

Miguel Bocanegra

Lesson Plan: Right to Privacy

Source: Street Law Textbook and “Surveillance under the USA Patriot Act” at <http://www.aclu.org>; cartoon found at <http://www.aclu.org/cartoons/artshow.html>

Time: One Class Period

I. Goals:

A. Introduction to the right to privacy.

II. Objectives:

A. Knowledge Objectives: As a result of this class, students will be better able to:

- a. Understand that the protection of individual privacy is not found “explicitly” in the U.S. Constitution.
- b. Articulate one provision of the USA Patriot Act.
- c. Understand that the Washington Constitution also protects the right to privacy.

B. Skills Objectives- As a result of this class, students will be better able to:

- a. Understand the importance of protecting individual privacy.

C. Attitude Objectives- Students will be better able to feel:

- a. That they have a right to privacy that can be defended.

III. Classroom Methods:

A. Write the day’s agenda on the board before class.

- a. Right to Privacy and “Zones of Privacy”.
- b. Right to Privacy Cartoon
- c. Opinion Poll
- d. Abortion Rights

B. Right to Privacy and Zones of Privacy:

- a. Ask students what sort of things people expect to be private.
  - i. Write student responses on the board.
- b. Ask students why we expect privacy to be protected, what is there to lose? If people are not doing anything wrong, what's the problem?
  - i. Write student responses on the board
- c. What are good reasons not to protect privacy absolutely?
  - i. Write students responses on the board.
  - ii. Point out that many of the reasons to protect privacy are the same reasons to not protect privacy absolutely.
- d. Put up the overhead "Right to Privacy"
  - i. The concept of "Zones of Privacy" is thought to derive from *Griswold v. Connecticut*. – Court held that married people have a right to receive information about contraception. The state could not prohibit the use or distribution of information regarding contraception because it violated married people's right to privacy in their personal relationships.
  - ii. In applying the balancing test for the protection of someone's right to privacy it is very important to assess the social context in order to understand the possible countervailing interests at play.

C. Show the cartoon.

- a. Is this an example of the balancing test?
- b. What is the cartoon referring to?
- c. What does this cartoon mean?
- d. What was the artist trying to say?
  - i. If not raised by the class, point to the fact that the cartoon assumes that you have to take from privacy to protect security.

D. Opinion Poll

- a. Pass out opinion poll and ask students to fill their sheets out. Before class starts, put up signs around the room that match the possible answers on the opinion poll. As you go through the answers ask the students to stand under the sign that reflects their opinion most accurately.
- b. As you go through the answers use the overhead of cases to reveal what the court has said about the matter.

E. The right to an abortion and privacy.

- a. Go over the two key cases *Roe v Wade* and *Casey*.
  - i. Explain that the right to privacy protects a woman's right to an abortion. *Roe v. Wade*.
  - ii. Read "The Case of .....Abortion Law Challenges" which talks about the "undue burden" test that the courts have placed on

states when they seek to limit abortions. *Casey*. Do first three questions of problem 42.6. (Pg. 480 of Street Law Textbook).

1. Answers to questions on page 480.
  - a. This law imposes an undue burden on obtaining an abortion and would likely be struck down.
  - b. The right to an abortion is not the same as a right to a free abortion. The state has no affirmative duties to provide health care and the fact that someone is poor is not seen to be a creation of the state.
  - c. The Supreme Court has held that in order to insure the safety of an abortion the states may mandate that only physicians perform abortions. *Akron v. Akron Center for Reproductive Health, Inc.*

#### IV. Evaluation

- A. Student participation in class discussion and lecture.



THE CHRISTIAN SCIENCE MONITOR *Bennett*

## Right to Privacy

There is no “**explicit**” right to privacy found in the U.S. Constitution.

“Zones of Privacy” come from:

1<sup>st</sup> A: freedom of speech.

3<sup>rd</sup> A: have home free from soldiers during peacetime.

4<sup>th</sup> A: protection against unreasonable search and seizure.

5<sup>th</sup> A: right to remain silent.

9<sup>th</sup> A: unspecified rights kept by the people.

Washington has a “Privacy Clause” which provides:

"No person shall be disturbed in his private affairs, or his home invaded, without authority of law." (Article I, Section 7)

- In assessing whether something fits within a “zone of privacy” the court weighs the individual’s interest in the privacy against the government’s interests.
- Bill of Rights only protects you from actions by the Government.



## Opinion Poll cases:

1. *Griswold v. Connecticut*. Supreme Court held that married people have a right to receive information about contraception. The state could not prohibit the use or distribution of information regarding contraception because it violated married people's right to privacy in their personal relationships.
2. *Bowers v. Hardwick*: Supreme Court held there was no constitutionally protected right to engage in homosexual conduct. Anti-sodomy laws are deeply rooted in the nation's history. The "zones of privacy" do not protect homosexual conduct.
3. *Bell v. Wolfish*: Supreme Court held that strip searches are a reasonable way to insure safety as long as they were not used to degrade the inmates.
4. *Smith v Maryland*: There is no reasonable right to privacy in the phone numbers a person dials. The phone company already keeps a list of numbers.
5. The USA/Patriot Act Section 214 allows the Government to record the website addresses that someone has looked at. For example, it might record the fact that they visited "[archive.aclu.org](http://archive.aclu.org)" at 1:15 in the afternoon, and then skipped over to "<http://www.fbi.gov/>" at 1:30.
6. The American Civil Liberties Union has filed suit against the Wahkiakum School District's use of such a policy on the basis that it violates the student's right to privacy. If the students refuse or are unable to urinate, they are deemed a drug-user and are barred from all extra-curricular athletics. The lawsuit contends that the policy of suspicion-less testing violates the "privacy clause" of the Washington Constitution (Article I, Section 7), which provides that "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." In *Kuehn v. Renton School District* (1985), the Washington Supreme Court ruled that it is unconstitutional for public schools to search a student without individualized suspicion that he or she is breaking a law or school rule.
7. USA/Patriot Act Section 215 allows the FBI to force anyone at all - including doctors, libraries, bookstores, universities, and Internet service providers - to turn over records on their clients or customers. All the government needs to do is make the assertion that the request is related to an ongoing terrorism or foreign intelligence investigation.