

Marshall-Brennan Constitutional Literacy Project

Moot Court Teaching Guide

2025-2026



MARSHALL-BRENNAN
CONSTITUTIONAL LITERACY PROJECT

A NOTE TO TEACHERS

Presenting a successful oral argument requires more than polished public speaking. Scholars must understand the relevant case law as well as the knowledge necessary to make a compelling legal argument.

This Teaching Guide has background information and lesson plans designed to teach those skills. This packet includes an overview of the moot court process, including information on oral advocacy, as well as several lesson plans designed to teach students how the Fourth Amendment functions, how to identify important facts, and how to construct strong legal arguments.

Though today's social and political landscape can sometimes make Fourth Amendment controversies seem too explosive for classroom exploration, we have created this Teaching Guide to give you the tools you need to support your students with confidence. Please use this guide as a starting point to create your own vibrant and engaging lessons based on the needs and levels of your scholars.

We hope you find this Teaching Guide helpful!

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TIMELINE FOR PREPARATION

The following is a recommended sequencing of topics in which to prepare students for the moot court competition. The score sheet used at the National Marshall-Brennan High School Moot Court Competition contains ten different skills: stating the issue; using a roadmap; comprehension of the issues; use of facts and case law; responding to difficult questions; directness of responses; ability to distinguish instant case (this fact pattern) from other cases; mannerisms and composure; tone, loudness, and speed; and being convincing regardless of the merits. When developing your lessons on the law and skills, we recommend designing at least one lesson to hit on each element on the score sheet.

TEACH THE BASICS

- Teach students about the moot court process and the structure of the court system. Emphasize the difference between trial-level and appellate-level cases.
- Introduce moot court generally through a mini-moot court simulation that takes only one or two class periods using a less complex problem. Consider having the students identify an issue in the community and create arguments based on local information (newspaper articles, city council hearing transcripts, etc.). We also recommend practicing the facts and principles of the problem through various fun activities, like ice breakers, Kahoots, etc.
 - Be sure to introduce the ten different skills that will be scored during the moot court competition.
- Teach students about the Fourth Amendment.

INTRODUCE THE PROBLEM

- Teach the facts and review the appendices.
- To learn the facts, have students highlight material information or write questions they have for the important actors.

LEARN THE LAW AND DEVELOP ARGUMENTS

- Identify the constitutional issues in our case.
- Learn the role of case law and precedent so that students understand how the cases in our case universe might affect the outcome of our case.
- Have students develop their own arguments based on the case law.
 - Be sure to encourage the use of a roadmap during this stage.
- Practice advocacy skills, including distinguishing and analogizing case law.
 - Students should be able to analogize and distinguish between the instant case's facts and other case's facts to support their argument.

PRACTICE ORAL ARGUMENTS

- Students should have at least two weeks to practice their oral arguments in front of teachers and other students. This will provide students with time to become comfortable with their arguments. It will also provide teachers time to help students improve their arguments.
- Create lessons that help students develop their skills of being able to argue both sides of an issue, respond to difficult questions, and deliver a clear roadmap.
- Prepare students to respond to difficult questions with direct responses.

IN-CLASS COMPETITION

- Depending on your class size, you may need a few days set aside for in-class competitions. You should plan to leave days between your in-class competition and regional/national competitions.
- Be sure to build in time for transition between students and missing class days altogether due to pep rallies, college fairs, standardized testing, etc.

INTRODUCTION TO MOOT COURT

WHAT IS MOOT COURT?

Moot court is a simulated oral argument before a court of appeals. The argument lasts around ten to twelve minutes, during which time the attorney presents an argument and answers questions posed by the panel of judges. It is not a trial—there are no witnesses and no evidence. The arguments are evaluated on the application of the law to the facts of the case.

WHAT IS AN APPEAL?

A party who is dissatisfied with the outcome of a trial can appeal the decision. Everyone has one guaranteed appeal, usually to a Federal Circuit Court of Appeals or a state appellate court. On appeal, this party is known as the Petitioner. The Petitioner brings an appeal to request that the decision made during the trial be reversed. The party that opposes the petitioner is the Respondent. The Respondent argues that the decision made at trial was made correctly and requests that the trial decision be affirmed.

