



Curriculum Units by Fellows of the Yale-New Haven Teachers Institute
2000 Volume III: Constitutional and Statutory Privacy Protections in the 21st Century

Democracy, Race, and Privacy: The Hypocritical Failures of the United States

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1492 is an historic date, as it heralds the beginning of European exploitation and domination of North and South America. Because of that fortuitous collision, anyone who did not descend from Northern Europeans has often been treated with antipathy, and their entitlements of human rights have been usurped (Clarke, 1992). The most salient manifestation was of course, slavery. Slavery denied all rights to enslaved Africans. Though chattel slavery has ended, discrimination continues, and many of the descendents of Africa continue to be denied basic constitutional rights, including first and fourth amendment privacy rights, carrying on the legacies of slavery and Jim Crow, now known as defacto segregation.

To get a more in depth understanding of the permutations, exhibited by displaced African people, caused by the denial of first and fourth amendment privacy rights, let us begin examining the United States Constitution.

The adoption of the Declaration of Independence on July 4, 1776 signified a new era for America. The statutory piety exuding from its preamble:

“When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation”

did not cover Native Americans or enslaved Africans. The same benign neglect was bestowed on others who migrated to the shores of America seeking a better life. And so the story continues.

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”

The United States Constitution, in 1787, while not explicitly endorsing racial discrimination, contained clauses that helped to maintain slavery while its tenets extolled liberties and safe guards for all.

Slave clauses in the Constitution of the United States were numerous. In

Article I. Section 2. Clause 3:

"Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the, whole number of free Persons, including those bound to service (providing service by contract) for a term of years, and excluding Indians not taxed, three fifths of all other Persons (African slaves)."

Clearly, enumeration and political representation was a privilege afforded only owners.

Article I. Section 8. Clause 15:

"To provide for calling forth the Militia to execute the laws of the Union, suppress insurrections and repel invasions"

What is an insurrection? I like to think of it as an unsuccessful revolution. In the 1800's who had better cause to revolt than the enslaved Africans? There were several "insurrections." On August 30, 1800, Gabriel Posser (and about a thousand enslaved Africans) efforts to be free were defeated by a storm and two obsequious slaves who betrayed their cause. In January of 1811, Louisiana slaves rebelled, thirty-five miles outside of New Orleans. U.S. troops stopped their efforts. On July 27, 1816, U.S. troops attacked Fort Blout on Apalachicola Bay, Florida after it was seized by enslaved Africans and Indians (they kept the U.S. soldiers at bay for several days). May 30, 1822, defeated Denmark Vesey's revolt (said to be one of the most elaborate plots on record) was defeated in Charleston, South Carolina. The last of the famous revolts by enslaved Africans was led by Nat Turner in August of 1831. This article allowed the United States to hang each of these men for their efforts to realize the rights afforded others under the Bill of Rights, ratified on December 15, 1791, (Brock, 2000).

Article I. Section 9. Clause 1:

"The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person."

In this clause, the Constitution provides for an increase of slavery by prohibiting the suppression of the slave trade for twenty years after its adoption. After 1808 it was left to the discretion of Congress to prohibit, or not to prohibit, the African Slave Trade (Brock, 2000).

One must ask, did such provisions assist in continuing the use of Africans as captives and slaves, after slave owners have possession and ownership? Could this document have made it possible for enslaved Africans to be free here in America and allowed, through self-determination and freedom, to live? It might be said, that because of the Constitution, the United States became responsible for 169 years of British slavery and labor value (Bennett, 1978,).

The extension of this slave traffic in Africans to 1808, was voted by all of the New England States, including Massachusetts, and opposed by Virginia and Delaware. The other slave clauses were inserted in the Constitution by votes of the New England States along with the South.

Article IV. Section 2. Clause 3 of the Constitution states:

"No person held to service or labor in one state, under the Laws thereof, escaping into another, shall, in Consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on Claim of the party to whom such service or Labor may be due."

A person held to service or labor was either a slave or indentured servant (a person bound by contract to serve for a specific period of time). Today, the thirteenth Amendment renders this clause useless, but keep in mind, the 13th Amendment did not get ratified until December of 1865, seventy-eight years later.

Article IV. Section 4:

"The United States shall ...protect... and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

On October 17, 1859, an army of U.S. soldiers, under the command of Colonel Robert E. Lee, captured John Brown and his eighteen followers at Harpers Ferry. Could it be said the U.S. army was protecting the institution of slavery against "domestic violence?"

