

**Mike Freydin**  
**JHS 157Q**

**How do historian citizens evaluate the role of the 4<sup>th</sup> Amendment in the civil liberties enjoyed by American citizens?**

**Skills/Strategies and/or Content**

- Students will be able to identify the numerous elements and protections of the 4<sup>th</sup> Amendment.
- Students will be able to examine real life applications of the 4<sup>th</sup> Amendment as reviewed by the Supreme Court.
- Students will be able to determine their own rights of privacy in real life situations.

**Materials, provided by Teacher**

- Xerox of 4<sup>th</sup> Amendment, US Constitution
- Xerox of *Tinker*
- Xerox of *Morse*
- Xerox of *T.L.O.*

**Mini-Lesson**

- Direct instruction on the issue and concept of privacy, the right of privacy under the British system, the intent of the Founders, the 4<sup>th</sup> Amendment.
- Jigsaw or Shared Reading of selected Supreme Court decisions addressing the protections of search and seizure, i.e.: Katz, Pearson, Morse.
- Make connections to previously taught Amendments and civil rights.
- View appropriate video clips.

**Independent Work Time** *small group work.*

- Student hypothetical, the principal of a school is tipped off that a student in the 9<sup>th</sup> grade has brought with them to school a dangerous item. (teacher can either choose one or scaffold with: bullets, Swiss army knife, box cutter, gun)
- Students will be asked to construct a number of situations through which administration may search student or may not be able to search student.
- Introduce elements of gossip, metal detectors, etc.

**Share/Assessment:**

- Share out
- Fun Quiz of 10 questions addressing students' real life applications and expectations of privacy and 4<sup>th</sup> Amendment rights. Attached.
- May also be used as a pre-test part of a larger unit exam.

## **Amendment IV, United States Constitution:**

*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.*

Individuals are protected “in their persons, houses, papers and effects” from unreasonable searches. If the police—agents of the executive branch—wish to search a home or other place for evidence of a crime, they first convince a judge—the judicial branch—that there is enough evidence to obtain a search warrant. The court must decide if “probable cause” exists to issue a warrant, and the warrant must list the place to be searched and the evidence police believe they will find.

The Court has held that some searches are reasonable even without a warrant. Some exceptions to the warrant requirements include searches of individuals who have consented to a search and people who have been lawfully arrested. Additionally, police can legally frisk people behaving suspiciously. A warrant is not needed for discovery of evidence while police are “in hot pursuit” of a suspect, or if an officer sees incriminating evidence in plain sight somewhere the officer is legally allowed to be.

The Founders believed that freedom from government intrusion into one’s home was a natural right and fundamental to liberty. During the colonial era, lawyer James Otis argued in court against British use of writs of assistance, which were general search warrants allowing British officials to search wherever they wanted without having to say why. His arguments were observed by John Adams who observed that Otis’s argument against this form British tyranny marked the beginning of the American Revolution. George Mason wrote in the Virginia Declaration of Rights that general search warrants were “grievous and oppressive and ought not to be granted.”

The Fourth Amendment’s warrant requirement is an example of the checks and balances system of the Constitution, and is key to ensuring both liberty and justice.

Landmark Supreme Court cases involving the Fourth Amendment include *Mapp v. Ohio* (1961), *New Jersey v. T.L.O.* (1985), and *Board of Education of Pottawatomie County v. Earls* (2002).

**Can you expect privacy in the following situations? Write YES or NO in the left column.**

1. Trash you've placed in a garbage bag at the corner of your property
2. The contents of a closed container in your care that the police believe holds evidence.
3. Your pictures and information on a "My Space" or other blog.
4. Your conversation on a pay phone in a phone booth.
5. Your conversation on your land-line phone at home.
6. Your backpack that you left in the cafeteria.
7. Illegal drugs being grown on your land, discovered by an airplane fly-over.
8. Anything in your school locker.
9. Your visit to a friend's house where you are going to sell stolen electronic equipment.
10. Your bags while you are riding on a Greyhound bus.

Answer Key:

1. No
2. No.
3. No.
4. Yes.
5. Yes.
6. No.
7. No.
8. No.
9. No.
10. Yes.