



Judicial Decision-Making and the Constitution

OVERVIEW: The goal of this activity is to understand how judges make decisions through the interpretation and application of law. In this lesson, students will apply the Constitution and case precedent to a real case scenario. The balancing of security/order with individual rights/liberty will be explored.

OBJECTIVES:

Upon successful completion of this activity, students will be able to:

- Analyze the Fourth Amendment;
- Apply the Fourth Amendment and case precedent to specific case studies; and
- Weigh issues of public safety/security with individual rights from a constitutional framework.

MATERIALS NEEDED:

Copy of Fourth Amendment handout A
PowerPoint Presentation
Supreme Court Case Study Form/Handout B
Arizona v. Gant/Handout C
Constitutional Question/Handout D
Court Decisions (for facilitator only)
Supplemental cases (for facilitator only)

TIME REQUIRED: 90 minutes recommended. Can be shortened or lengthened. Can also be divided into two lessons.

SUNSHINE STATE STANDARDS:

Grades 6-8

Grades 9-12:

SS.C.1.3(3)

SS.C.2.4(3)

SS.C.1.3(5)

SS.C.2.4(5)

ACTIVITIES:

This handout will be used in conjunction with the PowerPoint presentation titled: “The Courts and the Constitution: Arizona v. Gant, 129 S.Ct. 1710 (April 21, 2009)”

1. Begin the course by introducing the students to their constitutional right to privacy. Conclude the discussion by establishing that the courts are the proper venue for challenging an alleged violation of one’s constitutional right to privacy.
2. Ask participants what knowledge, skills, and qualities they think judges should have. Discuss their answers. Continue the discussion by distinguishing judges from politicians.



3. Discuss with students that today you will be letting them experience the judicial branch first hand. Today they will become judges.
4. Dissect the Fourth Amendment with the students. Using the PowerPoint, have a student read one section of the Fourth Amendment and then follow it up with a discussion.

Sample Discussion:

“The right of the people to be secure in their persons, houses, papers, and effects...”

STOP

Ask Students:

- Is an apartment covered?
- How about a hotel room?
- Do the police have the right to search your trash?
- How about your urine—is that covered? Can a school require a football player to submit to a urine test before playing on the high school football team?

Do the same for the remaining four sections (each labeled in a different color on the PowerPoint). Have a student read a section, then follow the reading with a brief discussion about what that particular section means.

Continue the discussion by asking whether judges always need a warrant. In the slide providing the quotation from Katz v. United States, 389 U.S. 347 (1967), have a student read the quotation out loud and then discuss. Make sure to explain the first two lines are describing a warrant and define what *per se* means.

5. Discuss Chimel v. California, 395 U.S. 752 (1969).
6. Highlight the two justifications for searches incident to arrest.
7. Discuss New York v. Belton, 453 U.S. 950 (1981)
8. Using the case study form and case abstract, review the attached case with the full group. Have the group read silently and underline all relevant facts. Initiate a dialogue to review the facts.
9. Ask participants if the Fourth Amendment rights of Gant were violated. Ask the questions presented in the slides to help stimulate thought. Lead a discussion to elicit arguments for both sides.



10. **DO NOT announce the decision of the U.S. Supreme Court.** Frame the question before the U.S. Supreme Court. Ask participants individually and without discussion to determine how they would rule on the case and to list three reasons. See constitutional question.
11. Divide participants into groups of five to simulate a Supreme Court conference. In this Supreme Court conference activity, each group should:
 - Select a Chief Justice in each group to maintain order and lead discussions. Remaining participants are associate justices.
 - Discuss in each group why the search was constitutional or unconstitutional based on participants' knowledge of the Fourth Amendment
 - The Chief Justice will poll the justices to determine the final decision of the Court. This will be discussed to try and reach a unanimous court decision. Give at least 10-15 minutes.
12. Have each group's Chief Justice come to the front and present the decision of their court. Tally responses.
13. Debrief with the actual U.S. Supreme Court decision.