Article V. "...provided that no Amendment which may be made prior to the year one

thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the first Article..."

It would appear that these articles are a deliberate act to cause and protect the "peculiar institution" (as slavery was called). This article could be interpreted as an admission of intent to continue African slavery. Who prohibited Congress from amending the Constitution? Who reserved and limited the government and congress in amendment X?

Article I. Section 9. Clause 4:

"No capitation (or other direct) tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken."

This article's purpose was to collect tax from everyone equally. Enslaved Africans were never going to be able to participate equally; therefore, were they ever to be "equal" under this provision?

Bills are introduced and lobbied for, amendments are made, articles are debated and attached to established legal documents, and new laws are enacted in Washington. But...one must ask the question: though these documents seemed functional in theory, did their practical application affect any change in the lives enslaved Africans? Were these legislative maneuvers mere machinations, or were they sincere endeavors that were rendered useless by those with enforcement authority?

All of the above articles helped to strip enslaved Africans of their first and fourth Amendment rights, assuring that none would bask in the safety of protected privacy. Being enslaved meant having no control of one's self, children, and possessions. The auction block presented the greatest indignities, because enslaved Africans often had their clothing removed. Their teeth, breasts, buttocks, hands, ears, and genitals were inspected and touched before crowds of exploitative, and potentially abusive owners, like in the procurement of livestock. Let's take a closer look at some of the changes that have taken place over the years.

In the case of *Edward Prigg vs. The Commonwealth of Pennsylvania*, 1842, the Supreme Court would not authorize state officials to return run away slaves to their owners (Internet-Unknown 2000). In the Compromise of 1850, California was permitted to enter as a free state; other territories entered with no decision on slavery, some with very strict guidelines for compensating slave owners. In the case of Washington, D.C., slave trade was banned (Brook, 2000).

The Fugitive Slave Law of 1850 made it possible for non-enslaved Blacks to be seized and re-entered into slavery. The Kansas- Nebraska Act of 1854 revoked the nebulosity existing in the Missouri Compromise. These states would make some decisions about the question of slavery (Bennett, 1978).

In 1857 The Dred Scott Case saw the Supreme Court render the verdict that Negroes were not United States citizens. Dred Scott first went to trial to sue for his freedom in 1847. Ten years later, after a decade of appeals and court reversals, his case was finally brought before the United States Supreme Court in what is perhaps the most infamous case in history (Clift & Low, 1981).

The case actually began in 1833, when a Dr. John Emerson, a physician in St. Louis, Missouri, began a tour of duty at Fort Armstrong, Illinois., and later for Fort Snelling, Minn. (then in the Wisconsin Territory), in company with Scott, his enslaved African. By 1846, Emerson had died, leaving Scott to his wife, Irene; Scott, too, had acquired a wife, Harriet, and a daughter, Eliza. Early litigations for Scott's freedom began in this year by Scott's friends, mainly Henry Taylor Blow.

Scott sued for his freedom on the grounds that his residence in a territory from which slavery was excluded by the terms of the Missouri Compromise (the area north of 36 30' within the Louisiana Purchase and excluding Missouri itself) made him free even after his return to a slave state. The local Missouri court freed Scott, but a Missouri Supreme Court reversed the decision on the grounds that whatever his status while in the free territory Scott was a slave when he returned to Missouri. The ultimate goal was to have this case heard in the U.S. Supreme Court, where the entire question of slavery in the territories might be decided.

The court decided that all people of African ancestry -- slaves as well as those who were free -- could never become citizens of the United States and therefore could not sue in federal court. It was there that Chief Justice Roger B. Taney, who gave the majority decision stated that since Negroes had not been citizens at the time the Constitution was adopted and had not become citizens of the nation since (Denis, 1995):

"Negroes have no rights which the white man is bound to respect."

The court also ruled that the federal government did not have the power to prohibit slavery in its territories. Scott remained a slave.

In 1861 the Civil War began and ended in 1865. The war was between the Southern states, which wanted to preserve slavery and an agricultural way of life, while the North states wanted to break the economy of the South, usher in a more modern way of life; and also abolish slavery. Though African people fought on both sides (for the Union and the Confederacy), both treated them poorly, but , eventually better by the North.

