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Street Law Model Lesson Plan
10 May 2000

Lesson: Search & Seizure Opinion Poll

Time: One or two class periods

I. Goals

- A. Students will begin to understand their feelings about their own sense of privacy.
- B. Students will gain some knowledge about how the law balances citizens' right to privacy with police officers' need to fight crime.
- C. Students will get an overview of federal and state constitutional law relating to search and seizure.

II. Objectives

- A. Knowledge Objectives: As a result of this lesson, students will understand
 - 1. the basic parameters of their rights under the Fourth Amendment and the Washington Constitution.
 - 2. some of the difficulties in balancing individual privacy rights with the need to fight crime and maintain a safe society.
- B. Skill Objectives: As a result of this lesson, students will be better able to
 - 1. articulate their privacy own expectations.
 - 2. explain and justify their opinions.
- C. Attitude Objectives: As a result of this lesson, students will feel
 - 1. as though the law can protect their privacy.
 - 2. that police sometimes have a difficult job determining when searches and seizures are reasonable.

III. Classroom Methods

A. SEARCH & SEIZURE SCENARIOS

- Get four volunteers before bell rings and distribute “student roles.” NOTE: The fourth scenario involves an especially sensitive and personal subject for high school students, so the role of Angelie might best be played by one of the Street Law teachers.
- Act out the following scenarios (pre-arranged with certain students), with Leigh and Nicole dressed as police officers.
 1. Ask “Andrew” for permission to look in his wallet. He reluctantly consents. Take his wallet and go through all of its contents, displaying them to the class and laying them out on a desk. Find nothing incriminating. Put contents back in wallet and return to student.
 2. Walk up to “Betty” and take her purse without asking. Start going through its contents. Student protests, saying it’s not fair, give purse back. Explain that I just need to make sure she’s not carrying any contraband. She continues to protest. Find a baggie of drugs. (Use powdered sugar or dried herbs in a baggie for props to give Betty prior to class.) Inform her that you’re going to have to arrest her and take her to the station for questioning.
 3. Approach “Chris” and hand him a sterile urine sample cup. Tell him, “I’m going to need you to fill this. We’re doing random drug screens of all basketball players today, and we need to make sure you haven’t used any illegal drugs. Give a sample to your basketball coach at practice this afternoon.”
 4. Inform “Angelie” that the principal searched her locker this morning, and he would like to talk with her after school this afternoon about some birth control pills he found.

B. OPINION POLL

1. Tell students they'll now participate in an opinion poll to determine their views on what just happened. Remind students that they're being asked for their opinions, NOT what the current state of the law is. There are no right or wrong answers. Ask students if they have any questions. Pass out opinion poll. Allow five minutes or so for students to complete poll.
2. While students are completing the handout, display overhead where their answers will be recorded to show class composite.
3. Once students have finished the poll, have people raise hands and count all the opinions. Record results on the overhead.
4. Next go through each question and have students take stand under the sign indicating their opinion. Elicit opinions from students about why they feel the way they do, responses to other students, etc. Ask students on both sides of the issue to state the reasons for their opinions. Ask undecided students if anything might sway them, or if they are persuaded by any of their classmates' arguments.
 - Question #1 – last names (A-E)
 - Question #2 – last names (F-R)
 - Question #3 – last names (S-Z)
 - Question #4 – last names (birthdays in Jan-June)
 - Question #5 – last names (birthdays in July-Dec)
5. After discussion of each question, tell students what the current law is relating to each question, both under federal law and Washington law.
6. Seek students' opinions on whether the law is fair. (See attached "answer" sheet.) If time, also could prompt a discussion of what people can do when they believe a law is unfair. (Write their legislators, lobby, volunteer with an activist group, work with lawyers pursuing test cases to change the law, etc.)

IV. Evaluation

- A. Students' participation in class discussion following the opinion poll.
- B. Students' completion of related homework assignment.

STUDENT ROLES

You are Betty. During class, you always sit quietly and pay attention. You are not a trouble maker. Today a police officer will approach you and insist on searching your bag. The officer will say she is simply conducting random searches of student possessions in order to identify drug users. You have a small amount of cocaine in your bag that someone gave you at a party last weekend, and you protest when the officer insists on searching through your belongings. You finally stop resisting and allow the search to occur.

