

Teacher's  
Guide



# School Searches and You



ēducaloï

INFORMATION EMPOWERS



Éducaloi is pleased to make this educational activity available to Quebec teachers. The activities in this guide are an enjoyable way for students to learn about the legal aspects of school searches while learning English as a second language.

Éducaloi is a non-profit organization that explains the law to Quebecers in simple language. We do this through our website, print publications, videos, workshops, teaching guides and other activities.

Éducaloi thanks teacher Valérie Harnois and pedagogical consultant Stavroula Plagakis, who helped us create these guides.

We welcome your comments. Write to us at [educaloi@education.qc.ca](mailto:educaloi@education.qc.ca).

## **IMPORTANT**

### **COPYRIGHT and USE OF MATERIALS**

These materials are the exclusive property of Éducaloi. Teachers in Quebec schools may use them for non-commercial purposes only.

None of the information in this document is intended as legal advice.

The law is constantly evolving. The legal information in this document is up to date to October 31, 2018.

# School Searches and You

Teacher's  
Guide

|  |            |
|--|------------|
| Lesson Overview .....  | p. ii      |
| Lesson Details .....   | p. iv      |
| Annotated Student Booklet With Answers .....                               | p. 1       |
| Hand-out: Task 4 - Case Summary: Search by a Vice-Principal .....          | Appendix 1 |
| Hand-out: Task 4 - Case Summary: Search by Police Using Sniffer Dogs ..... | Appendix 2 |
| Hand-out: Task 6, Option A (C1 or C2 Reinvestment Task) .....              | Appendix 3 |
| Hand-out: Task 6, Option B (C2 & C3 Writing Task) .....                    | Appendix 4 |

# Lesson Overview

|                  |   |
|------------------|---|
| <b>Level</b>     | Secondary 4, 5  |
| <b>Subjects</b>  | ESL & EESL  |
| <b>Length</b>    | 2 ½ to 4 periods  |
|                  | <ul style="list-style-type: none"><li><input type="checkbox"/> Teacher's Guide (this guide)</li><li><input type="checkbox"/> Two Supreme Court of Canada decisions (Appendices 1 &amp; 2 of the Teacher's Guide)</li><li><input type="checkbox"/> Two options for the final task (Appendices 3 &amp; 4 of the Teacher's Guide)</li><li><input type="checkbox"/> Annotated Student Booklet</li><li><input type="checkbox"/> PowerPoint Presentation</li></ul>  |
| <b>Objective</b> | <p>This activity prompts students to reflect on invasions of their privacy. Using two decisions of the Supreme Court of Canada about school searches, students form opinions and discuss issues involved in searches at school.</p> <p>Students will acquire basic knowledge of their rights regarding searches of their personal belongings in a school setting. They will also learn about the Supreme Court of Canada. At the end of this lesson, students should be able to explain the basic principles and guidelines surrounding searches in school, why protection from invasions of their privacy is important, and how the Supreme Court of Canada makes decisions.</p> <p>Students will acquire English vocabulary surrounding searches and courts and will be able to use this vocabulary during the tasks.</p> |

|   |  |
|---|--|
| <p><b>QEP</b></p>                           | <p><b>ESL &amp; EESL Competencies</b></p> <p><b>C1 - Interacts orally in English</b></p> <p>Students will discuss and exchange information in a cooperative task to come up with a consensus.</p> <p><b>C2 - Reinvests understanding of texts</b></p> <p>(optional) Students will demonstrate and reinvest their understanding of readings and oral discussion in a reinvestment task.</p> <p><b>C3 - Writes and produces texts</b></p> <p>(optional) Students will write a letter to the governing board (<i>Conseil d'établissement</i>) of their school explaining the importance of the right to privacy and proposing procedures to follow in case of searches.</p> |
| <p><b>Broad Areas of Learning</b></p>       | <ul style="list-style-type: none"> <li>● Citizenship and Community Life</li> <li>● Health and Well-Being</li> </ul>  |
| <p><b>Cross-curricular Competencies</b></p> | <ul style="list-style-type: none"> <li>● Uses information</li> <li>● Solves problems</li> <li>● Exercises critical judgement</li> <li>● Cooperates with others</li> <li>● Communicates appropriately</li> </ul>  |