HOW IS AN APPEAL DIFFERENT FROM A TRIAL?

An appeal is different from a trial in several ways.

1. First, there is more than one judge, and there is never a jury. The outcome is based on the decisions of the panel of judges.
2. Second, the appeal is restricted to the things that happened at the trial. On appeal, neither side can introduce new witnesses or evidence. Based on the evidence as presented at trial, the trial court either reached the right outcome or made an error and reached the wrong outcome.
3. Third, a party cannot make a new argument that was not made at trial. If Bill, at trial, argued that he was innocent for two reasons, Bill generally cannot argue on appeal that he is innocent for a third reason. Bill can only argue that the trial court made a mistake in applying the law and that based on the two reasons mentioned at trial, he is innocent.

CAN AN APPEAL BE APPEALED?

Yes, but it is costly and unlikely. An appeal of an appeal is not guaranteed—it's up to the reviewing court to decide whether to take the case. In the federal system, for instance, an appeal of an appeal means the case has reached the Supreme Court, which is rare.

Most cases do not reach the Supreme Court. In the federal system, approximately 7,000 cases per year are appealed from a Circuit Court of Appeal, and 3,000 cases are appealed from a state supreme court. Of those, the Supreme Court will decide to hear up to 80. Therefore, while the Supreme Court decides the most important issues, the Circuit Courts determine the outcome in the majority of federal cases, and state supreme courts determine the outcome in the majority of state cases.

WHAT ARE THE PARTS OF AN APPEAL?

The appeal has two parts: (1) the brief and (2) the oral argument. The brief is a written argument where each side explains to the court why the previous decision was either proper or improper. In the brief, the parties rely on the facts from the trial and any applicable cases, laws, etc. The oral argument allows the parties to appear before the court to explain their argument and answer any questions the judges may have.

Every appeal contains a brief, but not all appeals have oral arguments. In recent years, more cases are being decided with shorter or no oral arguments—this is largely because appeals courts hear more appeals every year and do not have the time to hear oral arguments for each appeal. Often, the court of appeals will hold an oral argument for only one particular issue, having made up its mind on everything else from the information and arguments contained in the briefs.

WHAT HAPPENS DURING AN ORAL ARGUMENT?

During an oral argument, each side tries to persuade the court to rule in its favor. An attorney will do several things during an oral argument: introduce the issues to the court, ask the judges if they would like a brief summary of the facts of the case (if the attorney is representing the petitioner), inform the court of the relevant legal standards derived from laws and cases, and persuade the court that, based on the facts of the case, the law compels a particular outcome.

Often, the judges will interrupt the attorney to ask questions. These questions can range from easy (“Do you have any facts to support your point?”) to rather difficult (“Isn’t it true that three recent cases have come to the opposite conclusion that you are asking us to reach?”). The attorney tries to answer the questions to the best of their ability.

EXAMPLE OF AN APPEAL

Consider the following scenario:

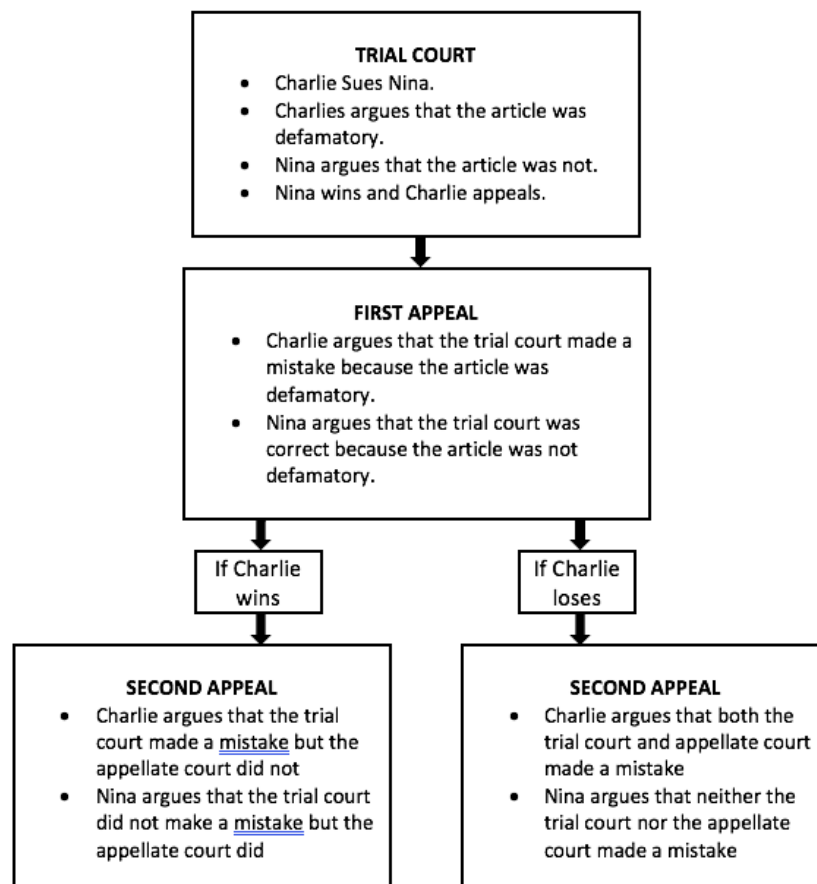
Nina, a reporter, writes a story in the local newspaper that says Charlie, a local businessman, engages in questionable business practices. Charlie sues Nina for defamation of character. At trial, Nina argues that the article was not defamatory, and Nina wins. Charlie appeals.

On appeal, both parties file briefs and prepare for oral argument if necessary. In her brief and argument, Nina argues that the trial court made the right decision, because the article was not defamatory. Charlie, however, argues that the trial court made an error because the article was in fact defamatory. Since neither Nina nor Charlie can introduce anything new, what can Charlie possibly argue? Maybe the trial court overlooked an important piece of evidence. Maybe the trial court misunderstood what defamation of character actually is or misapplied the law to the facts. The key is that Charlie’s argument is not based on anything that was not introduced at

trial. Charlie cannot introduce new witnesses that claim the article was defamatory. Charlie cannot argue that the article was defamatory for a reason he did not mention at trial.

Suppose Charlie wins his appeal, which means that the appellate court **reversed** the decision of the trial court and decided that the article was in fact defamatory. Now Nina appeals to the Supreme Court. On the off chance that the Supreme Court takes the case, both parties will again file briefs and prepare oral arguments. Nina wants the Supreme Court to **reverse the reversal**, to find that the trial court made the right decision the first time. Charlie will oppose Nina's appeal to the Supreme Court, asking the Supreme Court to **affirm the reversal**.

But suppose Nina wins the first appeal, which means that the appellate court **affirmed** the decision of the trial court that the article was not defamatory. Now Charlie appeals again, this time to the Supreme Court. Charlie now asks the Supreme Court to **reverse the affirmation**, to find that the trial court was wrong the first time. Here, Nina will oppose Charlie's appeal, asking the Supreme Court to **affirm the affirmation**.



WHY DOES THE PROCEDURE MATTER?

The court of appeals needs to know the lower court's reasoning in order to decide what to do. Charlie telling the court of appeals that Nina's article was defamatory is only half the battle— Charlie must also tell the court of appeals why the trial court made a mistake when it said that

Nina's article was not defamatory. The court of appeals cannot provide Charlie any relief unless Charlie shows the court of appeals why the trial court made a mistake.

BASICS OF ORAL ARGUMENT

Below is an outline of an oral argument. The case deals with the search of Jayme's, a student at Riverside High School, phone while at school. The school resource officer, Officer Davis, suspected that Jayme was involved in recent vandalism in the community and was making threats on an Instagram account. The Fourth Amendment protects individuals from unreasonable search and seizure of their persons and property. However, schools can search students' items if there are reasonable grounds that the search will result in evidence of the student's violation of law or school rules. To determine whether a school was justified in searching a student's property, the court will look at whether there was reasonable suspicion the student was violating the law or school rules and whether evidence was likely to be found in the property the police searched.