You are Andrew. During class, a police officer will approach you and ask to look inside your wallet. You don't have anything to hide and you want to be cooperative, so you hesitantly agree. You don't really want the officer to look at your personal belongings, but you consent because you feel like you have to.

You are Chris, a varsity basketball player. You receive good grades in all of your classes and volunteer as a tutor at a nearby grade school. Nonetheless, you are a student athlete and the school has a strict "zero tolerance" policy that bars any drug-using student from playing sports, so you must provide urine samples for random drug tests whenever asked. You feel like this violates your privacy and is unfair, but you know you cannot refuse if you want to keep playing basketball.

You are Angelie. You recently started taking birth control pills, and you keep them in your locker at school because your parents are very controlling and allow you no privacy at home. In order to prevent students from bringing drugs or weapons into the building, the male principal at your school has started searching the contents of student lockers on a regular basis. You feel embarrassed that the principal might see the birth control pills, and you worry that he might tell your parents about them. So far he hasn't searched your locker, so you're just hoping he never will.

SEARCH & SEIZURE OPINION POLL

Circle the answer that most closely corresponds with your opinion.

1. The police officer had no reason to suspect Betty of any criminal activity but was simply conducting random searches of student possessions in order to identify drug users. The cocaine the officer found in Betty's bag should be admissible to prove that Betty committed the crime of drug possession.

Strongly Agree

Agree

Undecided

Disagree

Strongly Disagree

2. The police officer's search of Andrew's wallet did not violate his right to privacy at all, because if Andrew did not want the officer to conduct the search, he should have felt free to say "no" to the officer's request.

Strongly Agree

Agree

Undecided

Disagree

Strongly Disagree

3. Chris plays basketball, receives good grades in all of his classes, and volunteers as a tutor at a nearby grade school. Nonetheless, because he is a student athlete and the school has a strict "zero tolerance" policy that bars any drug-using student from playing sports, Chris must provide urine samples for random drug tests whenever asked. This violates his privacy and is unfair.

Strongly Agree

Agree

Undecided

Disagree

Strongly Disagree

4. Angelie recently has started taking birth control pills, and she keeps them in her locker at school because her parents are very controlling and allow her no privacy at home. In order to prevent students from bringing drugs or weapons into the building, the male principal at Angelie's school has started searching the contents of student lockers on a regular basis. Angelie feels embarrassed that the principal might see her birth control pills, and she worries that he might tell her parents about them. The locker search violates Angelie's privacy.

Strongly Agree

Agree

Undecided

Disagree

Strongly Disagree

5. I would be willing to give up a few of my personal freedoms in order to greatly reduce the amount of crime and drug use in our society.

Strongly Agree

Agree

Undecided

Disagree

Strongly Disagree

SEARCH & SEIZURE OPINION POLL CLASS COMPOSITE

1. The police officer had no reason to suspect Betty of any criminal activity but was simply conducting random searches of student possessions in order to identify drug users. The cocaine the officer found in Betty's bag should be admissible to prove that Betty committed the crime of drug possession.

Strongly Agree Agree Undecided Disagree Strongly Disagree

2. The police officer's search of Andrew's wallet did not violate his right to privacy at all, because if Andrew did not want the officer to conduct the search, he should have felt free to say "no" to the officer's request.

Strongly Agree Agree Undecided Disagree Strongly Disagree

3. Chris plays basketball, receives good grades in all of his classes, and volunteers as a tutor at a nearby grade school. Nonetheless, because he is a student athlete and the school has a strict "zero tolerance" policy that bars any drug-using student from playing sports, Chris must provide urine samples for random drug tests whenever asked. This violates his privacy and is unfair.

Strongly Agree Agree Undecided Disagree Strongly Disagree

4. Angelie recently has started taking birth control pills, and she keeps them in her locker at school because her parents are very controlling and allow her no privacy at home. In order to prevent students from bringing drugs or weapons into the building, the male principal at Angelie's school has started searching the contents of student lockers on a regular basis. Angelie feels embarrassed that the principal might see her birth control pills, and she worries that he might tell her parents about them. The locker search violates Angelie's privacy.

Strongly Agree Agree Undecided Disagree Strongly Disagree

5. I would be willing to give up a few of my personal freedoms in order to greatly reduce the amount of crime and drug use in our society.

Strongly Agree Agree Undecided Disagree Strongly Disagree

SEARCH & SEIZURE

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. .

