is primarily designed to protect the innocent. Most of what you see...the hearsay rules, the right to trial by jury, the right to subpoena are all things that are designed to protect the innocent.

**NARRATOR:** But the controversy over the exclusionary rule is still going on. In the 50 years since the *Mapp* decision, the Court has chipped away at it, reducing its status again to a remedy, something less than a right.

**PROF. AKHIL AMAR:** Since the Warren Court, the exclusionary rule has been cut back in all sorts of ways. The Court has created a whole series of exceptions.

**NARRATOR:** It's limited where the exclusionary rule is applied.

**PROF. CAROLYN LONG:** The Court determined that the exclusionary rule was not appropriate in grand jury hearings.

**NARRATOR:** And the Court has placed limitations on how the exclusionary rule is applied. For instance, if the police obtain a warrant, but the warrant has mistakes, a judge might allow the evidence because the police did their best to follow proper procedure.

**PROF. AKHIL AMAR:** They said for example, oh, the exclusionary rule doesn't apply in general if the police acted in good faith.

**PROF. KERMIT ROOSEVELT:** The Court says even if it's the police who make the mistake, they're still entitled to this good faith exception.

**NARRATOR:** And the Court will almost certainly hear more cases because we haven't finished debating the exclusionary rule. One side thinks it helps the guilty.

**PROF. AKHIL AMAR:** We're letting a guilty person go free.

**NARRATOR:** The other side says it keeps the police disciplined.

**SUSAN HERMAN:** That's the only way we need to ensure that they're going to get the warrant.

**NARRATOR:** And we certainly haven't finished debating the language in the Fourth Amendment. To protect these rights do we need warrants or do we simply need the police to be reasonable?

**PROF. KERMIT ROOSEVELT:** It says, no warrants shall issue, except upon probable cause. And people have taken that to mean the Fourth Amendment is designed to get the government to obtain a warrant.

**PROF. AKHIL AMAR:** Ninety-nine percent of the stuff that actually happens today and every day happened without a warrant. You're crossing a border and your baggage is searched at the airport, you go through a metal detector, there's no warrant.

**Stop: 23:07**

**Pause & Reflect #8**  
**Exclusionary Rule: Exceptions & Controversy**

21. How can the Supreme Court require states to use the exclusionary rule when it is not explicitly stated in the Constitution?
22. How did the exclusionary rule affect police practices and individual rights?
23. Give examples of exceptions to the exclusionary rule. Name the cases.
24. Why do you think the number of exceptions to the rule have increased over the years?
25. Identify pro and con viewpoints on the exclusionary rule.
26. Are all search-and-seizure situations involving the government Fourth Amendment violations? Explain and give some examples.

**Transition**

In your opinion, are there times when people should voluntarily give up some of their rights? Explain.

**NARRATOR:** The framers left room for debate because they knew they didn't have all the answers. But they also knew they wanted to ensure certain rights and created a system intended to make us safe from criminal behavior and from a government that sometimes might cut corners with our liberty.

**SUSAN HERMAN:** The framers said, sometimes it is not so important to us to catch criminals that we are willing to throw our privacy and our liberty to the winds.

**DAVID BOIES:** We have a system of government that balances the need to convict the guilty against the desire to protect the innocent, very, very heavily in favor of protecting the innocent.

**NARRATOR:** And in this case, our system protected Dolly Mapp.

**DOLLREE "DOLLY" MAPP:** I felt good. I knew there was something that I should do and I did everything that I knew how.

**NARRATOR:** Even without legal training, Dolly Mapp knew she had certain rights and intended to defend them.

**DOLLREE "DOLLY" MAPP:** And I felt that I had been treated wrong. If the search was illegal, then you got the law on your side.

**NARRATOR:** Her case represented a struggle for the ultimate goal of the American legal system...justice... delivered by way of the Constitution.

**The End**

**Pause & Reflect #9**

**Keeping Us Safe vs. Protecting Our Rights**

27. What motivated Dolly and gave her confidence to keep going?
28. In our system of government, who ultimately has the power to tip the scales of justice?
29. Discuss the importance of ordinary people like Dolly Mapp to our justice system.
30. What did you gain from Dolly's participation? What did America gain?