# Lesson Details

## Period 1: Introduction

|                  |  |
|------------------|--|
| <b>Length</b>    | 15 minutes   |
| <b>Materials</b> | <input type="checkbox"/> Student Booklet page 2<br><input type="checkbox"/> PowerPoint Presentation  |
| <b>Procedure</b> | <ol style="list-style-type: none"><li>1. Distribute the Student Booklets.</li><li>2. Using the PowerPoint and questions in the Student Booklet, ask students what they know and think about searches and invasions of their privacy.</li><li>3. Ask students to share their answers with the class.</li></ol> <p>Note that for the introduction section, there are no right or wrong answers. The purpose is to stimulate students' thinking about invasions of their privacy and the importance of protecting against them.</p> |

## Period 1: Task 1

|                  |   |
|------------------|---|
| <b>Length</b>    | 10-15 minutes   |
| <b>Materials</b> | <input type="checkbox"/> Student Booklet page 3<br><input type="checkbox"/> PowerPoint Presentation   |
| <b>Procedure</b> | <ol style="list-style-type: none"><li>1. Individually, students read, then explain, their understanding of section 8 of the Canadian Charter of Human Rights and Freedoms.</li><li>2. Correct as a class using the PowerPoint presentation.</li></ol> |

## Period 1: Task 2 - Search and Seizure

|                  |   |
|------------------|---|
| <b>Length</b>    | 25 minutes  |
| <b>Materials</b> | <input type="checkbox"/> Student Booklet pages 4 to 6<br><input type="checkbox"/> PowerPoint Presentation   |
| <b>Procedure</b> | <ol style="list-style-type: none"><li>1. Individually, students read the texts and answer questions.</li><li>2. Correct as a class using the PowerPoint presentation.</li><li>3. For question 6, there are no right or wrong answers. As students volunteer answers, ask them to justify. They should come to the conclusion (with your help) that privacy depends on many things. This is why courts make their decisions after looking at all the circumstances of each case.</li></ol> |

## Period 1: Task 3 - Decisions of the Supreme Court of Canada can directly impact your life.

|                  |  |
|------------------|--|
| <b>Length</b>    | 10-15 minutes  |
| <b>Materials</b> | <input type="checkbox"/> Student Booklet pages 7-8<br><input type="checkbox"/> PowerPoint Presentation   |
| <b>Procedure</b> | <ol style="list-style-type: none"><li>1. Individually, students read, about the Supreme Court of Canada and school searches, then answer questions.</li><li>2. Correct as a class using the PowerPoint presentation.</li></ol> |

### Differentiation:

- Tasks 1, 2, and 3 can be done all at once and corrected at the end as a group, depending on group behaviour and comprehension.
- For groups with shorter attention spans or comprehension difficulties, it is better to divide the work and give rapid feedback.
- Please note that students must understand each task so they can do the next task. You should pace the tasks as presented in this guide.

## Period 2: Task 4 - Supreme Court of Canada Decision Analysis

|                  |   |
|------------------|---|
| <b>Length</b>    | 30-45 minutes   |
| <b>Materials</b> | <ul style="list-style-type: none"><li><input type="checkbox"/> Appendices 1 &amp; 2: summaries of two Supreme Court of Canada decisions</li><li><input type="checkbox"/> Student Booklet page 9</li></ul>   |
| <b>Procedure</b> | <ol style="list-style-type: none"><li>1. Distribute the decisions so that half the class works on one decision and the other half works on the other decision.</li><li>2. Individually, students read the summary of the Supreme Court of Canada decision.</li><li>3. They extract the important information by answering the questions on page 9. Students answer questions 1 or 2, depending on the decision assigned, as well as question 3.</li></ol> |