COMPONENTS OF AN ORAL ARGUMENT

INTRODUCTION

- "May it please the Court, my name is _____, and I represent the (petitioner/respondent) in this case."
- "The issue before the Court today is whether _____."
- "The Court should (affirm/reverse) the decision of the lower court."
- Petitioner requests time for rebuttal: "At this time, I would like to reserve (1, 2, or 3) minutes for rebuttal."

RECITATION OF THE FACTS

- "Would the Court like a brief recitation of the facts?"
 - Petitioners should ask this question. Respondents should only ask this if the petitioner fails to.
 - If yes, state the facts in favor of your side. Start with, "This is a case about"
 - The facts should take no longer than one minute.
 - If no, move on to the roadmap.

ROADMAP

- "The Court should find in favor of (petitioner/respondent) for (2, 3, or 4) reasons."
- Briefly summarize your points and give the Court an outline of the argument it is about to hear: "First, _____. Second, _____. Third, _____."
 - Each point should only be one sentence long.

ARGUMENT

- First, provide legal context, moving from general to specific.
 - Example: "This is a case about the 4th Amendment, which protects an individual from unreasonable searches and seizures."

- Example: “While students in school do have 4th Amendment rights, they are not as extensive as the rights of adults outside of school.”
- Next, move to your specific arguments.
 - “My first point is that Jayme had a reasonable expectation of privacy in the VaultKeep app on her phone.”
- Introduce your first point by stating a legal rule.
 - “A person has a reasonable expectation of privacy in their cell phones because in using a cell phone, there is 1) an actual expectation of privacy and 2) that the expectation is objectively reasonable.
- State facts to support your rule.
 - “In this case, Jayme had a hidden app called “VaultKeep” on her phone that was password-protected. Officer Davis searched Jayme’s phone and accessed her private account information on VaultKeep without a warrant. This constitutes an unreasonable search and seizure.
- Continue introducing legal rules and stating facts to support the rule for each argument.

CONCLUSION

- If you run out of time before you reach your conclusion:
 - Ask the court to let you finish your sentence: “I see that my time is up. May I briefly conclude?”
 - If the Court says yes, imagine that you have 10 seconds left to finish your argument. Finish your sentence and do not move onto your next sentence. Then ask the Court to affirm/reverse and thank the Court for its time.
 - If the Court says no, say, “Thank you for your time,” and sit down.
- If you finish your argument before your time runs up:
 - Jump right into your conclusion.
- Conclusion
 - Repeat what you want the Court to do: “For the above reasons, we respectfully request the Court to (affirm/reverse) the judgment of the lower court.”
 - Thank the Court: “Thank you for your time.”

REBUTTAL

- If the Petitioner requested rebuttal time, this would occur after the Respondent’s conclusion.
- Address the points the Respondent made.
- Restate your conclusion and thank the Court for its time.

Appendix

OVERVIEW OF FEDERAL & STATE COURTS WORKSHEET

GOALS

1. Understand the structure of and differences between the state and federal court systems.
2. Understand the difference between mandatory and persuasive authority.

ACTIVITY

Distribute and discuss the attached handout.

OVERVIEW OF STATE & FEDERAL COURTS

- In the United States, there are two parallel court systems.
 - The **federal** system is organized by region, has basically a uniform set of rules, and is bound by the U.S. Constitution and all federal statutes and laws.
 - The **state** system differs from state to state in practice and procedure and is bound by state rules and state constitutions.
- Federal System
 - Structure
 - Trials are held in District Courts.
 - District Court decisions can be appealed to Circuit Courts of Appeal.
 - Circuit Court decisions can be appealed to the U.S. Supreme Court.
 - Authority
 - Supreme Court decisions are mandatory authority in all federal courts.
 - Circuit Court decisions are mandatory authority within the circuit of the decision and persuasive in all other circuits.
 - District Court decisions are mandatory within the district of the decision and persuasive in all other districts.
- State Courts
 - Organized in much the same way.
 - Some state courts only have a trial level and an appellate level.
 - State court decisions are persuasive in federal courts, and vice versa.

