

Search and Seizure: What Does It Mean?
by Gary Heath

Students will:

1. Learn the old meaning of the "search" law.
2. Learn the Fourth Amendment is more than property rights and trespass.
3. Learn an arrest is a "seizure" of a person.

Materials needed: Copies of: **Student Handout: WHAT'S YOUR OPINION**

Student Handout: FOURTH AMENDMENT
Student Handout: WHAT'S WRONG WITH THIS
WARRANT?

Time needed: One to two class periods

Grade level: Secondary special education (juvenile correction facility)

Procedure:

1. Use the **Student Handout: WHAT IS YOUR OPINION?** to focus student attention on issues related to the rights of the accused and the government's interest in apprehending, convicting and punishing criminals. Tally on chalkboard and discuss student responses.
2. Put the following terms on the board: *probable cause, search, seizure, plain view*. Pair up students and have them write a 3 or 4 line definition for each term. Have each pair read their definition. Put key words or phrases on the board under each term. Inform them that these terms relate to the Fourth Amendment of the Bill of Rights. Explain to them that in recent years, the U.S. Supreme Court has handed down decisions about "guidelines" against unreasonable searches and seizures.

Examples - *Mapp v. Ohio* (1961). Searches must be conducted legally or evidence seized will not be admissible.

Katz v. U.S. (1967). Police cannot plant a listening device in a public telephone to gather evidence.

Procedure cont.

RIGHTS OF THE ACCUSED

SEARCH AND SEIZURE: WHAT DOES IT MEAN?

U.S. v. Watson (1976). Probable cause is necessary for a search but a warrant is not always needed before an arrest or search is conducted.

New York v. Belton (1981). Police have the right to search an entire car when arresting someone.

3. Use the **Student Handout: WHAT'S WRONG WITH THIS WARRANT?** and copies of the **Student Handout: FOURTH AMENDMENT**. Divide class into small groups and have each group carefully read through the amendment. Groups should then read the warrant and make a list of any Fourth Amendment violations they can find. Discuss these with the rest of the class. (There are probably five things wrong with the arrest warrant.)

4. Ending Activity. Do one of the following:

A. Have students make a poster illustrating an unreasonable search or seizure as they understand it.

B. Have students think of a time when any of their rights were violated? Describe the way in which they were violated. (In a juvenile correction center, students will usually relate well to this question.)

Part of this lesson is adapted from *Bill of Rights in Action*, Constitutional Rights Foundation, Los Angeles, CA.

RIGHTS OF THE ACCUSED

SEARCH AND SEIZURE: WHAT DOES IT MEAN?

Student Handout: WHAT'S YOUR OPINION

Directions: For each, select the response that most closely reflects your opinion.

Agree Disagree Undecided

1. The death penalty is a necessary form of punishment for those convicted of murder.

2. Those accused of a crime should be forced to testify at their trial.

3. Would you be willing to give up some of your rights so that police could fight crime more effectively?

4. Lawyers should never defend a person they believe to be guilty of a crime.

5. Protecting an individual's constitutional rights is more important than convicting the guilty.

6. Police should be given a free hand to apprehend those who commit criminal acts.

7. All police officers should be required to submit to mandatory drug testing to ensure that they are not using illegal drugs.

8. Should the police be required to give the *Miranda* warnings to everyone they suspect of a crime instead of just to those they have in custody?

9. Police should not be able to stop any car unless they have reason to believe the driver has committed a violation of the law.

Student Handout: FOURTH AMENDMENT

Amendment IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

In other words this means:

The people, their homes, and their property are safe from unfair searches. A person and the things he or she owns cannot be taken away except in ways that follow the law. Before seizing evidence or people, a search warrant or arrest warrant must be given by a court. However, it can be given only for good reasons. Persons who want a search warrant must promise they are telling the truth. They must explain why they want the warrant. If they plan to search, they must say beforehand what place is to be searched. If they plan to take someone or something away, they must say beforehand what person or things are to be taken.

RIGHTS OF THE ACCUSED
SEARCH AND SEIZURE: WHAT DOES IT MEAN?

Student Handout: WHAT'S WRONG WITH THIS WARRANT?

WARRANT

To any sheriff, policeman, or peace officer in the country:

PROOF having been made before me under oath by Officer Charles Paxton that there is probable cause to believe stolen property may be found at the location described below, you are hereby commanded to search the residences in the southside of this city. You are further commanded to seize any objects or papers you believe might be connected with thefts that have occurred in this city. You are also authorized to use whatever means you believe are necessary to uncover stolen property that may be hidden in residences described above. You are finally commanded to arrest any person who you believe may be a criminal.

Judge of the Court