## Period 2: Task 5 - Oral Interaction

|                  |   |
|------------------|---|
| <b>Length</b>    | 20 minutes  |
| <b>Materials</b> | <ul style="list-style-type: none"><li><input type="checkbox"/> Appendices 1 &amp; 2: summaries of two court decisions</li><li><input type="checkbox"/> Student Booklet page 10</li></ul>  |
| <b>Procedure</b> | <ol style="list-style-type: none"><li>1. Explain to students that their oral skills will be evaluated, and present the evaluation criteria.</li><li>2. Divide students into groups of two. Students then present to their partners their analyses of the decision.</li><li>3. Then, by consensus, they classify actions and events that make a search at school reasonable or unreasonable.</li></ol> |



## Period 3: Task 6 (optional)

| <b>Task 6: Option A</b> |  | <b>C1 or C2 Reinvestment Task</b> |
|-------------------------|--|-----------------------------------|
| <b>Length</b>           | 30-40 minutes  |                                   |
| <b>Materials</b>        | <ul style="list-style-type: none"><li><input type="checkbox"/> Appendices 1 &amp; 2: summaries of two Supreme Court of Canada decisions (If this activity is used as a C2 evaluation, ensure that each student has a copy of both decisions.)</li><li><input type="checkbox"/> Appendix 3</li><li><input type="checkbox"/> Student Booklet</li></ul> |                                   |
| <b>Variation</b>        | <ul style="list-style-type: none"><li>● If completed in teams, C1 may be evaluated.</li><li>● If completed individually, C2 may be evaluated.</li></ul>  |                                   |
| <b>Procedure</b>        | <ol style="list-style-type: none"><li>1. Students write a 5- to 10-step search policy for their school.</li><li>2. The policy must include all necessary steps to ensure the search is conducted according to what they have learned.</li></ol>  |                                   |
| <b>Task 6: Option B</b> |  | <b>C2 &amp; C3 Writing Task</b>   |
| <b>Length</b>           | 75-225 minutes   |                                   |
| <b>Materials</b>        | <ul style="list-style-type: none"><li><input type="checkbox"/> Each student must have a copy of both decisions (Appendices 1 and 2)</li><li><input type="checkbox"/> Appendix 4</li><li><input type="checkbox"/> Student Booklet</li></ul>   |                                   |
| <b>Variation</b>        | <ul style="list-style-type: none"><li>● You may add grammar points of your choosing.</li><li>● You may impose a text structure of your choosing.</li><li>● You may impose a specific editing process, such as draft and clean copy.</li></ul> <p>All these variants will impact the timing of this activity.</p>                                     |                                   |

### Procedure

1. Students write a letter to the governing board (*Conseil d'établissement*) of their school explaining that the school must protect them from unreasonable search and seizure and proposing a search policy for the school.
2. Present your evaluation criteria.
3. Students propose a 5- to 10-step search policy for their school.
4. The policy must include all necessary steps to ensure the search is conducted in accordance with what they have learned.

Why not take advantage of the writing task to review or introduce grammar components, text structure or editing skills?

Students' letters can be submitted to the governing board (*Conseil d'établissement*), which decides on school rules. This will give students a taste of community involvement.

# School Searches and You

Annotated  
Student  
Booklet

|  |       |
|--|-------|
| Introduction .....   | p. 2  |
| Task 1 - The Canadian Charter of Rights and Freedoms ..... | p. 3  |
| Task 2 - Search and Seizure .....                          | p. 4  |
| Task 3 - Court Decisions Can Impact Your Life .....        | p. 7  |
| Task 4 - Supreme Court of Canada Decision Analysis .....   | p. 9  |
| Task 5 - Oral Interaction .....                            | p. 10 |
| Vocabulary .....   | p. 11 |

# Introduction

There are no right or wrong answers to the questions in the introduction task.

The purpose of this activity is to stimulate students' thinking about invasions of their privacy and the need to protect against them. The teacher should not be providing answers but rather be fueling discussions.

1. Would you like to live in place where anyone can search through your things and take what they want? Why or why not?

**Answers will vary but might include these:** *You might want to keep some things private. You don't want anyone to enter your room or touch anything in it. Others might learn about or see things you want to keep private.*

2. What inconvenience would it cause you?

**Answers will vary but might include these:** *You can't keep secrets. Your friends, teachers, principals and others might learn something about you that you want to keep private.*

3. What benefit would it create?

**Answers will vary but might include this:** *You could get information on others or get items you want from them.*

4. According to you, what is the difference between something that is private and something that is not private?

**Answers will vary but might include these:** *Private is something you share with whom you choose. Not private is something anyone can have access to.*

5. In your opinion, what actions do you think are an invasion of your privacy? Why?

a) by your parents?

b) by the police?

c) by a teacher?

d) by a friend?

e) by the principal?