OVERVIEW OF MANDATORY & PERSUASIVE AUTHORITY

- The type of court determines the type of authority.
 - **Mandatory** authority is binding.
 - **Persuasive** authority is merely suggestive.
- Mandatory Authority
 - Courts are bound by mandatory authority due to the doctrine of **stare decisis**. (Latin for “let the decision stand”)

- This means that if a previously decided case is similar to the case at issue, the court must follow the outcome or legal rules of the previous case.
 - Exception: when the court decides to **overturn** the previous case.
- Persuasive Authority
 - Merely a suggestion; the court can take it or leave it.
 - Some authority is more persuasive than others.
 - Circuit/Appellate Court authority is more persuasive than District Court authority.
 - Supreme Court authority is strongly persuasive in state courts.

THE STATE & FEDERAL COURT SYSTEMS

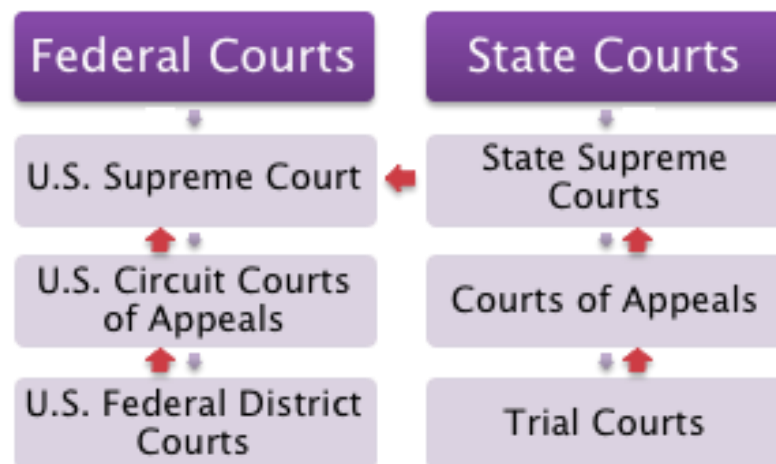
TWO COURT SYSTEMS

The U.S. Constitution created a governmental structure known as **federalism**, which calls for the federal (national) and state governments to share power. The Constitution gives certain powers to the federal government and reserves the rest for the states.

For example, the Constitution gives the federal government power over taxes, civil rights, and commerce. These cases would be heard in federal court. The Constitution does not give the federal government power over family law or medical malpractice. These cases, therefore, would be heard in state court.

STRUCTURE OF THE COURTS

Both the federal and state court systems have three levels of courts: trial courts, intermediate appellate courts, and highest appellate courts (commonly called supreme courts).



The arrows in this diagram represent the process of appeals.

With some exceptions, all cases begin at the trial court level. If the party that loses wishes to **appeal**, it can take the case to the next highest court: the intermediate appellate court.

If the party that loses on appeal wishes to appeal that decision, it must file a **petition for a writ of certiorari** to the highest appellate court, asking the court to hear its case. Neither state supreme courts nor the U.S. Supreme Court is required to **grant certiorari** to every case that comes before it.

MANDATORY V. PERSUASIVE AUTHORITY

Mandatory authority refers to the law that a court must follow. Cases from higher courts in the same system and cases from the same court are mandatory.

Persuasive authority refers to law that a court can choose to follow but does not have to follow. Cases from a different court system and cases from lower courts are persuasive. For example, state court cases are persuasive authority in federal courts, and federal court cases are persuasive authority in state courts.

Court	Mandatory/Persuasive?
U.S. Supreme Court	Mandatory in all federal courts Strongly persuasive in state courts
Federal Circuit/Appellate Court	Mandatory in that circuit court Mandatory in district courts within that circuit Persuasive everywhere else
Federal District Court	Mandatory in that district court Persuasive everywhere else
State Supreme Court	Mandatory in state courts within that state Persuasive on federal courts
State Appellate Court	Mandatory in that appellate court Persuasive everywhere else
State Trial Court	Mandatory in that trial court Persuasive everywhere else

WORKING WITH THE FACTS ACTIVITY

GOALS

1. Read a fact pattern and identify the important people and events.
2. Understand which facts support the Petitioner and which support the Respondent.
3. Learn how to persuasively phrase the facts to support a particular side.

