

## The Charter in the Classroom: Students, Teachers and Rights

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**Topic:** *The Canadian Charter of Rights and Freedoms*, Section 8: Legal Rights

**Case:** R. v. M. (M.R.), [1998] 3 S.C.R. 393

**Instructional Expectations and Opportunities** have been selected by provinces and territories for secondary schools and may be found in **Resources** under **Curriculum Expectations**.

### Learning Environment

- Room set up so that the room is split in half with space in the middle
- 5 desks at the front of the room facing the class
- Sign in each corner of the room for the Corners Activity

### Required Resources

- CC: STAR website Concept 7: <http://www.thecharterrules.ca>
- Discussion Questions for the Debate

### Content and Teaching Strategies of Lesson

Since the prepared content is lengthy, two days could be allotted to the lesson. Suggestion:

- Day 1 – Explore (30 mins), Corner Activity (20mins), Stand on the Line, Form groups and outline debate (20 mins)
- Day 2 – Prepare/Research for debate (15 mins), Debate (25 minutes), Discussion and follow up (15 minutes), Letter to Supreme Court (20 mins)

### Overview/Agenda/Review:

(This lesson assumes that the students have an understanding of the case and its details. A summary of the case may be found in Appendix A. The full case of R. v. M. (M.R.) may be found at the Resources tab.

1. Explore the CC: STAR website Concept 7: <http://www.thecharterrules.ca>
2. Corners
3. Stand on a line
4. Split line in half to form two sides of a debate – 5 students will be selected to be the panel.
5. Debate
6. Letter to the Supreme Court – Either congratulating them on a job well done or disagreeing with them: both will offer arguments.

### Introduction:

- Introducing this lesson can be a guided tour through Concept 7 of the CC: STAR website. It is important for the students to have a firm grasp of the R. v. M. (M.R.) case. A summary of the case is found in Appendix A along with questions for thought. The full case can be found at the Resources tab.
- If students already have an understanding of the case, teachers can use the Corners activity as a hook.

### Subject content and Teaching Strategies:

#### 1. Corners

- In each corner of the classroom place one of four signs: Strongly Agree, Agree, Disagree, Strongly Disagree. Read several statements involving search and seizure and/or students' rights in the school and tell students to stand under the sign that represents how they feel. Statements could include:

- School administration have the same authority as police to search a student.
- Students should be given notice of searches being conducted and when.
- Random searches, such as those at airports or concerts ensure accurate searches.
- Student safety is more important than student privacy.
- A search for a weapon would not have to follow the same regulation as a search for drugs since it is more dangerous.
- Privacy at school is equal to privacy at a concert.
- Once they are in their corners, they discuss with the others in their group why they are there. Then one or two representatives from each corner present briefly their group's reason(s) for choosing their particular corner.

## **2. Stand on a Line**

- Ask the question: Do you agree with the Supreme Court's Decision in the R. v. M. (M.R.) case? The students will then stand on the line depending on how they feel. One end of the line is a definite 'No,' the other is a definite 'Yes'. Have a class discussion about their choices or simply use this activity as a way to form groups for the debate: Split the line down the middle.

## **3. Debate**

- Each team will have a short time to develop five questions and five statements to present to the opposing team.
- They will alternate asking and answering the questions and positing their statements.
- A five-member panel of students will hear the debate and decide on the winner – they will explain why. (panel is pre-selected by teacher).

## **4. Letter to the Supreme Court**

- After the debate, each student will write a one paragraph letter to the Supreme Court either agreeing or disagreeing on their ruling in the R. v. M. (M.R.) case. These can be used to evaluate persuasive writing. The address for the Supreme Court of Canada is 301 Wellington St., Ottawa, ON, K1A 0J1 – <http://www.scc-csc.gc.ca>.

## Appendix A

### R. v. MMR Case Summary

Section 8 was the key defence used by a Nova Scotia High School student who was searched by a Vice-Principal. What follows are the events that led to Supreme Court of Canada decision in 1998. A few students informed Mr. Cadue, the school's vice-principal, that M., the accused student, would be dealing marijuana at the school dance that night. Mr. Cadue called a plain-clothes officer of the RCMP, Constable Siepierski, to the school. The vice-principal called M. into his office and informed him that he was going to be searched. Mr. Cadue conducted the search in the presence of the officer, however, the officer said and did nothing while the search was carried out. He discovered a small plastic bag full of marijuana in M.'s sock. After confirming that the contents of the bag were indeed marijuana, Constable Siepierski read M. the police caution, informed him of his right to counsel, and advised him that he had the right to contact a parent or guardian. He then advised him that he was under arrest for possession of a narcotic.

The case then went to court where the trial judge, Judge Dyer J.F.C., dismissed the marijuana as evidence. He ruled that the evidence was discovered after an unlawful search and was therefore inadmissible in a court of law. Dyer J.F.C. held that Mr Cadue was acting as an "agent of the police" and, therefore, was subject to the same laws as a police officer would be. This means that M's charter rights were infringed upon, specifically his section 8 rights, which state that "Everyone has the right to be secure against unreasonable search or seizure."<sup>1</sup> For Dyer, the presence of Constable Siepierski transformed the search from a search conducted to maintain a safe school environment and uphold school rules, to a search conducted for the purpose of arresting M. for possession of narcotics. The presence of the police officer required a stricter adherence to the section 8 of the charter.

The case was appealed to the Nova Scotia Court of Appeal where Judge Pugsley overturned the decision of the trial judge. Judge Pugsley held that mere police presence was insufficient to make Mr. Cadue an agent of the police. Furthermore, the appeal judge held that the search conducted by Mr. Cadue was reasonable because Mr. Cadue acted only after receiving information from what he deemed to be credible sources and the search was "conducted in private and was not overtly intrusive."<sup>2</sup>

In 1998 the student M appealed the case to the Supreme Court. The majority of the Supreme Court agreed with the Nova Scotia Court of Appeal. The Court held that Mr. Cadue was not acting as an agent of the police, that he had reasonable grounds to conduct the search and that M. had a reduced expectation of privacy because of the school setting.

### Questions for Thought

1. Why did V.P. Cadue think he had the right to search the two students?
2. What is meant by a "limited expectation of privacy" in terms of education?
3. When does a principal become an agent of the state?
4. Do students have the same rights in school as regular citizens have in the outside world? Why? Why not?

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<sup>1</sup> Section 8, The Canadian Charter of Rights and Freedoms.

<sup>2</sup> G. Dickinson, R v. MMR case notes in *Education Law Journal* 10 at 125.