The Emancipation Proclamation was signed on January 1, 1863 signaling the end of chattel slavery in the rebel states with exception of thirteen parishes (including New Orleans) in Louisiana, forty-eight counties in West Virginia, and seven counties (including Norfolk) in eastern Virginia. The Emancipation Proclamation did not apply to enslaved Africans in Border States (Bennett 1973). It was not until January of 1865, that the thirteenth amendment of the Constitution was ratified and chattel slavery officially ended in the United States. Unfortunately, this was not enough to give newly freed enslaved African the same protection under the law.

After the assassination of Abraham Lincoln in April of 1865, the Mississippi Legislature established Black Codes. These codes were enacted in other states to re-enslave Africans. Any white person could arrest a Black, and force them to work with out pay. Blacks could be made to work from sunrise to sun set, Blacks had to be quiet and orderly, and go to bed at "reasonable" hours. It was a crime in Mississippi for a Black man to own farm land, and in South Carolina, Black people had to get a special license to work outside the domestic and farm laborer categories. As Chief Justice Roger B. Taney stated in the Dred Scott decision: "Negroes have no rights which the white man is bound to respect (Bennett, 1978)." Sadly, today this sentiment still seems true.

Finally in April of 1866, the Civil Rights Bill was passed over president Andrew Johnson's veto, and the Fourteenth amendment was passed in 1868. The fifteenth Amendment was ratified on February 3, 1870 giving Black people the right to vote. The passage of all of those Amendments still did not provide protection and equity under the existing laws. Jim Crow Laws were ushered in to subjugate Blacks in the mid 1890's taking away fundamental protections guaranteed under the law.

Today we have racial profiling, redlining, illegal search and seizures, and shooting deaths that have segued into the year 2000. All of the aforementioned are concomitants of a society that has been led to believe, "Negroes have no rights which the white man is bound to respect." With this racist ideology woven into the tapestry of America, it now has to pay dearly for its societal myopia.

Black farmers have had to sue the United States Department of agriculture, for not helping all farmers equally or equitably. In 1997 the situation was so bad that the USDA was holding 67% of Black farmers deeds in trust. Black-owned farmland shrunk from 1,000,000 acres in 1940 to 16,000 in 1997. Black farmers received less than two percent of the loans from the USDA. Out of \$1.9 billion in loans the USDA granted in 1997, Black

farmers received 1.3 percent (The Final Call, 1997).

In 1999, the U.S. Department of Agriculture agreed to settle the 1997 class action suit, which accused the agency of rejecting loans to Black farmers. The landmark agreement requires \$375 million to be divided among the 3, 500 Black farmers who brought suit. Unfortunately, it can never repay for the decimation of Black owned farms, which dropped from one million Black farms in 1920, to fewer than 20, 000 in 1999, loss of land (through government theft), and the break-up countless Black families . The government has confiscated land, it illegally set up the circumstances to siege.

Bruce Wright once stated that, “judges are the administrators of the Constitution.” Assuming that to be true, then we must also assume that police and the military are the enforcers of the tenets established in that document. This is why police and the military agencies can harass, beat, and even kill with impunity. They are the vanguards of the Constitution; therefore, whatever they do is perceived to be correct and justified. One only has to look at the numerous cases involving police shooting civilians. Each time there is a kill, the police officers are always found innocent. After a kill, often police are rewarded, as in the case of the East Haven, Connecticut officer who shot and killed Malik Jones. Members of that police department even created tee shirts with pictures of white police slamming a Black suspect on the hood of the car. The caption on the shirt read, “Boys on the Hood” (Advocate, 1997).

On February 4, 1999, Amadou Diallo, age 22, an immigrant from New Guinea, was shot at forty-one times by white police. Nineteen of the bullets riddled his body, as he attempted to get his wallet for identification. He had done nothing wrong. In the case of Archie “Artie” Elliott III, in Prince County, Maryland, he was last seen alive on the evening of June 18, 1993. The police, on what has now come to be known as “racial profiling”, stopped him. Though he complied, he was shot 22 times; 14 of the bullets tore through his body. Patrick Bailey, age 22, and a Wall Street clerk/aspiring stockbroker, was shot to death by white police officers. He was inside the apartment building his parents owned on October 31, 1997 (Essence, 1999). Let us not forget the October 4, 1995 revenge killing, of 20-year-old Antwan Sedgwick in Hampton, Virginia. He was found dead just hours after the first OJ Simpson verdict of not guilty. He got into an argument with two white police officers about the OJ Simpson trial, and a couple of hours later, he is found hanging from monkey bars (The Final Call, 1997).