MATERIALS NEEDED

- The “Statement of Facts”
- The attached worksheet, “Working with the Facts”

ACTIVITY

- Read through the “Statement of Facts” from the problem (same facts for both sides) and have scholars **circle** important people, underline important events, and **highlight** facts that support and hurt your position in two different colors.
- Complete the attached worksheet individually, in groups, or as a class
 - Make a list of the people involved in these facts
 - Draw a timeline of what happened
 - Highlight and make a list of all the facts that support Sam Anderson
 - Highlight and make a list of all the facts that support Abba High School
 - Make a list of everything else you’d like to know about the facts
- Students can practice public speaking by making brief, fact-based arguments for their side.

THINGS TO REMEMBER

- Phrasing facts persuasively is extremely important.
- Distinguish important facts from unimportant facts.
- Always think of what else you would like to know.
- Even though the record is fixed in an appellate case, asking questions about the facts encourages students to think critically.
- Thinking outside the box and looking for novel ways to consider the facts is critical.
- Don’t hide or ignore facts that work against you.
- Think of ways to qualify facts that work against you.

WORKING WITH THE FACTS

LIST OF PEOPLE INVOLVED

Name	Who is this person?

TIMELINE OF EVENTS

--

FACTS FOR EACH SIDE

<p>What facts support <i>Jayne</i>?</p>	<p>What facts support <i>Riverside High School</i>?</p>
<p>What other information would you like to know?</p>	

THE FOURTH AMENDMENT WORKSHEET

GOALS

1. Describe the various provisions of the Fourth Amendment.
2. Explain what is meant by the “reasonable expectation of privacy.”
3. Explain how Fourth Amendment searches and seizures apply in school settings.
4. Become familiar with important Fourth Amendment vocabulary words and terms.
5. Practice public speaking skills by putting new vocabulary into their own words.

ACTIVITY

Do Now Worksheet

Scholars are given this worksheet to complete as they enter the classroom. Their responses will be shared during the PowerPoint presentation. The Do Now introduces the major provisions of the Fourth Amendment and asks scholars to consider what is protected and how it relates to students at school.

Introduction to Fourth Amendment Concepts PowerPoint

Teacher leads a PowerPoint presentation introducing the protections of the Fourth Amendment and related definitions. A question is presented on the slide for each of the protections to foster discussion. Do now answers are shared at the conclusion of the presentation. The purpose of the PowerPoint is to introduce scholars to the Fourth Amendment and to foster discussion about how the Amendment’s protections play out in daily life and at school.

Individual Vocabulary Worksheet

Scholars look up and write out the definitions for relevant Fourth Amendment terms and vocabulary. Scholars are asked to star definitions they do not understand to aid teachers in assessing comprehension. The purpose of this activity is to have scholars learn and internalize vocabulary words and terms that are important to their understanding of the Fourth Amendment.

Exit Ticket

Scholars complete the worksheet before leaving the room to check for comprehension. This ticket tests whether students can understand the Fourth Amendment in the context of a major case.

FOURTH AMENDMENT BASICS

This page briefly breaks down the key components of the Fourth Amendment in a manner for high school students to understand. We recommend you teach it this way to your students to ensure they are prepared for the Moot Court competition.

WHAT ARE THE MAJOR PROVISIONS OF THE FOURTH AMENDMENT?

- The Fourth Amendment limits the government's ability to intrude upon, or confiscate or detain, the physical person or the property of private citizens.
- Fourth Amendment Search Analysis
 - Was there a search?
 - Did the officer look, intrude, or trespass on your person or property?
 - Did the officer interfere with your personal privacy?
 - Was the search reasonable?
 - Was it in an area in which you have a reasonable expectation of privacy?
 - Was there probable cause?
 - Did the officer have justification for searching in an area in which you have a reasonable expectation of privacy?

WHAT IS AN UNREASONABLE SEARCH AND SEIZURE?