**Answers will vary but might include these:** *body searches, reading my text messages, looking at my pictures, looking through my backpack, purse, computer, telephone, diary.*

# The Canadian Charter of Rights and Freedoms

## Task 1

Read the text and then answer the questions that follow.

The Canadian Charter of Rights and Freedoms is part of Canada's constitution. It sets out the rights and freedoms that Canadians believe are necessary in a free and democratic society.

Section 8 of the Canadian Charter of Rights and Freedoms is the section that protects you from being searched or having items seized (taken away by authorities) without good reason. It is only one small sentence, but it is a powerful one.

### **"8. Everyone has the right to be secure against unreasonable search or seizure."**

#### **Explanation:**

*The Supreme Court of Canada has said that the purpose of Section 8 of the Charter is to protect citizens against unjustified State (government) intrusions into their private lives. This means that people in positions of authority (e.g., police officers), must do their work in a fair and reasonable way. They can't enter private property or take things from people unless they can prove they have a good reason. In most cases, they can only enter private property to look for evidence or seize things if they got a search warrant from a judge.<sup>1</sup>*

#### **Questions:**

1. Section 8 of the Canadian Charter of Rights and Freedoms protects Canadians from  
*Unjustified intrusions into their private lives*
2. Section 8 prevents authorities from  
*Entering my house or taking my things without a good reason*
3. Explain in your own words how this section of the Charter protects you. Give a concrete example.  
*This question has no right or wrong answer since each case is unique and uncertain until decided by a court.*  
*However, the key concepts are that unjustified intrusions in houses or unjustified seizing (taking) of personal items are unacceptable. The key words are unjustified and unreasonable.*

---

<sup>1</sup> *Guide to the Canadian Charter of Rights and Freedoms*, Government of Canada website: [www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html#a2e2](http://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html#a2e2), 2018-11-22

# Search and Seizure

## Task 2

Before we examine the issue in greater depth, it is important to understand some **legal** concepts. Here are a few that will help you discuss and understand the texts and propose solutions.

Read the following texts and answer the questions below each text.

### What is a search?

A **search** is an inspection of a person or a place (for example, a house, car or backpack) to look for evidence that a crime was committed. The person carrying out the search must have authorization from a court, called a “**warrant**,” or another kind of legal authorization to search. A warrant isn’t necessary if the person being searched consents to the search.

#### Questions:

1. The purpose of a search is to
  - a) find evidence that a crime was committed
  - b) get legal authorization
  - c) have enough information to ask for a warrant
  
2. Who can give permission to conduct a search?
  - a) the person being searched
  - b) a judge
  - c) no permission is required

### What is a search warrant?

A **search warrant** is authorization from a judge for the police to conduct a search. Police officers who ask for a warrant must convince a judge that they have “reasonable and probable” reasons to believe that they will find evidence of a crime in the place they want to search.

#### Questions:

3. A search warrant allows police to
  - a) take away anything they find in your backpack
  - b) search for specific clues that a crime was committed
  - c) publish pictures of you that they find

4. Who can give a search warrant?

*A judge*

5. What is needed to get a search warrant?

*A good reason to believe the search will allow them to find evidence of a crime.*

### What kinds of searches are allowed?

Section 8 of the Canadian Charter of Rights and Freedoms protects every Canadian against “unreasonable” searches and seizures. This protection applies to searches by police officers or other people working on behalf of the State (government) in places where a person has a **reasonable expectation of privacy**: your home, car, hotel room, backpack, clothes, etc. What is a reasonable expectation of privacy depends on all the circumstances and varies from case to case.