## Video Study Questions

Use the following questions to assist with a guided study of the video. View each section indicated by the time, then pause to reflect and answer the questions. A transcript of the video is also available to supplement your study.

**Time: Start - 1:30**

### 1. Constitutional Context

#### Pause & Reflect

1. What right does the Fourth Amendment give us? What protections?
2. Write the full text of the Fourth Amendment from your Class-Prep Assignment.

#### **Transition**

After a principle is established by the Constitution, it becomes the law of the land. In practical terms, what is the next challenge for the federal government?

Who interprets the Constitution...decides what the law means?

Who enforces the laws?

**Time: 1:30 - 4:40**

### 2. Background Story for *Mapp v. Ohio*

#### Pause & Reflect

3. Briefly recount Dolly's story thus far.
4. What did you learn about Dollree Mapp? Respond in 1 or 2 words or phrases.
  - her life situation
  - knowledge
  - civic disposition
5. What did you learn about law enforcement practices in 1957?
6. When the police showed up at Dolly's door, what did she want to see? Why?

#### **Transition**

What do you think Dolly knew about search warrants?

**Pause & Reflect**

7. Compare and contrast warrants in colonial America with those today.
8. Summarize the argument James Otis made in court.
9. Explain the meaning and significance of these statements by James Otis:
  - “A man’s house is his castle.”
  - “A man’s right to his home is derived from nature.”
10. Discuss: “In order to have a successful self-governing society individual citizens have to understand that they are in charge.” How are citizens in charge in a self-governing society?

**Transition**

At the time of *Mapp*, the federal government and the state governments didn’t operate under the same rules when it came to requiring the use of warrants. Why?

**Pause & Reflect**

11. Were federal or state law enforcement officers involved? Why does it matter?
12. What were the police after? What did they find?
13. How did law enforcement use the evidence gathered? Was it legal? Explain.
14. Identify possible Fourth Amendment violations in the investigation.

**Transition**

States have the authority to make their own laws. What recourse do individuals have if they believe a law infringes on their personal rights?

**Pause & Reflect**

15. Restate the exclusionary rule.
16. What is the significance of the decision in *Weeks v. United States* (1914)?
17. Explain the process and purpose of incorporation. When did the Fourth Amendment get incorporated? Which case? Why wasn’t the exclusionary rule included, too?
18. Justice Frankfurter called the exclusionary rule called a judicial-made remedy. Explain what he meant. Why would the Supreme Court create such a rule?

**Transition**

The stage was set, and, in the interest of justice, a new legal precedent was about to be made. What is a precedent?

**Pause & Reflect**

19. Recount the trouble that Dolly's case faced in the Supreme Court.

**Transition**

Put yourself in Justice Frankfurter's shoes.

Discuss the unique challenges that you had to face and overcome.

**Pause & Reflect**

20. Explain the reasoning used for making the exclusionary rule a part of the Constitution when it is not stated in the Constitution.

Consider these words: explicit, implicit, inherent, inferred, exact, specific.

Review principles used for interpreting written words.

**Transition**

Based on the reasoning of the justices, what do you think will be required of the states?

**Pause & Reflect**

21. How can the Supreme Court require states to use the exclusionary rule when it is not explicitly stated in the Constitution?

22. How did the exclusionary rule affect police practices and individual rights?

23. Give examples of exceptions to the exclusionary rule. Name the cases.

24. Why do you think the number of exceptions to the rule have increased over the years?

25. Identify pro and con viewpoints on the exclusionary rule.

26. Are all search-and-seizure situations involving the government Fourth Amendment violations? Explain and give some examples.

**Transition**

In your opinion, are there times when people should voluntarily give up some of their rights? Explain.

**Pause & Reflect**

27. What motivated Dolly and gave her confidence to keep going?

28. In our system of government, who ultimately has the power to tip the scales of justice?

29. Discuss the importance of ordinary people like Dolly Mapp to our justice system.

30. What did you gain from Dolly's participation? What did America gain?

## Project: A Contextual Timeline

### Instructions:

Synthesize information from the following resources to develop a contextual timeline that “retells” the story in the video and extends learning related to search-and-seizure cases and the exclusionary rule.

