

**Eighth Grade Session 3**

**Integration of Knowledge and Ideas**

* I can analyze and evaluate information in multiple media.
* I can trace and evaluate arguments.
* I can compare and contrast information presented in different sources.

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**Text 1**

Lyrics

# **The Bill of Rights**

Primary Source

**Amendment I**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

**Amendment II**

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

**Amendment III**

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

**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 place to be searched, and the persons or things to be seized.

**Amendment V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**Amendment VI**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

**Amendment VII**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

**Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Amendment IX**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

**Amendment X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

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Primary Source

**Text 2**

**Excerpt from 1984 by George Orwell**

Novel Excerpt

  
It was a bright cold day in April, and the clocks were striking thirteen. Winston Smith, his chin nuzzled into his breast in an effort to escape the vile wind, slipped quickly through the glass doors of Victory Mansions, though not quickly enough to prevent a swirl of gritty dust from entering along with him.   
  
The hallway smelt of boiled cabbage and old rag mats. At one end of it a coloured poster, too large for indoor display, had been tacked to the wall. It depicted simply an enormous face, more than a metre wide: the face of a man of about forty-five, with a heavy black moustache and ruggedly handsome features. Winston made for the stairs. It was no use trying the lift. Even at the best of times it was seldom working, and at present the electric current was cut off during daylight hours. It was part of the economy drive in preparation for Hate Week. The flat was seven flights up, and Winston, who was thirty-nine and had a varicose ulcer above his right ankle, went slowly, resting several times on the way. On each landing, opposite the lift-shaft, the poster with the enormous face gazed from the wall. It was one of those pictures which are so contrived that the eyes follow you about when you move. BIG BROTHER IS WATCHING YOU, the caption beneath it ran.   
  
Inside the flat a fruity voice was reading out a list of figures which had something to do with the production of pig-iron. The voice came from an oblong metal plaque like a dulled mirror which formed part of the surface of the right-hand wall. Winston turned a switch and the voice sank somewhat, though the words were still distinguishable. The instrument (the telescreen, it was called) could be dimmed, but there was no way of shutting it off completely. He moved over to the window: a smallish, frail figure, the meagreness of his body merely emphasized by the blue overalls which were the uniform of the party. His hair was very fair, his face naturally sanguine, his skin roughened by coarse soap and blunt razor blades and the cold of the winter that had just ended.   
  
Outside, even through the shut window-pane, the world looked cold. Down in the street little eddies of wind were whirling dust and torn paper into spirals, and though the sun was shining and the sky a harsh blue, there seemed to be no colour in anything, except the posters that were plastered everywhere. The blackmoustachio'd face gazed down from every commanding corner. There was one on the house-front immediately opposite. BIG BROTHER IS WATCHING YOU, the caption said, while the dark eyes looked deep into Winston's own. Down at streetlevel another poster, torn at one corner, flapped fitfully in the wind, alternately covering and uncovering the single word INGSOC. In the far distance a helicopter skimmed down between the roofs, hovered for an instant like a bluebottle, and darted away again with a curving flight. It was the police patrol, snooping into people's windows. The patrols did not matter, however. Only the Thought Police mattered.   
  
Behind Winston's back the voice from the telescreen was still babbling away about pig-iron and the overfulfilment of the Ninth Three-Year Plan. The telescreen received and transmitted simultaneously. Any sound that Winston made, above the level of a very low whisper, would be picked up by it, moreover, so long as he remained within the field of vision which the metal plaque commanded, he could be seen as well as heard. There was of course no way of knowing whether you were being watched at any given moment. How often, or on what system, the Thought Police plugged in on any individual wire was guesswork. It was even conceivable that they watched everybody all the time. But at any rate they could plug in your wire whenever they wanted to. You had to live -- did live, from habit that became instinct -- in the assumption that every sound you made was overheard, and, except in darkness, every movement scrutinized.   
  
Winston kept his back turned to the telescreen. It was safer, though, as he well knew, even a back can be revealing.

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# **At Supreme Court, Debate Over Phone Privacy Has A Long History**

**Text 3**

Article

by NAOMI LACHANCE

Underlying the [debate over Apple's refusal](http://www.npr.org/tags/126935720/fbi) to help the FBI unlock the iPhone of San Bernardino shooter Syed Rizwan Farook is the idea that cellphones hold the most intimate details of our daily lives. That wasn't always so obvious. As the role of technology changes, so have our attitudes, and one of the places to see this work in progress play out is at the Supreme Court.