.United States Constitution, 4th Amendment

No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Washington State Constitution Article 1, Section 7

**Strongly
Agree**

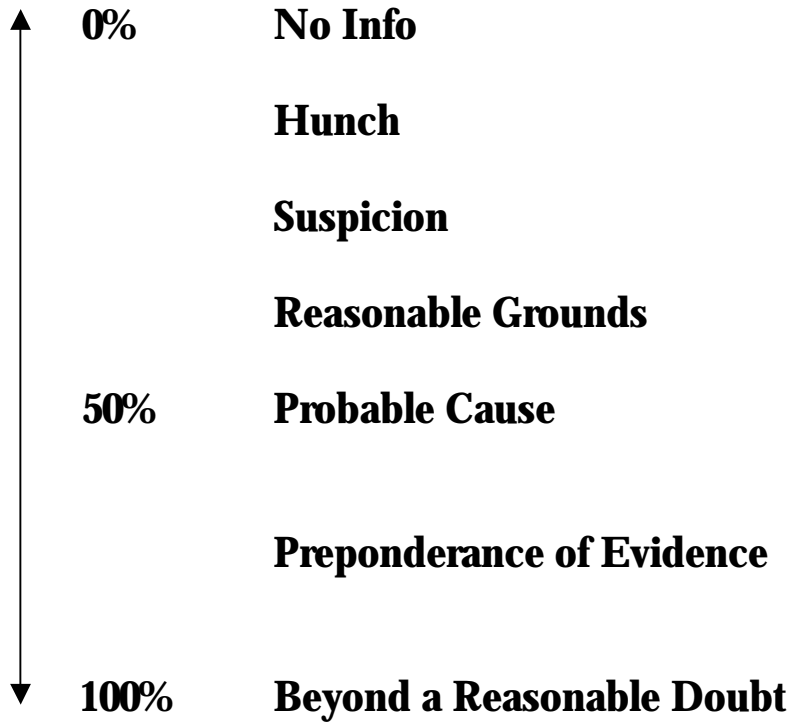
Agree

Undecided

Disagree

**Strongly
Disagree**

Continuum of Certainty



SEARCH & SEIZURE OPINION POLL

State of the Law & Class Discussion Points

1. **QUESTION:** The police officer had no reason to suspect Betty of any criminal activity but was simply conducting random searches of student possessions in order to identify drug users. The cocaine the officer found in Betty's bag should be admissible to prove that Betty committed the crime of drug possession.
 - A. **GENERALLY:** Before searching a person's belongings for evidence of a crime, police must have what is called "probable cause" to believe a crime has been committed or "probable cause" to believe they will find evidence of a crime.
 - (1) What is probable cause? Get student input.
 - (2) Display overhead continuum. Discuss examples of each level of "certainty."
 - B. **U.S. SUPREME COURT:** The U.S. Supreme Court has developed a rule called the "exclusionary rule" that basically says when police conduct an illegal search that violates a person's Fourth Amendment rights, the evidence the police find cannot be admitted into evidence to show the person's guilt.
 - (1) What do you think the purpose of the Exclusionary Rule is?
 - (2) The Exclusionary Rule under the federal constitution is designed to deter police from conducting illegal searches.
 - (3) If the cocaine found in Betty's bag was the only evidence that she committed a crime, she would get away with it under the Exclusionary Rule, which says that any evidence obtained illegally by

officers cannot be used in court. Some people would say Betty “got off on a technicality.” Rather than a technicality, it was the officer’s violation of Betty’s constitutional rights that would result in Betty’s acquittal.

(a) Do you think it’s fair for people to avoid being punished for crimes in situations like this?

(b) Can you think of reasons why the Exclusionary Rule might be good? Bad?

C. In *New Jersey v. T.L.O.*, 468 U.S. 325 (1985), the U.S. Supreme Court held that the Fourth Amendment’s prohibition on unreasonable searches and seizures also applied to searches conducted by public school officials.

D. WASHINGTON COURTS: In 1985, the Washington Supreme Court ruled that it is unconstitutional for public schools to search a student’s possessions without individualized suspicion that he or she is breaking a law or school rule. *Kuehn v. Renton School District*, 103 Wash. 2d 594 (1985). In that case, the court struck down a school policy that required school officials to search students’ luggage before the students left on a band concert tour.

2. QUESTION: The police officer’s search of Andrew’s wallet did not violate his right to privacy at all, because, if Andrew did not want the officer to conduct the search, he should have felt free to say “no” to the officer’s request.