The country was flabbergasted, with the illumination of the brutal and savage assault on Abner Louima, a Haitian immigrant on August 9, 1997. He was sodomized by four police of the 70th Precinct in New York City with a toilet plunger. This was not the first time New York newspapers, and mayor Rudolph Giuliani were told this kind of conduct was going on. Back in April of 1994, Earl Caldwell a reporter for the Daily News reported the story of six Haitian cab drivers (all men) who came forward after being raped and sodomized by a police officer. The officer used his service revolver, uniform, and the police van to carry out these despicable acts. The city did nothing, and to keep Earl Caldwell quiet, he was fired, and essentially barred from large mainstream press.

The phenomenon of “Racial Profiling,” targeting individuals solely because of their race, is so flagrant in this country, that law enforcement has not paid attention to the patterns it has established. In 1997, the American Civil Liberties Union found that 73% of the drivers stopped on Interstate 95, between Baltimore, Maryland and Delaware were Black. The shocking part... Black people only comprised 17% of the population that traveled that route. A Black person traveling on Florida’s highways are 6.5 times more likely to be searched than whites (Daily News, 1997).

All of these cases speak to the non-adherence of fundamental privacy rights for Blacks that are pontificated

under the Constitution's 1st and 4th Amendments. If a Black person can be stopped indiscriminately, searched without provocation, and killed unjustifiably, then those who unctuously state that democracy reigns in America need to rethink their position.

Law enforcement today, is really pressing beyond the boundaries established by the addition of the fourth amendment. People of color aren't safe in their cars, homes, or persons. Racial profiling by police, airport security, and department store employees have found fertile ground here in America. The right to vote can be usurped by police, and reinforced by a judicial system, that clearly treats poor people, and people of color unjustly. As Bruce Wright articulated so eloquently in one of his speeches, "when the country goes too far to the right, what's left?" (Wright, 1987)

The fundamental miscarriage of democracy, as it has come to be known here in America, is its inability to be inclusive of persons of color, and especially African American males. African American males appear to have the least protection against racial profiling, harsher court sentencing, violation of privacy rights, and protection against unreasonable search and seizures. These incessant assaults on persons of color, primarily Blacks and Hispanics have begun to impact other areas, such as our schools.

"In our system, state-operated schools may not be enclaves of totalitarianism School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution." U.S. Supreme Court Justice Abe Fortas, *Tinker v. Des Moines School District* (1969)

This view is clearly getting lost in today's "zero tolerance" society.

Urban centers have become increasingly populated with people of color. Therefore, public schools become more segregated. Take a city like New Haven. Its schools are approximately 57.4% African American, 27.8% Hispanic/Latino, while whites make up 12.5%. Our suburban schools are just the opposite. Hamden, CT on the other hand is 24.1% Black, Hispanic/Latino is 4.8%, and whites comprise 67.0%. Westport, CT student population is 0.9% Black, 1.6% Hispanic/Latino, and 94.5% white (State of CT 1998-1999). As a result, the facilities that house the schools tend to be worse, standards drop, and all partakers are viewed as thugs. People fleeing to the suburbs feel they have an edge over their urban counterparts. But upon closer scrutiny, it's all a façade. Now, couple that false sense of security, with a feeling of "we're better here," and you spawn a Littleton, Colorado or, Deming, New Mexico; Jonesboro, Arkansas, and a Richmond, Virginia. All of these schools have one thing in common...they are in more affluent and whiter communities. As such, privileges are extended there that are not given to students in the urban centers.

Let's look briefly at the majority of the shootings to date:

May 26, 2000 Lake Worth, Fla. A seventh-grade teacher was shot to death Friday during the last period on the final day of classes, and a student was arrested as he attempted to flee.

Feb. 29, 2000 Mount Morris Township, Mich. 6-year-old girl fatally shot in her first grade classroom, allegedly by a 6-year-old boy.

Dec. 6, 1999 Fort Gibson, Okla. Four students were shot at a middle school in a farm town 50 miles southeast of Tulsa. A 13-year-old student at the school is suspected.

Nov. 20, 1999 Deming, N.M. Dressed in camouflage, 13-year-old Victor Cordova Jr. fatally shot a 13-year-old female classmate in the head at their school.

May 20, 1999 Conyers, Ga. T.J. Solomon wounded six peers in an pistol and shotgun attack at Heritage High School. The district attorney filed 21 charges against Solomon including aggravated assault, cruelty to children and possessing firearms. Solomon's lawyer claims the attack was due to a mental collapse, possibly triggered in part by the drug Ritalin.

