

Fourth Amendment Lesson Plan

Included in this lesson plan are the following materials:

- (1) Constitution Day and Fourth Amendment overview
 - (2) Fourth Amendment case summaries (will be distributed to students as homework before presentation)
 - (3) Fourth Amendment Hypothetical and corresponding classroom activity
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Dear Law Student/Attorney Presenters,

Thank you so much for participating in the Colorado Law Constitution Day Project! With your help, we will be visiting dozens of classrooms all over the state this month.

In order to make this project a success, it is essential that you read through this packet carefully and ask any questions you may have, either at one of the training sessions or between now and the day of your Constitution Day presentation.

The Byron R. White Center is deeply committed to serving as a source of increased discussion and study of the Constitution, not only within the University, but also in the broader community. This Constitution Day Project is a central part of that commitment, and we are honored to you are willing to help make it happen.

Again, thank you for your participation!

Sincerely,

Colene Robinson

Fourth Amendment Lesson Agenda

Learning Objective: Students will be able to determine how the Fourth Amendment applies in schools and how that might interact with the Fourth Amendment as it applies outside of school.

- (1) Introductions (5 minutes)

 - (2) Constitution Day and Fourth Amendment overview (15 mins)

 - (3) Case Summary review with students (10-15 mins)

 - (4) Hypothetical and group discussion activity (20-25 mins)
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Materials to bring with you to your school:

- (1) Student Handouts (enough for each student)

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Colorado Law Constitution Day Project
September 2019

Presenters:

Case Law Summaries

***New Jersey v. T.L.O.* (U.S. Supreme Court 1985)**

A teacher caught a high school freshman, T.L.O., smoking in the school bathroom, and took her to the principal's office. T.L.O. denied she had been smoking. The principal demanded to see her purse. He opened it and found a pack of cigarettes. He also saw a packet of cigarette rolling papers, which he believed was closely associated with marijuana use.

Because he suspected a further search of the purse would turn up evidence of drug use, he searched the purse thoroughly. He found a small amount of marijuana, a pipe, a large amount of cash, and what appeared to be a list of students who owed T.L.O. money. The state brought charges. At trial, T.L.O. argued that the evidence seized from her purse should be suppressed, because the principal searched it in violation of her Fourth Amendment Rights.

The Supreme Court ruled that the Fourth Amendment's prohibition on unreasonable searches and seizures (s)5 o0 Tc 0 3 (.)-s b(5 o0 Tc .9 (i)/TT0 (e)-13 (d.)-1 (be)-3 (c)-3 (a)-4d)1 Suse denied,9 (e)-330.31 (a)-4dipp s

Hypothetical

ChatChat is a smartphone app that lets users post anonymous messages. The messages are visible only to other users within a half-mile radius. The app has become very popular with high school students, but some people worry that its anonymity leads to bullying.

Nailah Ibrahim is a new freshman at Metro High School (Metro). A Muslim, she wears a hijab to cover her hair. Soon after she started at the school, she noticed some threads on ChatChat that she thought must be about her. These threads included the following:

- “Someone should tell her this is America, dress normal or GO HOME”
- “Saw that freak at school today. at least i think so? couldnt tell thru the bag on her head lololol”
- “WE NEED TO OPEN UP A CAN OF FREEDOM ON THAT TERRORIST GIRL. WHOS WITH ME???”

Nailah showed the messages to her parents and they decided to talk to the Metro principal. During their meeting, the principal asked Nailah if she had any idea who might have posted the messages. She told them she wasn't sure, but she guessed that it might have been one of her classmates, Ted Hogan. She explained that he had looked at her in a way that she thought was hostile during class.

The next day, the principal called Ted to his office and asked if Ted knew anything about the messages. Ted said that he had seen some of them, but that he hadn't posted any. The principal thought that Ted looked uncomfortable and suspected he was not telling the truth, so he demanded that Ted show him his ChatChat app. The principal said that Ted could be suspended if he refused. Ted reluctantly unlocked his iPhone and opened his ChatChat app history. The principal saw that Ted had posted the “CAN OF FREEDOM” message, along with some other rough language that may or may not have been about Nailah. The principal warned Ted that his posts violated the school's anti-bullying policies and that the timestamps on some suggested that Ted had violated the school's cell phone ban to post them. Then he sent Ted back to class, warning that he would be calling Ted's parents to discuss appropriate discipline.

Late that night, someone threw a brick through the Ibrahims' living room window. One side of the brick was painted with a crude American flag. The other side had “SNITCH ON THIS!” written in sharpie. When the Ibrahims reported the vandalism to the police, they mentioned the ChatChat messages and their conversation with the principal.

The police called the school, and the principal told them about the messages he had found on Ted's phone. On that basis, police investigators went to a judge and asked for a warrant to seize and search Ted's phone. The warrant was issued and, when the police searched Ted's phone, they found that the ChatChat app and all of its data had been deleted. They did, however, find a photo of Ted holding the brick that had been thrown through the Ibrahim's window. Ted was charged with violating Colorado's Bias-Motivated Crimes law.

At trial, Ted's lawyer argued that (1) the principal's original search of Ted's phone had violated the Fourth Amendment, and (2) the police warrant was invalid because it was based on the results of the principal's illegal search. Therefore, he argued all evidence found on Ted's phone should be suppressed.

How should the judge rule?