- Video: *The Constitution Project: Search and Seizure—Mapp v. Ohio*  
Available from Annenberg Classroom: <http://www.annenbergclassroom.org/page/all-videos>
- Annotated Video Transcript: The Constitution Project: Search and Seizure—Mapp v. Ohio
- Chapter 15: The Right to Protection Against Illegal Search and Seizure from *Our Rights* by David J. Bodenhamer
- Third & Fourth Amendments from *Our Constitution* by Donald Ritchie & JusticeLearning.org
- Annenberg Classroom: Timeline—Unreasonable Search and Seizure  
<http://www.annenbergclassroom.org/timeline/right-against-unreasonable-search-and-seizure>

### Materials Needed:

- 3x5 cards
- Highlight markers
- Rubric for a Contextual Timeline
- Option: Use technology to collect and organize information.

### Procedure:

1. Identify at least **20** significant and relevant events and Supreme Court decisions\* composed of
  - 10 entries from the video ( 7 Supreme Court cases\* & 3 historical events)
  - 4 additional historical events (Distribute so there is 1 event associated with each historical period named in #3 below. An event may also relate to more than one historical period.)
  - 2 “Extra” recent Supreme Court decisions\* (defined by the teacher or “your choice”)
  - 3 additional Supreme Court cases\* that allowed warrantless searches\* Use this APA text citation form for citing Supreme Court decisions: Name v. Name (Year)
2. Take notes for each event/decision that include the following information:
  - Date:
  - Title of entry:
  - Description/Significance/Relevance:
  - Citation:
3. For the context, incorporate the following eight chronological periods of U.S. history into your timeline. Some periods do overlap.
  - Beginnings to 1607
  - Colonization, settlement, and communities (1607 to 1763);
  - The Revolution and the new nation (1763 to 1815);
  - Expansion and reform (1801 to 1861);
  - Crisis of the Union: Civil War and Reconstruction (1850 to 1877);
  - The development of modern America (1865 to 1920);
  - Modern America and the World Wars (1914 to 1945); and
  - Contemporary America (1945 to present).
4. Order the events/decisions chronologically, then design a scaled timeline that relates the 20 significant and relevant entries to the periods of U.S. history. Add color or images as appropriate.
5. Review the Rubric for a Contextual Timeline.

## Follow-Up

1. After your timeline is made, analyze it to select 4 events that in your view were the most significant turning points. Mark them in some way on your timeline, list them below, and explain your reasoning for each one.
2. Be prepared to discuss the following in class.
  - a. The relationship of events to the decisions made by the Supreme Court
  - b. The application of the Fourth Amendment over time
  - c. Issues and challenges in changing times
  - d. The changing definition and understanding of “unreasonable searches and seizures”
  - e. Constants that have endured despite all the changes
  - f. Balancing our right to privacy with our need for security
  - g. Tipping the scales of justice the other way