May 21, 1998 Springfield, Ore. Kip Kinkel, a 15-year-old freshman, opens fire in a cafeteria, killing two and wounding 22. Kinkel's parents were later found dead at their home.

May 19, 1998 Fayetteville, Tenn. Three days before his graduation, Jacob Davis, an 18-year-old honor student allegedly opens fire in parking lot at high school in Fayetteville, Tenn., killing Robert Creson, a classmate who was dating his ex-girlfriend. Davis is awaiting trial.

April 24, 1998 Edinboro, Pa. Teacher John Gillette is shot dead at a school dance, allegedly by Andrew Wurst, age 14. Two students and another teacher are wounded.

April 20, 1999 Littleton, Colo. Two members of a school gang, dressed in black trench coats and heavily armed, slay 13 in Columbine High School before turning their guns on themselves. Another 23 were injured.

March 24, 1998 Jonesboro, Ark. Mitchell Johnson, 13, and Andrew Golden, 11, allegedly fake a fire alarm and open fire on students and teachers at Westside Middle School. Four female students and a teacher are killed. Both boys are charged as juveniles with five counts of capital murder and 10 counts of battery.

Dec. 15, 1997 Stamps, Ark. Joseph "Colt" Todd, 14, is arrested in the sniper shooting of two students outside their high school. The students recovered; Todd, who faces trial later this year, said he was tired of being picked on.

Dec. 1, 1997 Paducah, KY. Michael Carneal, 14, entered his high school and headed for a prayer meeting where he shot eight students, killing three.

Oct. 1, 1997 Pearl, Miss. Luke Woodham, 16, opened fire on his classmates, killing two and wounding seven more in the school cafeteria.

Feb. 19, 1997 Bethel, Alaska. After making multiple threats, Evan Ramsey, 16, fatally gunned down his high school principal and one of his classmates.

July 26, 1996 Los Angeles, Calif. High school junior Yohao Albert Rivas, 18, shot and wounded two classmates in a stairwell on campus.

Feb. 2, 1996 Moses Lake, Wash. Barry Loukaitas, 14, killed his teacher, fatally wounded two teen-age boys and wounded a girl.

Feb. 2, 1996 Moses Lake, Wash. Barry Loukaitas, 14, killed his teacher, fatally wounded two teen-age boys and wounded a girl.

Oct. 30, 1995 Richmond, Va. Edward Earl Spellman, 18, shot and wounded four students outside their high school.

May 1, 1992 Olivehurst, Calif. Eric Houston, 20, killed four people and wounded 10 in an armed siege at his former high school. Prosecutors said the attack was in retribution for a failing grade. Houston was convicted and was given a death sentence (ABC News).

Ironically, even with the data above, inner city schools are still viewed as bastions of violence. A concomitant of the rash of shootings is, America's students are under heavy siege and there are no such things as privacy rights for young people. Once you have denied the rights of one group, it can easily be replicated with another group. Since Black and Hispanic children are seen through stereotypical lens more often than not, and are treated poorly, it's very easy to see how society can cross the lines.

Resounding applause can be heard, when people say and think, relinquishing privacy rights under the first, fourth, and fifth amendments need to be trampled upon if that means that my child is safe. Students are being subjected to having their diaries and essays land them in police precincts if an adult has deemed them too graphic. Student lockers are routinely searched. Our youth are further subjected to random drug testing, curfews, being banned and/or harassed from public properties. For instance, in New Haven, Connecticut, police ran New Haven Public School students off the sidewalks surrounding the Chapel Street Mall everyday from September through November 1999, by persons mounted on Clydesdale horses. Keep in mind that these horse belong to a family categorized as Draft horses. They can weigh between 1,500-2,000lbs and are the horse of choice for riot control. What is the city saying about its young.

Recently, in New Jersey four kindergarten students were suspended from school for playing "Cops and Robbers." Their crime...utilizing and pointing their finger and thumb as guns. Are we carrying our tolerance for safety too far? Do we want our young to get comfortable with not realizing constitutionally sanctioned rights?

America will always have problems with race, for it was woven into the foundation on which the constitution stands. As a result of America's issues with race, and anything deemed unorthodox, she has always usurped that groups privacy rights and continues to do so today. As America embarks upon this new millennium, hard decisions are going to have to be made. If America continues suffering with chronic bouts of cognizant dissidence and selective amnesia the constitutional abuses will

Lesson I: The Authors of the United States Constitution

Objective: Introduce students to the writers of the Constitution

Books: Zinn, Howard - A Peoples' History

Aten, Jerry - Our Living Constitution

Bennett, Lerone - Before the Mayflower

Photocopy for students pages 16-20 (Jerry Aten, 1987)

These pages contain a brief biography on each one of the individuals who signed the Constitution. Howard Zinn's and Lerone Bennett's books will provide you with additional information on the authors of the Constitution.