#### Questions:

6. **According to you**, how private are the items below? Using the scale below, put them order according to what you think is *very private*, *not so private* and *not private at all*.

a) a baby picture of you that is in your bedroom drawer

b) conversation at home with your mom

c) your geography homework on the Canadian provinces

d) your test results from the doctor

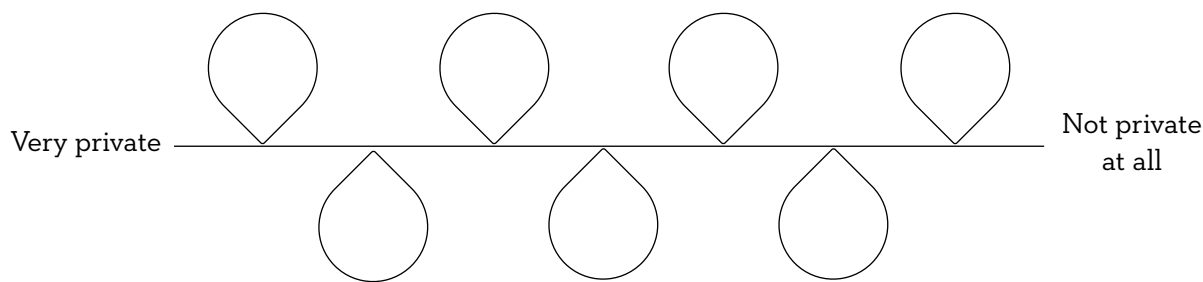
e) your opinion on the hockey victory that you published on Twitter

f) a picture of you at a party that you published on Instagram

g) a picture of you at a party that you sent to one person on Snapchat

Answers will vary.

*There are no right or wrong answers. As students volunteer answers, ask them to justify. They should come to the conclusion (with your help) that privacy depends on many things. This is why courts make their decisions after looking at all the circumstances of each particular case.*



## When is a search reasonable?

For a search to be “reasonable” and therefore **legal**, it must meet these tests:

- It must be authorized by law.

A search is authorized by law when the person searching has permission under a court order called a **warrant** or another kind of legal authorization.

The police can search without a warrant when they think that **evidence could be lost** if they wait to get a warrant.

The police don't need a warrant to do frisk searches for security reasons of people they arrest and their belongings (backpack, car). They can only do frisk searches after they have put **someone under arrest**.

- The people searching must have “reasonable and probable grounds” for thinking the law has been broken or is about to be broken **and** that evidence of this will be found in the place searched.

- The search must be carried out in a reasonable way.

For example, a search done with too much force is not reasonable.

### Question:

7. Fill in the blanks using this word bank: **arrested, evidence, reasonable, warrant**.

For a search to be legal, it must be *reasonable*.

A **warrant** is a legal authorization (permission) from a judge to search a place or person.

Police can search a person or place without a warrant when the person is **arrested** or if waiting for a warrant can result in the loss or destruction of **evidence**.

## What happens when a search is found to be unreasonable?

If a person accused of a crime can show that a search was unreasonable, the person can ask the judge to throw out any evidence found during the search. Judges can prevent evidence obtained illegally from being used in court.

### Question:

8. Using words from the text above, please fill in the blanks of the paragraph below.

If the search was **unreasonable** the judge may throw out the **evidence** found during the search. The **evidence** can't be used in court and can't affect whether the person is found guilty or not guilty.



# Decisions of the Supreme Court of Canada can directly impact your life.

## Task 3

Read the following texts and answer the questions below each text.

Then your teacher will give you a summary of a court decision to see how it can impact your life at school.

### How Supreme Court Judges Make Decisions

The two cases included in this guide took place before the Supreme Court of Canada, the highest court in the country. The Supreme Court reviews decisions made by some other courts across Canada, usually in cases involving legal issues of national importance. **Decisions of the Supreme Court are final**, which means that no other court can change them.

The Supreme Court is an appeal court. This means that Supreme Court judges can either approve or change decisions of lower courts, but they don't hear witnesses or examine new evidence. The judges examine the evidence that was presented in the lower court, and the applicable law, and then decide whether the original decision was correct.