## Rubric for a Contextual Timeline

Criteria	4 points	3 points Basic Requirements	2 points	1 point
Preparation	Extensive notes on every entry; well organized; formal citations	Simple notes on all required entries; sources are informally cited	Notes for most entries; some information is sketchy or missing	Few notes; little information gathered; missing or incomplete citations
Historical Periods	All 8 historical periods clearly indicated; additional events marked for 5 periods	All 8 historical periods accurately indicated; 1 historical event related per period	All 8 historical periods represented; 1 or 2 periods missing an event	Fewer than 8 historical periods represented; 3 or more periods missing events
Scale	Scale is consistent and accurate; increments are marked; all entries appropriately sequenced for scale	Scale is accurate; increments marked; entries placed in sequence	Scale is roughly drawn; unequal increments; some entries out of sequence	No apparent scale; increments are not marked; many entries out of sequence.
Title	Creative and well placed title; accurately describes the topic of the timeline	Effective title; accurately describes the material; easy to locate	Simple title; easy to locate	Title missing or hard to locate
Dates	Accurate; some are mm/dd/yr specific; correctly sequenced according to scale	Accurate for all entries	Some dates are inaccurate; several entries out of order	Many dates are inaccurate; sequence is significantly out of order
Number of Relevant Entries	More than 20 entries	20 entries	10-19 entries	5-9 entries
Content/Facts	Accurate for all entries; highlights salient points; shows clear, concise relevance	Accurate for all entries; shows basic relevance	Accurate for most of the entries; many do not show relevance	Accurate for only a few entries; shows little relevance
Supreme Court Decisions	More than 12; case names accurate; in correct form; relevance accurately described	12 cases named; in correct format; decisions accurately described	Missing some cases; inaccurate case names; decisions not fully described	Missing many of the cases; case names inaccurate or incomplete
Design, Organization, Appearance	Enhances understanding; creative design; clear organization; good use of color and images	Supports understanding; simple, neat design; color contributes to understanding; images present are appropriate	Weak design and organization; ineffective use of color; images present are distracting or inappropriate	Shows lack of effort at design and organization; messy work; no color; missing or inappropriate images
Mechanics (spelling, grammar, punctuation)	Virtually no errors	A few minor errors	Quite a few errors	Number of errors makes it hard to read and understand

## Legal or Illegal? You Be the Judge

### Introduction:

Finding the right balance between catching criminals and protecting our privacy is not an easy task. The Court even ignores its own rules sometimes to draw a line between reasonable and unreasonable. As it turns out, the line between reasonable and unreasonable is like a moving target.

*“The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails.”*

—Justice William H. Rehnquist, *Bell v. Wolfish* (1979)

### Instructions:

Using what you know about the Fourth Amendment, consider each of the following scenarios. Make a decision and provide your reasons.

1. **If police are outside a house, and they can smell burning marijuana and hear the sounds of evidence being destroyed, are they allowed to enter without a warrant?**

Legal Search                       Illegal Search

Reasons:

2. **The police, without a warrant, find incriminating evidence after searching trash bags that have been placed on the curb for garbage collection.**

Legal Search                       Illegal Search

Reasons:

3. **A student is declared to be a delinquent after school officials, based on allegations that she was smoking in the restroom, search her possessions and discover drug paraphernalia.**

Legal Search                       Illegal Search

Reasons:

4. **After she violates her school’s cell phone policy, a student’s confiscated cell phone is searched by school officials for evidence of illegal activity.**

Legal Search                       Illegal Search

Reasons:

5. **A potential candidate for state office is required to take a drug test before his name is added to the ballot.**

Legal Search                       Illegal Search

Reasons:

6. A student trying out for a spot on a high school sports team is required to take a drug test before he can join.

Legal Search

Illegal Search

Reasons:

7. In order to collect evidence, the police place a wiretap in a public phone booth frequently used by an individual who is suspected of illegal gambling.

Legal Search

Illegal Search

Reasons:

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### FOLLOW-UP

1. The above questions were taken from an Interactive Quiz from the National Constitution Center. Visit the following website to enter your answers and score your quiz.

<http://blog.constitutioncenter.org/how-well-do-you-know-the-4th-amendment/>

2. Were you surprised by any of Supreme Court decisions? \_\_\_\_\_  
If so, which ones? \_\_\_\_\_

3. My score: \_\_\_\_\_ out of \_\_\_\_\_ = \_\_\_\_\_%

## Mapp Lesson Quiz

### Instructions:

Circle the letter next to each correct answer. There may be more than one per question.

1. If you lived in 1775, your protections under the Fourth Amendment . . .
  - a. would be up to the U.S. government.
  - b. would be nonexistent.
  - c. would not be guaranteed.
  - d. would be dependent on the good will of the British.
2. When the Constitution was ratified, it . . .
  - a. did not include the Fourteenth Amendment.
  - b. did not include the Bill of Rights.
  - c. included the Fourth Amendment.
  - d. gave the people power to control the government.
3. The founders feared . . .
  - a. home invasions by soldiers.
  - b. a powerful government.
  - c. loss of privacy.
  - d. their neighbors.
4. The Fourth Amendment protects us from searches and seizures by the police and federal officers.
  - a. Always
  - b. Sometimes
  - c. Only if you're innocent
  - d. Under certain circumstances
5. What is missing from the Fourth Amendment?
  - a. Specifics for a warrant
  - b. A test for unreasonableness
  - c. A way to enforce it
  - d. Nothing
6. Before 1865, the Constitution held the \_\_\_\_\_ responsible for enforcing the Fourth Amendment.
  - a. federal government
  - b. state government
  - c. judicial branch
  - d. legislative branch
7. The purpose of a search warrant is to
  - a. look for any interesting evidence of a crime.
  - b. notify the judge that a search was conducted.
  - c. prevent illegal searches and seizures.
  - d. give police permission to invade your privacy any time.
8. A search warrant represents which amendment?
  - a. First Amendment
  - b. Fourth Amendment