Questions for discussion:

Define the word Constitution?

What should a Constitution do for a society?

At that time, how representative of the population were these individuals?

What was the status of each individual (i.e. wealthy, poor, male, female, slave owner, etc.)

For whom was the Constitution written? Do you think these individuals would be able to speak for all people?

Who might not have been included in their consideration to be covered by the Constitution? Why?

Assignment:

Divide the class up into teams of seven. Each team is charged with writing a Constitution for the class. Brainstorm some points to be considered?

After each group completes its Constitution, each group must present their work to the class. Afterwards, engage the group in a discussion around the pros and cons of each groups work. Each group will then reassemble, and re-evaluate their products. Have each group make changes as they deem necessary.

Each groups' work should be posted on poster board.

Lesson II: Are First Amendment Rights for Students?

Objective: Students will utilize their critical and analytical skills

Photocopy for students : The Clampdown on Teen Rights

Background for the Lesson:

It is very important that students conclude this lesson with a firm understanding of what is taking place in schools today, under the guise of keeping students safe. Be very clear that students are being reprimanded far more sternly. Thanks to Columbine Littleton, Colorado; Deming, New Mexico; Jonesboro, Arkansas; Richmond, Virginia, and other locations of school shootings and violence, young people have no more privacy rights. Public opinion has shifted, and school environments will and have become far more restrictive and repressive. Behavior you could have done four years ago, can land you at the police station today. Begin this lesson by reviewing the first and fourth Amendments with students.

Ask students these questions:

1. Do you feel safe in your school?
2. What precautions, if any should be taken at your school?
3. Are you willing to give up your first Amendment rights, in order to be safe?

4. What if you were the student, whose work was misunderstood, would you still feel the same way that you expressed earlier?

Have students talk about the above questions

Have students read the article “The Clampdown on Teen Rights” out loud by different students. Stop and discuss each of the scenarios given in the article.

Ask the students: “Do you agree with the actions of the school officials?” Students must always support their answers. What would you have done differently? Keep reminding them safety is at stake.

Vary the scenarios

Examples:

A student is always very quiet in class. He never says anything. Another student begins to feel uncomfortable. What do you do?

A student always has a strange expression on his face. He just stares at people. Because a couple of students in the class begin to feel uncomfortable? What do you do?

Conclude with a recap of the thoughts discussed today

Lesson III. Racial Profiling: Search, Seize

Objective: Get students to think about the depth of the problem of racial profiling.

Articles: New York Times, “Racial ‘Profiling’ at Crux of Inquiry Into Shooting by Troopers,” Friday, May 8, 1998: p.B1

Daily News (New York). “The New ‘Profile’ of Police Excess.” October 2, 1997: p.43.

Essence, “Our Sons Under Siege,” November, 1999, pp. 139-215.

New York Times, “Agent Mistakes Candy Bar For Gun and shoots Youth” Saturday, November 8, 1997 p. B3

Emerge, “Traffic Violation: Racial Profiling is a Reality for Black Drivers.” June, 1999: pp. 42-48.

Supplies: Camcorder, VHS tape, pencil, paper.

Have the students select one of the articles above. Each student should choose three partners. Working with that partner, look up as much as you can about the case. See if the reporters talked to any eyewitnesses, parents, siblings, etc.

Each member of the group should decide which characters in the story they need more information on. Take

students to your multi-media center, or computer lab (with internet capabilities). Have students look up additional information and up dates on the case.

Each group will be putting together a documentary to cover one of the events, form the article.

Solicit from the students how they see privacy rights being challenged in these cases.

Each group needs to discuss how they want their documentary done

Film your documentaries .

Critique your documentary.

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Bibliography for Teachers

ABC News, "Violence in U.S. Schools." Internet: US Daily News 7/25/00

<http://abcnews.go.com/sections/us/DailyNews/Schoolshootings990420.html>

Engaging documentation of all of the shootings that have occurred in schools across the United States since 1972. It brings to the forefront, the severity of guns in the hands of minors.