Take, for example, the 1928 case [Olmstead v. United States](https://www.oyez.org/cases/1900-1940/277us438), in which the Supreme Court ruled that wiretapping could be conducted without a warrant; then compare it with the 1967 case [Katz v. United States](https://www.oyez.org/cases/1967/35), when the court essentially said the opposite. Below are a list of court cases that involve the phone privacy.

Olmstead v. United States, **1928**

Back before the telephone was ubiquitous and pocket-size, the court ruled that wiretapped phone conversations were not a violation of the defendant's rights under the Fourth or Fifth Amendments. Why? In part, because the listening equipment was installed outside the houses involved.

Katz v. United States, **1967**

By now, the telephone was [making its way](https://www.census.gov/hhes/www/housing/census/historic/phone.html) into daily life, so expectations were different. The court revisited the question of where and when people should have a reasonable expectation of privacy, saying that FBI agents could not attach a recording device to a telephone booth. Justice Potter Stewart [wrote in the court opinion](https://www.law.cornell.edu/supremecourt/text/389/347):

"The Government stresses the fact that the telephone booth from which the petitioner made his calls was constructed partly of glass, so that he was as visible after he entered it as he would have been if he had remained outside. But what he sought to exclude when he entered the booth was not the intruding eye — it was the uninvited ear. He did not shed his right to do so simply because he made his calls from a place where he might be seen."

United States v. New York Telephone Company, **1977**

This was a major case dealing with the [All Writs Act](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/02/19/preliminary-thoughts-on-the-apple-iphone-order-in-the-san-bernardino-case-part-2-the-all-writs-act/), the law that the government is using to compel Apple's help in unlocking Farook's iPhone. Here, a phone company refused to comply with an order through the All Writs Act to install a pen register, which would record all numbers called from a certain telephone.

In a boost to third-party cooperation with investigations, the court ruled that the phone company had to comply with the request, as Justice Byron White wrote in the [court opinion](https://www.law.cornell.edu/supremecourt/text/434/159):

"We do not think that the Company was a third party so far removed from the underlying controversy that its assistance could not be permissibly compelled. A United States District Court found that there was probable cause to believe that the Company's facilities were being employed to facilitate a criminal enterprise on a continuing basis. For the Company, with this knowledge, to refuse to supply the meager assistance required by the FBI in its efforts to put an end to this venture threatened obstruction of an investigation which would determine whether the Company's facilities were being lawfully used. Moreover, it can hardly be contended that the Company, a highly regulated public utility with a duty to serve the public, had a substantial interest in not providing assistance. ... The order provided that the Company be fully reimbursed at prevailing rates, and compliance with it required minimal effort on the part of the Company and no disruption to its operations."

Arizona v. Hicks, **1987**

This case held that to take an item in plain view, the police need to have probable cause. The case's [majority opinion](https://supreme.justia.com/cases/federal/us/480/321/case.html) produced this now iconic statement from Justice Antonin Scalia, which was referenced repeatedly in the [congressional hearing](http://www.npr.org/sections/thetwo-way/2016/03/01/468599364/fbi-chief-tells-congress-encryption-is-creating-warrant-proof-devices) on the Apple-FBI dispute:

"It may well be that, in such circumstances, no effective means short of a search exist. But there is nothing new in the realization that the Constitution sometimes insulates the criminality of a few in order to protect the privacy of us all."

City of Ontario v. Quon, **2010**

Remember pagers? This case ruled that a workplace had not violated the Fourth Amendment when it audited pager text messages. Justice Anthony Kennedy wrote in [the opinion](http://www.supremecourt.gov/opinions/09pdf/08-1332.pdf):

"The Court must proceed with care when considering the whole concept of privacy expectations in communications made on electronic equipment owned by a government employer. The judiciary risks error by elaborating too fully on the Fourth Amendment implications of emerging technology before its role in society has become clear."

[Remember](http://www.latimes.com/business/technology/la-fi-tn-apple-fbi-20160219-htmlstory.html), the iPhone 5C that Apple is being asked to unlock was Farook's work phone from the San Bernardino County Department of Health.