A. GENERALLY: Because Andrew gave the officer permission to look in his wallet, Andrew cannot later claim that the officer violated his privacy rights.

- (1) Do you think Andrew could have said “no” to the officer?
 - (2) What do you think would have happened then?
- B. Unless the officer coerced Andrew into giving consent, such as using threats or force, the search is perfectly legal even if the officer had no reason to suspect that Andrew had committed any crime.
- (1) What sorts of things might constitute coercion?
- C. If Andrew could prove that his consent was not voluntary, that he didn't feel free to say no to the officer, he might be able to prove that his Fourth Amendment rights were violated. In these circumstances, though, the U.S. Supreme Court has held that a reasonable person would know that he could refuse to give consent and that by giving consent, the police may search the wallet. In fact, police can always ask permission to conduct a search. If you give consent to the search, you have waived your Fourth Amendment privacy rights.
3. **QUESTION: Chris plays basketball, receives good grades in all of his classes, and volunteers as a tutor at a nearby grade school. Nonetheless, because he is a student athlete and the school has a strict “zero tolerance” policy that bars any drug-using student from playing sports, he must provide urine samples for random drug tests whenever asked. This violates his privacy and is unfair.**
- A. **U.S. SUPREME COURT:** In 1995, the United States Supreme Court ruled that public school athletes can be required to undergo drug testing even if they are not suspected of using drugs. In that case, a 7th grader refused to sign a form consenting to drug testing; the school district

would not allow him to play on the football team without signing the form.

(1) Justice Scalia gave two main reasons for testing student athletes before anyone else in the student body: 1) student athletes have lesser privacy expectations because they are accustomed to dressing and showering in locker rooms, and 2) student athletes are role models to other students. *Vernonia School Dist. v. Acton*, 115 S.Ct. 2386 (1995).

(a) What do you think of Justice Scalia's reasoning?

(b) Do you think student athletes are role models?

B. WASHINGTON: The American Civil Liberties Union in Washington in December 1999 filed a lawsuit challenging the policy at Wahkiakum High School in southwest Washington that provides for suspicionless urine testing for students who participate in extracurricular athletics. The ACLU says the policy violates the "privacy clause" of the Washington constitution, which says "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." The ACLU is arguing that the Washington Constitution provides a higher degree of privacy than the U.S. Constitution.

(1) What do you think of the lawsuit?

(2) Which party do you think will prevail?

C. FACTOID: Random drug testing of all Americans is not legal under either the federal or the Washington constitution. Nonetheless, 55% of respondents in a Washington Post poll agreed with this statement that random mandatory drug testing SHOULD be allowed.

4. QUESTION: Angelie recently has started taking birth control pills, and she keeps them in her locker at school because her parents are very controlling and allow her no privacy at home. In order to prevent students from bringing drugs or weapons into the building, the male principal at Angelie's school has started searching the contents of student lockers on an regular basis. Angelie feels embarrassed that the principal might see her birth control pills, and she worries that he might tell her parents about them. The locker search violates Angelie's privacy.

A. WASHINGTON LAW: In 1989, the Washington legislature adopted the following legislation: "No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subjected to search for illegal drugs, weapons, and contraband..." RCW 28A.600.220. "A school [official] may search a student, the student's possessions, and the student's locker, if she has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules." RCW 28A.600.230. "In addition, a school [official] may search all student lockers at any time without prior notice and without reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule."

(1) Some school districts in Washington have in fact adopted locker search policies.

(a) What do you think of locker searches?

(b) Do you know anyone who has had his/her locker searched?

(c) Does a locker seem like a private place?

B. FEDERAL LAW: Federal courts have held that trained police dogs may sniff student lockers for drugs without obtaining a warrant. *Zamora v. Pomeroy*, 639 F.2d 662 (10th Cir. 1981), *Horton v. Goose Creek Independent School District*, 690 F.2d 470 (5th Cir. 1982). In the *Horton* case, though, the court held that a police dog could not sniff a student for drugs without individualized suspicion or a warrant.

5. I would be willing to give up a few of my personal freedoms in order to greatly reduce the amount of crime and drug use in our society.

A. FACTOID: In a Washington Post survey, 62% of respondents said they would be willing to give up some personal freedoms.

B. DISCUSSION: What freedoms would you be willing to give up? What sorts of measures would help the police fight crime?

