

Textual Interpretation and the Constitution

PHL 320
CRITICAL THINKING
DISTANCE DELIVERY

Evidence for an Interpretation

- E₁. THE WORDS SAY ...
- E₂. WHAT WE KNOW ABOUT THE AUTHOR(S)
- E₃. OTHER RELEVANT DATA
- =====
- T₀. THE WORDS MEAN ...

Evidence for an Interpretation

- RIVAL EXPLANATIONS OF THE WORDS
 - T₁. THE WORDS MEAN SOMETHING DIFFERENT ...
 - T₂. THE WORDS MEAN SOMETHING DIFFERENT ...
- RANK ORDER OF THE INTERPRETATIONS
- THE QUALITY OF THE EVIDENCE

Evidence for a Constitutional Interpretation

- E₁. THIS PART OF THE CONSTITUTION SAYS ...
- E₂. WHAT WE KNOW ABOUT THE AUTHORS OF THE CONSTITUTION
- E₃. CONSTITUTIONAL PRECEDENT
=====
- T₀. THIS PART OF THE CONSTITUTION MEANS ...

The Fourth Amendment

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.

New Jersey v. T.L.O.

- **FACTS OF THE CASE**
- **NO WARRANT**
- **NO PROBABLE CAUSE**
- **NEW JERSEY'S (FAILED) ARGUMENTS**
 - **NOT A "STATE ACTOR"**
 - **SCHOOLS ACTING *IN LOCO PARENTIS***
 - **VOLUNTARY SEARCH**
 - **BILL OF RIGHTS ON SCHOOL GROUNDS**

Evidence for a Fourth Amendment Interpretation

- E₁. THE FOURTH AMENDMENT SAYS ...
- E₂. WHAT WE KNOW ABOUT THE AUTHORS OF THE CONSTITUTION
- E₃. PRECEDENT ABOUT WARRANTS
- E₄. PRECEDENT ABOUT PROBABLE CAUSE
- =====
- T₀. CONSTITUTIONALLY PERMITTED SEARCHES MAY OCCUR WITHOUT WARRANTS IN SPECIAL CIRCUMSTANCES, BUT ALWAYS REQUIRE PROBABLE CAUSE.

Rival Interpretations

- T₁. THE FOURTH AMENDMENT ONLY REQUIRES THAT STATE SEARCHES BE REASONABLE
- ORDER IN THE SCHOOLS
- INFORMAL DISCIPLINE
- “REASONABLE SUSPICION”
- BALANCING THE STUDENTS PRIVACY AGAINST SOCIAL NEEDS

Balancing away the Fourth Amendment

- **REASONABLE SUSPICION**
- **FEDERAL DRUG TESTING CASES**
- **CULTURAL CHANGE**
 - **FEAR AND OUTRAGE**
 - **“DO YOU HAVE SOMETHING TO HIDE?”**
 - **9/11**
- **INNOCENT UNTIL PROVEN GUILTY?**
- **HAVING TO PROVE YOU INNOCENCE**

Quiz Seven

JOHNSON BELIEVES THAT THE FOURTH AMENDMENT REQUIRES THAT (INTRUSIVE) STATE SEARCHES REQUIRE PROBABLE CAUSE. USE THE TOOLS WE HAVE BEEN DEVELOPING IN THIS COURSE TO ASSESS THE QUALITY OF JOHNSON’S EVIDENCE FOR THIS INTERPRETATION OF THE FOURTH AMENDMENT.