There are nine judges on the Supreme Court. Not all the judges hear every case, but there must always be an odd<sup>2</sup> number of judges to ensure that a majority is always possible. Unlike a jury, which must make a unanimous decision, Supreme Court decisions are made by majority vote. All Supreme Court judges who hear a case have a chance to explain their own reasoning, even when they don't agree with the majority. This reasoning appears in the written version of the court's decision.

The decisions of the Supreme Court influence how courts across Canada will decide similar issues. They can also influence decisions made by police officers and even school authorities. When the Supreme Court makes a decision about searches in schools, it directly affects whether and how school authorities can search you at school, and this directly impacts your life.

### Questions:

1. What tools, evidence and references do Supreme Court judges use to make their decisions?

- a) evidence presented during the trial
- b) the law
- c) new evidence

2. Explain in your own words how you think a Supreme Court decision can impact your life.

**Answers will vary** but students should be aware that decisions made by the Supreme Court on issues that touch them (school searches in this case but also in many spheres of their lives) will impact them. If the way a search was conducted is accepted by the Supreme Court of Canada, it may become more common. On the other hand, if evidence found during a search is refused because of the way the search was conducted, this type of search will not likely be used in the future. Supreme Court of Canada decisions on searches in schools, abortion or corporal punishment, can impact their daily lives.

---

<sup>2</sup> Odd: French = impair

## Searches in Schools: Are They Allowed?

S. 8 protects people from searches and seizures in places that they can reasonably expect to be private, like their homes, cars, backpacks, etc. Is it reasonable for students to also expect privacy at school? The Supreme Court of Canada has said that students can expect a certain level of privacy at school. But there are limits.

School authorities must maintain order and discipline on school grounds. They must also supervise and educate students under their care. Parents expect schools to take action if the safety and well-being of students are at risk. This means that schools can, under some conditions, search a student to ensure respect for school rules. In public schools, these rules are made by the school and approved by a committee known as the governing board (*Conseil d'établissement*). This committee includes parents, teachers and the principal. School rules usually prohibit, among other things, drugs and weapons at school.

To be legal, searches by school authorities must respect these rules:

- School authorities must have reasonable grounds to believe that a school rule has been broken.
- The search itself must be carried out respectfully and in the least intrusive way possible in the circumstances.

School authorities have more latitude than the police when it comes to searches, much like parents have at home. This latitude cannot be transferred to the police. For example, if school authorities find drugs on a student, the police still need a search warrant to include the drugs in a police investigation. Also, the police can't ask the school principal to search a student or backpack to avoid getting a warrant.

### Questions:

#### 3. True or False

- Your level of privacy is the same at school and at home.  
**FALSE**
- School authorities can search students in some situations.  
**TRUE. School authorities are responsible for maintaining order and discipline on school grounds.**
- The principal can search your pockets, without a warrant, if the principal has good reasons to believe you have illegal drugs.  
**TRUE. The search is allowed to ensure the safety of the other students and to enforce school rules.**
- Police can search a locker without a warrant if they think a school rule has been broken.  
**FALSE. Police need a warrant to search a school locker.**
- The principal can search your locker if you left your friend's school book in it and your friend needs it.  
**FALSE. Considering no school rule was broken, it is not a valid reason to go through your personal things.**
- The police can search your backpack without a warrant if they think there is a gun in it.  
**TRUE. Anastasia's law (a special law that forbids firearms in schools) allows for searches without warrants in some situations when there is good reason to believe there is a firearm in the school.**

# Supreme Court of Canada Decision Analysis

## Task 4

Individually, summarize the important information in the decision you read.

1. In the case of a search by a vice-principal (*R. v. M. (M.R.)*, 1998), the Supreme Court of Canada said the search was  
*Legal, because the vice-principal had reasonable grounds to believe the student broke a school rule and that a search would prove it.*
2. In the case of the police search using sniffer dogs (*R. v. A.M.*, 2008), the Supreme Court of Canada said the search was  
*Illegal because it didn't respect the level of privacy that students can expect to have in relation to their backpacks at school.*
3. The decision presents different points of view: the majority opinion and the opinion(s) of other judge(s). Which opinion(s) do you agree and disagree with and why?
  - a) I **agree** with the opinion that \_\_\_\_\_ because \_\_\_\_\_
  - b) I **disagree** with the opinion that \_\_\_\_\_ because \_\_\_\_\_

### Search by vice-principal (*R. v. M. (M.R.)*, 1998)

*The majority opinion:* There were reasonable grounds for the search and it was done reasonably and with care. It did not violate section 8 of the Canadian Charter of Rights and Freedoms. A search warrant was not necessary in this case.