- c. Fifth Amendment
  - d. Fourteenth Amendment
9. Identify the exclusionary rule as it is used today.
- a. The exclusionary rule prevents the government from using most evidence gathered in violation of the Fourth Amendment protection against unreasonable search and seizure in a federal criminal trial.
  - b. The exclusionary rule prevents the government from using most evidence gathered in violation of the Fourth Amendment protection against unreasonable search and seizure in a state or federal criminal trial.
  - c. The exclusionary rule prevents the government from using all evidence gathered in violation of the Fourth Amendment protection against unreasonable search and seizure in a federal criminal trial.
  - d. The exclusionary rule prevents the government from using most evidence gathered in violation of the Fourth Amendment protection against unreasonable search and seizure in state or federal trials.
10. The process of incorporation of rights to the states . . .
- a. makes the states accountable for enforcing all of our constitutional rights.
  - b. makes the states accountable for enforcing some of our constitutional rights.
  - c. allows the states to choose which rights they want to enforce.
  - d. is used by the Supreme Court to apply certain rights to the states.
11. Which case incorporated the Fourth Amendment to the states?
- a. *Mapp v. Ohio* (1961)
  - b. *Wolf v. Colorado* ((1949)
  - c. *Weeks v. United States* (1914)
  - d. *Boyd v. United States* (1886)
12. Which case established the exclusionary rule?
- a. *Mapp v. Ohio* (1961)
  - b. *Wolf v. Colorado* ((1949)
  - c. *Weeks v. United States* (1914)
  - d. *Boyd v. United States* (1886)
13. Why did the Court decide not to include the exclusionary rule when it incorporated the Fourth Amendment to the states?
- a. It was not a right.
  - b. It was not in the Constitution.
  - c. States should have a choice to use it or not.
  - d. It wasn't useful any more.
  - e.
14. Identify the statement(s) that are not true about Dollree Mapp's case in the Supreme Court.
- a. Her lawyer presented well-organized arguments.
  - b. A clear question was presented to the justices for a decision.
  - c. A precedent was at risk of being overturned.
  - d. The ACLU clarified the focus of the case.
15. In the *Mapp* decision, what did the Court decide about the exclusionary rule?
- a. It was a right.
  - b. It was in the Constitution.
  - c. It would make it easier for law enforcement to catch criminals.
  - d. States should be required to follow it.
16. The exclusionary rule is controversial today because . . .
- a. it's not a hard and fast rule.

- b. warrantless searches have been allowed by the Court.
  - c. valuable evidence may be dismissed and the criminal set free.
  - d. it deters law enforcement from illegal behavior.
17. Which of the following is always a violation of the Fourth Amendment?
- a. a warrantless search
  - b. the warrant contains mistakes made by police
  - c. drug searches without permission by the individual
  - d. none of the above
18. Which of the following is true about a civil right?
- a. It is guaranteed.
  - b. It is specifically stated in the Constitution.
  - c. It is supported by the Court in certain cases.
  - d. The Court may come up with exceptions.
19. Which of the following is true about a remedy?
- a. It is guaranteed.
  - b. It is specifically stated in the Constitution.
  - c. It is supported by the Court in certain cases.
  - d. The Court may come up with exceptions.
20. In a constitutional democracy, justice is achieved when . . .
- a. both sides are treated fairly under the law.
  - b. your side wins.
  - c. criminals never go free.
  - d. the government protects your rights.