United States v. Jones, **2012**

This case once again expanded the Supreme Court's consideration to a new kind of technology: GPS tracking devices. In a new Fourth Amendment ruling, the judges unanimously agreed that attaching a GPS device to a car and tracking its movements [constituted a search under the Fourth Amendment](http://www.npr.org/2012/01/23/145656654/top-court-police-need-warrant-for-gps-tracking). Justice Scalia [delivered the ruling](https://www.law.cornell.edu/supremecourt/text/10-1259), focusing on the installation of the device with an expired warrant:

"It is important to be clear about what occurred in this case: The Government physically occupied private property for the purpose of obtaining information. We have no doubt that such a physical intrusion would have been considered a 'search' within the meaning of the Fourth Amendment when it was adopted."

A majority of the justices also found that longer-term GPS monitoring infringed on expectations of privacy, though the [court left unresolved](http://www.npr.org/sections/alltechconsidered/2016/03/04/469030574/should-law-enforcement-have-a-warrant-to-know-where-youve-been) whether tracking a car over time required a probable cause warrant. Justice Sonia Sotomayor concurred:

"Awareness that the Government may be watching chills associational and expressive freedoms. And the Government's unrestrained power to assemble data that reveal private aspects of identity is susceptible to abuse. The net result is that GPS monitoring—by making available at a relatively low cost such a substantial quantum of intimate information about any person whom the Government, in its unfettered discretion, chooses to track—may 'alter the relationship between citizen and government in a way that is inimical to democratic society.' "

Riley v. California **& United** States v. Wurie, **2014**

Here, the Supreme Court finally tackled a privacy matter related to a cellphone. In a [unanimous single decision](http://www.supremecourt.gov/opinions/13pdf/13-132_8l9c.pdf) for these two cases, the court held that generally police cannot, without a warrant, search the digital contents of a cellphone of someone they arrested. Chief Justice John Roberts wrote:

"The United States asserts that a search of all data stored on a cell phone is 'materially indistinguishable' from searches of these sorts of physical items. ... That is like saying a ride on horseback is materially indistinguishable from a flight to the moon. Both are ways of getting from point A to point B, but little else justifies lumping them together. Modern cell phones, as a category, implicate privacy concerns far beyond those implicated by the search of a cigarette pack, a wallet, or a purse. A conclusion that inspecting the contents of an arrestee's pockets works no substantial additional intrusion on privacy beyond the arrest itself may make sense as applied to physical items, but any extension of that reasoning to digital data has to rest on its own bottom. ...

"Modern cell phones are not just another technological convenience. With all they contain and all they may reveal, they hold for many Americans 'the privacies of life'... The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought. Our answer to the question of what police must do before searching a cell phone seized incident to an arrest is accordingly simple — get a warrant."

# Image result for book icon Apple v FBI timeline: 43 days that rocked Tech

**Text 4**

Apple and the [**Elizabeth Weise**](http://www.usatoday.com/staff/793/elizabeth-weise/)**, USATODAY**Published 6:26 p.m. ET March 15, 2016 |

Timeline

Department of Justice spent 43 days locked in a legal and very public battle over an order from a federal magistrate in California that the company must help the FBI try to get into an iPhone used by [San Bernardino gunman](http://www.usatoday.com/story/news/nation/2015/12/02/san-bernardino-shooting-what-we-know-now-latest-facts/76681288/) Syed Rizwan Farook's, by disabling a feature that would lock investigators out if they made 10 unsuccessful tries to determine the correct password. The case began on Feb. 16 with an order from Judge Sheri Pym and ended on March 29 when Pym vacated the order.

**The timeline:**

**Feb. 16**   Federal magistrate Sheri Pym in California orders Apple to help the FBI try to get into Farook's iPhone by disabling a feature that would lock investigators out if they made 10 unsuccessful tries to determine the correct password.

That same day, [Apple CEO Tim Cook publishes a 1,100 word response](http://www.apple.com/customer-letter/) on Apple’s website, calling the request “chilling,” and “an unprecedented step which threatens the security of our customers. We oppose this order, which has implications far beyond the legal case at hand,” he wrote.

**Feb. 17**Privacy supports [hold a rally](http://www.usatoday.com/story/tech/2016/02/17/privacy-supporters-rally-san-francisco-support-apple/80527424/)outside the downtown San Francisco Apple store to support the company and protest against the FBI. Later in the week, rivals [Google, Facebook and Twitter say they supported Apple](http://www.usatoday.com/story/tech/news/2016/02/19/apple-iphone-san-bernardino-google-facebook-twitter-microsoft-yahoo-tech-industry-support/80618148/).