*The minority opinion:* The search was unreasonable. The vice-principal should have followed the same rules as the police must follow when conducting searches and should have obtained a warrant. Section 8 of the Charter was not respected.

### Search by police using sniffer dogs (*R. v. A.M.*, 2008)

*The majority opinion:* The search was unreasonable and therefore illegal under section 8 of the Canadian Charter of Rights and Freedoms. Students are entitled to a certain level of privacy at school. During a crime investigation, the right to search for public safety reasons must be balanced with a student's right to privacy. In this case, the police needed a search warrant.

*A few judges of the minority* said there was no invasion of privacy because dogs sniff air, which is public space. Also, dogs would only be drawn to areas with drugs so would not go to backpacks without drugs.

*A few judges of the minority* said the fact that the backpack was in plain sight and abandoned meant less expectation of privacy.

# Oral Interaction



## Task 5

Explain to your partner the important information in the Supreme Court decision you read, and your partner will do the same.

Together make a list of actions and events that make a search at school reasonable or unreasonable. Refer to your documents when in doubt.

| Reasonable | Unreasonable |
|------------|--------------|
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |
|            |              |

**Agent**

a person who acts on behalf of someone else

**Authorization**

permission

**Crime investigation**

official study to see if a crime was committed and to find out the facts

**Evidence**

proof

**Frisk search**

a pat down where a person runs their hands along the clothes someone is wearing to look for something, such as a weapon or drugs

**Intrusion**

unwanted invasion

**Jury**

a group of people given the responsibility to decide if someone accused of a crime is guilty

**Legal authorization**

permission according to law

**National importance**

important to everyone in the country

**Plain clothes**

e.g., a police officer dressed in plain clothes is not wearing a uniform or anything to identify them as a police officer

**Private property**

something that belongs to someone and is not freely available to anyone else

**Reasonable and probable grounds**

reasons that are fair and likely to be true

**Reasonable expectation of privacy**

the standard in a free and democratic society that a person's privacy will be respected

**Search**

an inspection of a person or place to look for something, for example, proof that something was done

**Search warrant**

permission given by a judge to the police to do a search of a person's property

**Seizure**

taking something from someone

**Sniffer dog**

a dog trained to find something (e.g., drugs) by following its smell

**State**

the government

**Trafficking**

selling or trading something, such as drugs

**Unjustified**

not right or reasonable

**Zero-tolerance**

refusal to accept any amount of a specific behaviour or act

# Task 4: Summary of a Decision of the Supreme Court of Canada

## Search by a Vice-Principal (*R. v. M. (M.R.)*,\* 1998, Supreme Court of Canada)

### Facts

M. is a high school student. During a school dance one evening, the vice-principal asked M. and his friend to go to his office. The vice-principal asked the two students if they had drugs and told them he would search them. During the search, the vice-principal found a small plastic bag of marijuana in M.'s possession. A police officer dressed in plain clothes was in the vice-principal's office and watched what was happening. M. was arrested and accused of drug possession.

At the trial, the judge had to decide whether the search was unreasonable and violated section 8 of the Canadian Charter of Rights and Freedoms. The case ended up in the Supreme Court of Canada, the highest court in the country. The Supreme Court had to decide when and in what situations a search of a student by a school official is unreasonable and against the rights protected by the Canadian Charter of Rights and Freedoms.

### The decision

Eight of the nine judges of the Supreme Court of Canada decided that the school search in this case was reasonable and legal. Only one judge disagreed and thought that the search was not legal.

### Reasons of the majority of judges

Students can usually expect that their right to privacy will be respected at school. But they must also expect that school officials have to keep the school safe. So, school officials can search a student to ensure the safety of others in some situations, such as when a student breaks a school rule.