Advocate-New Haven, "Sly Cops." November 20, 1997: Hit & Run section

Wysiwyg://45/http://www.newmassmedia.com/nac.phtml?code=new&db=nac_fea&ref=5423

In the aftermath of the shooting of Malik Jones, East Haven's police decide to take a less than orthodox approach to show their support for officer Robert Flodquist, who shot and killed Malik, after a traffic violation. The NAACP deemed the action offensive.

American Civil Liberties Union, Kansas Court to Hear ACLU Case of Honor Student Expelled for Displaying Artwork, Internet-Freedom Network: ACLU Press, 01-28-00

<http://www.aclu.org/news/2000/n012800a.html>

This documents the story of plight of Sarah Bowman, age 17, to return to school. Her artwork was deemed "threatening." She was expelled from school in Wichita, Kansas. A copy of her work is also included and can be downloaded.

Aten, Jerry, Our Living Constitution, Then and Now. Illinois: Good Apple Inc. 1987.

This is a book for teachers. It discusses the Constitution in clear terms, and has sheets ready for photocopying, to be used with lessons and discussions. Use with 5-12 graders.

Bennett Jr., Lerone, Before the Mayflower. New York: Johnson Publishing Company, Inc., 1978.

Packed with African American history covering 1619-1964; very comprehensive. This is a wonderful teacher or student resource. Use with 8-12 grades.

Brock, Robert Dr., Slave Clauses in the Constitution of the United States. readocbellsouth.net Thurs, 30 March, 2000 12:25:41

Sorts through the Constitution highlighting the clauses that specifically helped maintain the enslavement of displaced African people.

Clarke, John Henrik, Christopher Columbus & the Afrikan Holocaust. New York: A&B Books, 1992.

A book documenting the real significance of the Christopher Columbus encounter in the Americas. Startling facts about who Columbus was, what he did, and what he left behind.

Cliff, Virgil A. and Low, W. Augustus, Encyclopedia of Black America, New York: McGraw-Hill, Inc. 1981

A comprehensive book of Black History.

Daily News (New York). "Cops Trampling Families & Rights." November 19, 1998: p.18.

Excellent short article for discussions around 4th Amendment rights, to be used with students in grades 7-12.

Daily News (New York). "The New 'Profile' of Police Excess." October 2, 1997: p.43.

Op-Ed page reports on the growing phenomenon of profiling individuals based on race.

Emerge, "Time For Juveniles." March, 2000: 28-31.

This is a great discussion raiser with issues pertaining to Amendments 1, 4, 6, and 8. The article (4 pages long) looks at the racial and economic disparities in juvenile sentencing. Grades 7-12

Emerge, "Grown Up Justice: Nathaniel Abraham's prosecution as an Adult." March, 2000: pp. 32-39.

Story surrounding the trial and conviction of Nathaniel Abraham, age 14. At 11 years of age, he was charged, and this year found guilty, for a murder many feel he did not commit. The article makes you think about a criminal justice system that treats minors like adults. Great for discussion grades 7-12.

Emerge, "Traffic Violation: Racial Profiling is a Reality for Black Drivers." June, 1999: pp. 42-48.

Racial profiling is a reality. This article tackles the subject of DWB (driving while Black). It deals specifically with the disregard of 4th Amendment privacy rights of persons of color. Grades 7-12

Emerge, "40 Acres and a Mule." February, 1997: pp. 43-49.

Article deals with arguments supporting reparations for African American people in the United States.

Essence, "Our Sons Under Siege," November, 1999, pp. 139-215.

An article that deals with police, seemingly hunting and killing African American males with impunity. It highlights the deaths of four African American males (Archie Elliott-25, Marc Fitzsimmons-29, Jonny Gammage-31, and Malik Jones-22) at the hands of white police officers.

Internet-Unknown, Edward Prigg, Plaintiff in error, v. The Commonwealth of Pennsylvania, 2000:
<http://vi.uh.edu/pages/alhmat/prigg.html>

This is an entire narrative about this landmark case involving a Black woman, Margaret Morgan, an escaped enslaved African from

Maryland, whose children were born in Pennsylvania. She was recaptured and returned to Maryland. The Federal Supreme Court rendered its verdict to return her. This case deals with the constitutional status of slavery in the antebellum era

Jet, "Emmett Till's Mother Remembers Her Son on His 50th Birthday." August 12, 1991: pp. 4-15.

Documents the 1955 kidnapping and lynching of 14 year old Emmett Till, for allegedly whistling at a white woman. The article also highlights the circus like proceedings in the court case and contains photos of Emmett Till's brutalized dead body. Grades 7-12

Robinson, Randall, *The Debt*. New York: Dutton Book, 2000.