**Feb. 19**. The Department of Justice escalates the battle with a [filing that attempted to force Apple to comply](http://www.usatoday.com/story/news/nation/2016/02/19/apple-justice-department/80618206/) with the FBI request. “Apple’s current refusal to comply with the court’s order, despite the technical feasibility of doing so, instead appears to be based on its concern for its business model and public brand marketing strategy,” the department says.

Later in the day, [Apple speaks to reporters](http://www.usatoday.com/story/tech/2016/02/19/iphone-passcode-changed-government-possession/80632962/), saying the Apple ID passcode on the phone had been changed less than 24 hours after government took possession of the device. Had that not happened, a backup of information the government was seeking may have been possible. Apple also says it had been working with the government since the initial requests came in, recommending four different ways to recover the data without building the backdoor.

**Feb. 21**In [comments](https://www.fbi.gov/news/pressrel/press-releases/fbi-director-comments-on-san-bernardino-matter) posted on the FBI site, Director James Comey says the San Bernardino litigation "isn't about trying to set a precedent or send any kind of message. It is about the victims and justice. Fourteen people were slaughtered and many more had their lives and bodies ruined. We owe them a thorough and professional investigation under law. That's what this is. The American people should expect nothing less from the FBI."

**Feb. 23** Rallies [held nationwide](http://www.usatoday.com/story/tech/2016/02/17/privacy-supporters-rally-san-francisco-support-apple/80527424/)in support of Apple draw small but ardent crowds.

**Feb. 25** Apple files its [opposition](https://www.documentcloud.org/documents/2722196-Motion-to-Vacate-Brief-and-Supporting-Declarations.html) to the court order, called an application for relief. In a call with reporters, Apple calls the software the FBI wanted it to write "government OS." The company's legal arguments were based on a rejection of a 1977 Supreme Court decision, United States v.New York Telephone. That case in turn used the All Writs Act of 1789 which gives a judge the right to order something be done even when there's no clear Congressional mandate to follow such an order.

**Feb. 29** - A federal judge in Brooklyn [denies](http://www.usatoday.com/story/money/2016/02/29/judge-denies-fed-request-force-apple-bypass-iphone-passcode/81125500/) a Department of Justice request for a court order that would force Apple to bypass the security passcode on the iPhone of a criminal defendant in a drug case. Magistrate Judge James Orenstein rules government lawyers failed to establish that the federal All Writs Act the government relied on to seek the order applies in the case. While not binding on any other court, the ruling is expected to influence the outcome of the San Bernardino case.

**March 2** Apple files an [appeal](http://www.usatoday.com/story/tech/2016/03/02/report-apple-files-appeal-against-iphone-order/81198160/) against the order, saying it will refuse the order to write code to aid the FBI in trying to unlock the encrypted iPhone.

**March 3** A group of 17 tech companies that include the industry's biggest names file court statements backing Apple. A second coalition that grouped 15 mature tech companies with younger start-ups — including Google, Facebook, Amazon, Cisco, Microsoft, Mozilla, Snapchat, Box, Slack and Yahoo — also file in support of Apple, along with AT&T, Intel, the Electronic Frontier Foundation and 46 technologists, researchers and cryptographers.

**March 10**The Justice Department files its [response](https://www.scribd.com/doc/303738452/Gov-t-Response-to-Apple) to Apple's appeal. It [argues](http://www.usatoday.com/story/news/nation/2016/03/10/doj-apple-farook-fbi/81598136/) that the government's request was "modest" in that it only applies to a single iPhone and allows Apple to find the "least burdensome means of complying." Apple, DOJ said, is raising false arguments and that it is not asking for a "universal master key or back door.''

**March 21** Just 24 hours before the first hearing was scheduled to begin, the Justice Department requested a postponement, saying it needed to test a possible new method for unlocking the iPhone. In a [filing](http://https/assets.documentcloud.org/documents/2773492/motion-to-vacate.pdf), Justice lawyers said that that an undisclosed "outside party'' demonstrated a "possible method'' to the FBI for unlocking the phone. "Testing is required to determine whether it is a viable method that will not compromise data on Farook’s iPhone,'' Justice lawyers said in the three-page filing. "If the method is viable, it should eliminate the need for the assistance from Apple Inc.'' Judge Sheri Pym granted the request.