In the case of M., the vice-principal had reasonable grounds to believe that M. broke a school rule and that a search would prove it. The search was done reasonably and with care, so it did not violate the protection of section 8 of the Canadian Charter of Rights and Freedoms.

### Reasons of the judge who disagreed with the majority

One of the judges thought the search was unreasonable. He thought the vice-principal acted as an agent of the police and should have followed the rules that police officers must follow when searching someone. The judge also thought the vice-principal should have done more investigating, like police officers would do, before searching M. The judge decided that section 8 of the Canadian Charter of Rights and Freedoms was not respected and the evidence (proof) obtained by the search should not be used in court.

**Reminder:** Section 8 protects people from “unreasonable search or seizure.” A judge who decides that a search is unreasonable can prevent what was found during the search from being used as proof in court.

\* This is the name of the case. The initial "R" stands for the Queen (or the government), "v." means versus and M. (R.M.) are the initials of the student who was searched. The student's name can't be used because he is under 18.

# Task 4: Summary of a Decision of the Supreme Court of Canada

## Police Search Using Sniffer Dogs (R. v. A.M., 2008,\* Supreme Court of Canada)

### Facts

A high school principal gave police an open invitation to come to his school with sniffer dogs as part of the school's zero-tolerance policy for drugs. Parents had been complaining about a drug problem at the school. But on the day the police came to the school, there was no evidence that there were any illegal drugs on the school grounds. The police did not have a warrant.

Students were kept in their classrooms while dogs sniffed the school. M. had left a backpack in the gymnasium and one of the sniffer dogs reacted to it. The police opened the backpack, found illegal drugs and charged M., the owner of the bag, with possession of drugs for the purpose of trafficking.

### The decision

Seven out of nine judges of the Supreme Court agreed that using a sniffer dog to try to find drugs in the student's backpack was a search and that the search was "unreasonable" and therefore illegal under section 8 of the Canadian Charter of Rights and Freedoms. Six out of nine judges agreed that the evidence found in the backpack should be excluded at the trial. Since this evidence was the basis of the case, this meant that the student would be found not guilty.

**Reminder:** Section 8 protects people from "unreasonable search or seizure." A judge who decides that a search is unreasonable can prevent what was found during the search from being used as proof in court.

### Privacy at school

All the judges agreed that students are entitled to some privacy at school. They also agreed that the right to search for public safety reasons or in the context of a crime investigation must be balanced with a student's right to privacy. But the judges didn't agree on how much privacy students could expect at school. These are some of the arguments that were made by the judges:

- A student's backpack is like a "portable bedroom and study" and students should be able to expect some privacy at school. But ensuring student safety was important, so students must expect less privacy in school than in other situations.
- Since the student in this case wasn't present and had left his backpack in plain view, he shouldn't have any reasonable expectation that his bag was protected by privacy rights.

---

\* This is the name of the case. The initial "R" stands for the Queen (or the government), "v." means versus and A.M. are the initials of the student who was searched. The student's name can't be used because he is under 18.



### **Authority to use sniffer dogs**

Most of the judges said the search was unreasonable. But the minority judges brought up interesting arguments in favour of using sniffer dogs:

- Since dogs sniff air, and air is public space, there had been no invasion of privacy at the school.
- It would be ineffective to require police to have a reasonable suspicion about a particular backpack before dog sniffing. If they had a reasonable suspicion, they would just get a warrant to search that backpack and wouldn't need dogs.
- A dog sniff isn't that intrusive because the dog is only trained to look for illegal drugs. In other words, it is unlikely that a dog sniff would bother innocent students who hadn't brought drugs to school.
- Sniffer dogs only help people detect illegal substances but not other things in a person's bag.
- If the police searched schools based merely on suspicion and without using dogs, they might end up targeting students who had done nothing wrong. This meant that dog-sniffing could be less intrusive.



# Task 6, Option B: C2-C3 Writing Task



Using what you have learned, write a letter to the governing board (*Conseil d'établissement*) of your school to:

- Explain why your school must protect you from unreasonable search and seizure.
- Propose a 5- to 10-step **search** protocol for your school.
- Don't forget to edit your work!

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---