Mr. Robinson presents a compelling case why descendents of enslaved Africans should receive an apology and reparations from the US government. Grades 10-Up

State of Connecticut, "Strategic School Profiles," Hartford, CT: 1998-1999

<http://www.state.ct.us/Sde/ssp/dist9899/dist060.pdf>

Give statistical information on all school systems throughout the state of Connecticut.

The Final Call, "Fighting for Survival," February 11, 1997: p4.

Black farmers fight for their rights for equal treatment by the USDA.

The Final Call, "Suicide or Revenge Lynching?" February 11, 1997: p2.

This article gives the circumstances that lead up to the death of 20-year-old-Antwan Sedgwick.

The New Haven Advocate, "Run & Hyde." April 25, 1996: p. 7.

As Hyde Leadership School (part of the New Haven Public School system) attempted to merge into its predominately white surroundings in Hamden, CT in 1996, students received their share of harassment from the Hamden police. This article deals with the flagrant violation of privacy rights of African American students, running in that neighborhood, as part of their school supervised track team regiment. Grades 7-12

The New York Times: Upfront, "The Clamp Down on Teen Rights." September 6, 1999: pp. 10-14.

This article deals with the violation of 1st and 4th Amendment violations of students' rights, in the aftermath of a number of shootings inside schools across America.

Grades 7-12

The Village Voice, "Setting Fire to Offensive Ideas," September 30, 1997: p. 23.

This article illuminates what the author feels are exceptions being made regarding first Amendment rights on some college campus.

Time. "Righteous Wrath Down on the Farm," January 25, 1999: p.8

One Black family continues to fight for fairness and equity from the United States government.

Time. "The End of Integration." April 29, 1996: 39-46.

After forty years, the United States is still grappling with the issue of equity, access and race in education. Have we gone back to separate and unequal?

Wright, Bruce, *Black Robes, White Justice*. New York: Lyle Stuart Book, 1987.

Former judge Bruce Wright shares with readers his observations about the justice system primarily in New York. He points out that race places a factor in how justice is disseminated in the courts. He stressed the need for training for judges. Grade 10-Up

XXL, "Search and Seizure," August 1999, 46.

This article talks about the question of DWB. In addition, it gives the reader some tips on what to do if you are ever stopped by the police. Grade 10- up

Bibliography for Students

Dennis, Denise, *Black History For Beginners*. New York: Writers and Readers Publishing, 1995.

This is a pictorial African American history book. It contains a lot of information and is very user friendly. Young people will read it very easily. Grades 5-12

Horne, Gerald, *Powell v. Alabama: The Scottsboro Boys and American Justice*. New York: Franklin Watts Inc. 1997.

An historical account of the 1931 court case involving nine (ranging in ages from 12-20) African American males falsely accused of raping two white women on a freight train. The courts had no evidence and the women later recanted, these young men served between 6-10 years in jail. Grades 6-12

Kelso, Richard, *Days of Courage*. New York: Steck-Vaughn Company, 1993

A euphemistic portrayal of the nine African American students, who were the first to integrate white high schools in Little Rock, Arkansas in 1957. Grades 5-12

Kelso, Richard, *Walking For Freedom: The Montgomery Bus Boycott*. New York: Steck-Vaughn Company, 1993

This book is an account of the 1954 Bus Boycott in Montgomery, Alabama. On November 13, 1956, The Supreme Court said that the Montgomery bus-segregation was illegal.

Leinwand, Gerald, *Do We Need a New Constitution*. New York: Franklin Watts, 1994

This book poses the question, is our Constitution, written in 1787, applicable in our technological world/ should we scrap the old one and draft a new one? This book can be used as a catalysis for group discussions on the Constitution. Grades 6-12

Lusane, Clarence, *The Struggle for Equal Education*. New York: Franklin Watts, Inc. 1992.

A chronicle of the plight of African American people to secure equal access to education in the United States. It starts its account in the 1600's and brings its readers into the 1990's. There are landmark court decisions and tips for young people to take more advantage of the educational systems currently in place. Grades 6-12

Walker, Richard, *A Right to Die?* New York: Franklin Watts Inc, 1996

Idea for use with or by young people. This book grapples with issues such as life support, euthanasia, dying with dignity, and who should have a right in deciding when life should be terminated. This book presents varying viewpoints on these privacy issues.
Grades 5-12

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