**March 23**Israeli newspaper *[Yedioth Ahronoth](http://www.ynetnews.com/articles/0,7340,L-4782246,00.html)* reports that Cellebrite, a company that specializes in extracting information from cell phones, [is the mysterious "outside party"](http://www.usatoday.com/story/tech/news/2016/03/23/report-israeli-firm-mysterious-outside-party-aiding-fbi/82157046/) that came forward and offered to help the FBI gain access to an iPhone used by one of the San Bernardino killers.

**March 24**[Law enforcement officials speaking on background say](http://www.usatoday.com/story/tech/news/2016/03/24/fbis-comey-officials-discount-two-iphone-hack-theories/82209428/) that Cellebrite is not the company aiding the FBI, but decline to name what or who is.

**March 28**The Justice Department [withdraws its legal action against Apple Inc](http://www.usatoday.com/story/news/nation/2016/03/28/apple-justice-department-farook/82354040/), saying that the outside party's method to bypass the locking function of a San Bernardino terrorist’s phone had proved successful. The agency [did not share details](http://www.usatoday.com/story/tech/news/2016/03/28/fbi-apple-iphone-farook-hack-san-bernardino/82357128/) of how it succeeded or what outside party aided it.

**March 29** Speaking on background, [federal investigators say they are reviewing the contents of a San Bernardino terrorist's smartphone](http://www.usatoday.com/story/news/nation/2016/03/29/feds-reviewing-contents-san-bernardino-iphone/82400018/). They say the phone is yielding material related to Syed Farook's work as a health inspector for San Bernardino County.

**At 4:44 pm Pacific** Judge Sheri Pym vacates her original Feb. 16 order, ending the case.

** Audio Debate: Data Privacy vs. National Security**

**Text 5**

*Listening Guide Directions:* Take notes in the space below as you listen to the audio.

Audio

|  |  |
| --- | --- |
| **Apple** | **FBI** |

8th Grade Session 3: Integration of Knowledge and Ideas

Answer the questions below based on the timeline and audio.

1. How does the audio help develop the ideas in the timeline?

A. It describes the terrorist attack that is the subject of investigation.

B. It gives compares the Apple case to other similar court rulings.

C. It explains the motivations and consequences of the court action.

D. It contradicts the dates listed in the timeline.

1. This question has two parts. First, answer Part A. Then, answer Part B.

**Part A:** Which statement below is supported by BOTH the audio and timeline?

A. Apple should have been forced to comply with the FBI to maintain security.

B. Companies around the world were on Apple’s side to uphold security.

C. Other countries could benefit from the creation of a “back door”.

D. The consequences for unlocking this one phone endangers security for all.

**Part B:** Support your answer to Part A in two to three sentences.

3. Which claim in the audio clip was developed with sufficient supporting evidence?

A. China might take advantage of access to information in phones.

B. The phone in question could go dark without the help of Apple.

C. The court order would create a new problem instead of solving it.

D. The San Bernadino crime would remain unsolved without back door access.

1. Drag and drop the statements below into the appropriate places in the graphic organizer to how the claim was developed in the timeline.

**Claim:** Apple had many supporters

**Evidence**

**Evidence**

A group of 17 tech companies that include the industry's biggest names file court statements backing Apple.

Just 24 hours before the first hearing was scheduled to begin, the Justice Department requested a postponement, saying it needed to test a possible new method for unlocking the iPhone.

Privacy advocates [hold a rally](http://www.usatoday.com/story/tech/2016/02/17/privacy-supporters-rally-san-francisco-support-apple/80527424/)outside the downtown San Francisco Apple store to back the company and protest against the FBI.

The Justice Department [withdraws its legal action against Apple Inc](http://www.usatoday.com/story/news/nation/2016/03/28/apple-justice-department-farook/82354040/), saying that the outside party's method to bypass the locking function of a San Bernardino terrorist’s phone had proved successful.

1. How did the speaker develop his claim in the audio?

A. He took the perspective of privacy supporters and did not effectively acknowledge the FBI’s perspective.

B. He thoroughly provided information on both sides with facts and statistics of the case.

C. He gave several examples of the consequences of creating a back door, then refuted them.

D. He acknowledged Apple’s side, but favored the FBI’s attempt at gaining access to the phone.

1. Use the graphic organizer below to compare and contrast the development of ideas presented in the timeline and the interview.

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Both**

**Audio**

**Timeline**

|  |
| --- |
| 1. Explains potential dangers to customers if Apple complies. |
|  |
| 1. Gives an overview of the case at the heart of this issue. |
|  |
| 1. Provides the resolution of the incident. |