- A search is any action by a government official that involves looking through or intruding on someone's personal belongings, property, or body, without a warrant, unless there is a strong reason to believe they are involved in criminal activity
- A seizure refers to when a government official takes control of a person or their property, essentially restricting their freedom of movement, without a valid warrant or reasonable suspicion
- For an action to be considered a "search," it must be in an area where a citizen has a reasonable expectation of privacy

WHAT IS A REASONABLE EXPECTATION OF PRIVACY?

- A government action violates a person's reasonable expectation of privacy if they exhibit a subjective expectation of privacy with respect to the place or item searched, and the expectation of privacy must be objectively reasonable.
- There is a reasonable expectation of privacy in one's person, articles close to your person, your home/residence, and any area right outside your home.

- There is no reasonable expectation of privacy in places or items exposed to the public, abandoned, or accessed by consent, garbage, or an open field behind the home.

WHAT IS NEEDED FOR PROBABLE CAUSE?

- Probable cause is a legal standard. It means that there is enough evidence, based on reliable facts and circumstances, for an officer to reasonably believe that a crime has been committed or that evidence of a crime can be found in a specific location, allowing them to search or arrest someone.
- Officers establish probable cause based off what they see, hear, and feel. Additionally, direct information, hearsay information, witnesses or victims can also assist officers in establishing probable cause.
- Once an officer has probable cause, they can get a warrant to search for evidence or arrest someone.
- Probable cause is needed for a search and an arrest.

NAME: _____

/5 Points

DO NOW WORKSHEET

The Fourth Amendment of the 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.”

1. How does the Fourth Amendment protect students while at school?
2. Does the Fourth Amendment protect against unreasonable searches of a person’s cell phones?
3. What are some things that might give the police probable cause to search a person’s belongings?

NAME: _____

/10 Points

Fourth Amendment Vocabulary Sheet

Define each of the following terms. Place a star next to any term that remains unclear to you after reading the definition.

Secure:

Persons:

Houses, Papers, and Effects:

Unreasonable Search:

Unreasonable Seizures:

Warrants:

Probable Cause:

Seized:

NAME: _____

/5 Points

EXIT TICKET

KATZ V. UNITED STATES

What year was this case decided?	
In one sentence, what is the background of this case?	
How did the Supreme Court rule?	
In one sentence, what is the lasting impact of this case?	

NAME: _____

/10 Points

WRITE YOUR OWN FOURTH AMENDMENT HYPOS!

In your group, you will write a short hypothetical incorporating the 4th Amendment elements we discussed in class.

When writing, think of our General Analysis:

1. Was there a reasonable expectation of privacy in the property?
2. Was there a consent to search?
3. Was there a warrant to search?
4. If there was no search warrant, was the search incident to arrest or conducted for officer safety?
5. If the search was at school, was there a specific suspicion that the student was hiding evidence in intimate places or that there was an imminent threat to school safety?

As a class, we will go through each hypothetical to see if it would be constitutional or unconstitutional under the 4th Amendment.

NAME: _____

/5 Points

FOURTH AMENDMENT EXIT TICKET

Directions: In the hypothetical below, you must decide whether to take this case. Explain why or why not. Consider whether there was a search and seizure that violated the individual's Fourth Amendment violation.

You are an attorney who specializes in defending Fourth Amendment freedoms. A potential client has contacted you about his case. The client is a public school teacher who says he was fired because the principal found a vaping device in his bag. In particular, the principal searched the client's bag after he was seen vaping outside during recess break and did find a vaping device.

The client assures you that while he had vaped during the recess break, it was not technically on school property because he had left school grounds to go to the nearby park. The principal found out because another teacher had driven by, saw him vaping, and alerted the principal. The principal asked the client to open his bag to check for the vaping device, but as the client tried to take his bag away, the vaping device fell out onto the floor. The principal fired the client based off of the school rule not allowing vaping devices on school property.

The client is arguing that the principal violated his Fourth Amendment right against unreasonable searches and seizures. You want to defend the potential client's freedom from unreasonable searches and seizures, but this case is heading into uncharted territory. There are few clear rulings yet on how Fourth Amendment protections apply on school grounds, and you're not sure if you can convince a judge that the search was unreasonable. You don't want to risk losing the case and getting a bad ruling that limits protections at schools.