COURT DECISIONS: FOR THE FACILITATOR

The Arizona trial court rejected the State's contention that the officers had probable cause to search Gant's car, but denied Gant's motion to suppress. Gant was convicted of both charges and sentenced to a 3-year term of imprisonment (June 5, 2000).

The Arizona intermediary appellate court held that the evidence should have been suppressed and therefore reversed Gant's convictions (March 29, 2002).

The Supreme Court of Arizona denied review, but the U.S. Supreme Court granted certiorari. The U. S. Supreme Court remanded the case back to the Arizona intermediary appellate court in light of a recently decided Arizona Supreme Court case, *Arizona v. Dean*, which held that when an arrestee is no longer a recent occupant of his vehicle, the reasons supporting a warrantless search are no longer justified (the U.S. Supreme Court granted certiorari on April 21, 2003; the Arizona Supreme Court decided *Arizona v. Dean* on September 13, 2003 the U. S. Supreme Court remanded the case to the Arizona Court of Appeals of Arizona on December 13, 2003).

Following the U.S. Supreme Court's remand, the Arizona intermediary appellate court remanded the case back to the trial court for an evidentiary hearing to determine whether Gant was a recent occupant of his car when arrested. The Arizona trial court determined Gant was, in fact, a recent occupant and thus upheld his conviction (December 7, 2004).

The Arizona court of appeals again reversed the trial court's decision (September 20, 2006).

The Arizona Supreme Court affirmed the Arizona appellate court's decision and found the search of Gant's car to be unreasonable within the meaning of the Fourth Amendment (July 25, 2007).

DO NOT ANNOUNCE UNTIL CONCLUSION OF THE ACTIVITY:

The U.S. Supreme Court concluded that the search of Gant's car violated the Fourth Amendment. (*Arizona v. Gant* was argued October 7, 2008 and decided April 21, 2009).



FOURTH AMENDMENT – UNITED STATES CONSTITUTION

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 places to be searched, and the persons or things to be seized.



Case Study/Supreme Court Conference

I. What are the Facts? _____

II. State the Issue to be Decided: _____

III. Arguments For Petitioner/Appellant: _____

IV. Arguments For Respondent/Appellee: _____

V. What Would You Decide? _____

VI. Reasons/Evaluation: _____

VII. Mock Supreme Court Conference Decision: _____

VIII. Actual Decision of the Court: _____



Arizona v. Gant

In August of 1999, two Tucson police officers knocked on the front door of a house at 2524 Walnut Avenue after receiving an anonymous tip that the house was being used to sell drugs. Rodney Joseph Gant answered the door, identified himself, and then informed the officers that he expected the owner to return later. Shortly after leaving the house the officers conducted a records check, which revealed that Gant's drivers license had been suspended and there was an outstanding warrant for his arrest for driving with a suspended license.

The two officers returned to the house shortly thereafter and found a man near the back of the house and a woman in a car parked in front of it. After a third officer arrived, the officers arrested the man for providing a false name and the woman for possessing drug paraphernalia. The officers handcuffed and placed each arrestee in a separate squad car. Subsequent to the two individuals being detained, Gant pulled up to the house in a car that he was driving. Gant was asked to step away from his vehicle and, approximately 10-to-12 feet away from his car, Gant was handcuffed by one of the officers.

Once Gant was fully restrained, one of the officers called for backup, resulting in two more officers arriving, making a total of five officers at the scene. After Gant was locked in the backseat of a patrol car, where he remained handcuffed, two officers searched his car and found a gun and a bag of cocaine in the pocket of a jacket on the backseat.

Gant was charged with possession of a narcotic drug and possession of drug paraphernalia (the plastic bag in which the cocaine was found). At trial, Gant challenged the constitutionality of the warrantless search of his vehicle.



Issue

Is the Fourth Amendment violated when a police officer searches the vehicle of a detainee after the detainee is handcuffed, locked in the back of a patrol vehicle, and thus unable to access any portion of the vehicle?