Would you take the case?

Was there a search?

Was it unreasonable?

Was there a reasonable expectation of privacy in the client's bag?

MASTERING THE ARGUMENTS

GOALS

1. Outline the arguments based on the arguments made in the briefs
2. Use cases to develop new arguments

ACTIVITY

- Read the case summaries
- Read the arguments in each brief
- Assign students to represent *Jayme Winters* or *Riverside High School*
- Fill in the attached worksheet, “My Arguments for *Jayme Winters*” or “My Arguments for *Riverside High School*.”
 - Encourage students to make a list of both facts and cases that support their arguments
- Students can practice public speaking by practicing their arguments

THINGS TO REMEMBER

- **Framing your argument:** “This is a case about . . .”
 - “A student whose Fourth Amendment rights were violated when the school resource officer searched her phone without probable cause or reasonable suspicion.”
- OR
- “Schools having the right to search students’ phones at school when there is reasonable suspicion the student engaged in prohibited conduct.”
- **Comparing Cases:** “This case supports my client because . . .”
- **Distinguishing Cases:** “This case doesn’t apply to this case because . . .”

MY ARGUMENTS FOR JAYME RIVERS

Under each section, list facts and cases that support your argument.

I. SRO Davis and Riverside High School violated Jayme's Fourth Amendment rights.

A. First,

Legal Rule:

Facts: In this case,

B. Second,

Legal Rule:

Facts: In this case,

MY ARGUMENTS FOR RIVERSIDE HIGH SCHOOL

Under each section, list facts and cases that support your argument.

I. SRO Davis and Riverside High School did not violate Jayme's Fourth Amendment rights.

A. First,

Legal Rule:

Facts: In this case,

B. Second,

Legal Rule:

Facts: In this case,

MARSHALL-BRENNAN CONSTITUTIONAL LITERACY PROJECT
ORAL ARGUMENT SCORE SHEET

NAME OF COMPETITOR: _____

Round (circle one): Preliminary 1 Preliminary 2 Semi-Final Final

1 = minimally satisfactory; 2 = satisfactory; 3 = fully successful; 4 = very good; 5 = exceptional

INTRODUCTION

- STATEMENT OF THE ISSUE

Advocate clearly identified the legal issues in this case 1 2 3 4 5

- ROADMAP / OUTLINE

Advocate stated the arguments they would make 1 2 3 4 5

Advocate identified the order in which they would make the arguments

LEGAL ARGUMENT

- COMPREHENSION OF THE ISSUES 1 2 3 4 5

Advocate demonstrates an understanding of the issues in the case

Advocate compares and contrasts their issue with the opposing side

Advocate's point of view is clear on each issue

- USE OF FACTS AND CASE LAW 1 2 3 4 5

Advocate used law from one or more cases to support their argument

Advocate used facts from the problem to support their argument

Advocate was able to answer direct questions about the facts

Advocate was able to answer questions about case law

RESPONSE TO QUESTIONS

- RESPONDING TO DIFFICULT QUESTIONS

1 2 3 4 5

Advocate uses case law/facts to support the answer

The advocate returns to the argument structure after answering

- DIRECTNESS OF RESPONSES

1 2 3 4 5

Advocate begins to answer Yes or No questions

with a “Yes”, “No,” or some variation of “It Depends”

Advocate’s answer responds to each part of the question

ABILITY TO DISTINGUISH INSTANT FROM OTHER CASES

1 2 3 4 5

Advocate compares the facts of this case to other cases

Advocate is clear on the holdings and rationale of relevant cases and uses them in the argument

DELIVERY AND STYLE

- MANNERISMS AND COMPOSURE

1 2 3 4 5

Advocate addresses the judges as “Your Honor(s)” when appropriate

Advocate stops speaking when the judge(s) speak

Advocate speaks respectfully when discussing their opponent

- TONE, LOUDNESS, AND SPEED

1 2 3 4 5

Advocate speaks at a moderate pace that is easily understood

You can hear the advocate at all times

- CONVINCING REGARDLESS OF MERITS

1 2 3 4 5

Advocate is persuasive in presentation

Advocate is passionate about their argument