

## **Mapp v. Ohio / Background •••—Answer Key**

Dollree Mapp lived in Cleveland, Ohio. After receiving information that a person wanted in connection with a recent bombing was hiding in Mapp's house, Cleveland police officers knocked on her door and demanded entrance. Mapp called her attorney for advice and subsequently refused to let the police in when they failed to produce a search warrant. After several hours of surveillance and the arrival of more officers, the police again sought entrance to the house. Although Mapp did not allow them to enter, they gained access by forcibly opening a door. Once the police were inside the house, Mapp demanded to see their warrant. One of the officers held up a piece of paper claiming it was a search warrant. Mapp grabbed the paper but an officer recovered it and handcuffed Mapp "because she had been belligerent." Dragging Mapp upstairs, officers proceeded to search not only her room, but also her daughter's bedroom, the kitchen, dinette, living room, and basement.

In the course of the basement search, police found a trunk containing "lewd and lascivious" books, pictures, and photographs. Mapp claimed the materials had been left by a former tenant. Mapp was arrested for violating Ohio's criminal law prohibiting the possession of obscene materials. At trial, the court found her guilty of the violation based on the evidence presented by the police. When Mapp's attorney questioned the officers about the alleged warrant and asked for it to be produced, the police were unable or unwilling to do so. Nonetheless, Mapp was found guilty and sentenced to one to seven years in the Ohio Women's Reformatory.

Upon her conviction, Mapp appealed her case to the Supreme Court of Ohio. Her attorney argued that she should never have been brought to trial because the material evidence resulted from an illegal, warrantless search. Because the search was unlawful, he maintained, the evidence was illegally obtained and must be excluded. In its ruling, the Supreme Court of Ohio recognized that "a reasonable argument" could be made that the conviction should be reversed "because the 'methods' employed to obtain the [evidence] ... were such as to 'offend' a sense of justice." But the court also stated that the materials were admissible evidence. The court explained its ruling by differentiating between evidence that was peacefully seized from an inanimate object (the trunk) rather than forcibly seized from an individual. Based on this decision, Mapp's appeal was denied and her conviction upheld.

Mapp appealed to the Supreme Court of the United States. The case came down to this fundamental question: May evidence obtained through a search in violation of the Fourth Amendment be admissible in state criminal proceedings? The Fourth Amendment states, "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 . . . and particularly describing the place to be searched, and the persons or things to be seized." The Fourth Amendment, however, does not define when a search or

seizure is “unreasonable” nor does it specify how evidence obtained from an unreasonable search should be treated.

While never previously addressing the specific question presented by Mapp’s case, the U.S. Supreme Court had made attempts to determine what constitutes a reasonable search and what evidence can be used in court. It first wrestled with these issues in *Boyd v. United States* (1886) when the Court declared that “any forcible and compulsory extortion of a man’s own . . . private papers to be used as evidence to convict him of a crime . . . is within the condemnation of . . . [the Fourth Amendment]. Later, in *Weeks v. United States* (1914), the Court ruled that the Fourth Amendment “put the courts of the United States and federal officials . . . under limitations . . . and forever secure[d] the people, their persons, houses, papers and effects against all unreasonable searches and seizures . . .” The ruling in *Weeks* established the exclusionary rule meaning a federal court cannot use unlawfully seized evidence to establish guilt at trial. By including only U.S. and federal officials in its ruling, however, the Court still left open the question of whether evidence unlawfully seized could be used in a state criminal court proceeding. In *Wolf v. Colorado* (1949), the Court for the first time discussed the effect of the Fourth Amendment on the states. It concluded that the Due Process Clause of the 14<sup>th</sup> Amendment incorporated, or made applicable to the states, the Fourth Amendment to the Constitution. However, the ruling in *Wolf* also made clear that “in a prosecution in a State court for a State crime the 14<sup>th</sup> Amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure.” In other words, the exclusionary rule did not apply to the states.

Some states, including Ohio, felt that they should be able to make their own determination regarding the admissibility of illegally obtained evidence. Nevertheless, in 1960 the Supreme Court of the United States agreed to hear Mapp’s case and reconsider the decision it had reached in *Wolf* by determining whether the U.S. Constitution prohibited state officials from using evidence obtained in violation of the Fourth Amendment. The decision in *Mapp v. Ohio* was handed down in 1961.

## Questions to Consider

1. In your opinion, was Dollree Mapp justified in denying the police entrance to her house? Explain your reasoning.

Student answers will vary. One can make a case that Ms. Mapp was justified in denying the police entrance to her house on the grounds that they did not have a search warrant, which is required by the Fourth Amendment. On the other hand, one could argue that Mapp was not justified. The police had probable cause to believe a suspect wanted in a recent bombing was hiding in her home. It is possible that this suspect was a threat to the community and that therefore the police could not afford to wait for a search warrant.

2. The Fourth Amendment states “The right of the people to be secure . . . against unreasonable searches and seizures shall not be violated . . .” If you were a justice for the

Supreme Court of Ohio what, if anything, would you find unreasonable about the search of Mapp's house? Explain.

Student answers will vary but may include, "If I were a judge on the Ohio Supreme Court, I would find the lack of a search warrant to be unreasonable in the search of Mapp's house. I might also question why, if police were truly searching for a bombing suspect, they opened a trunk in her basement."

3. Complete the chart below based on your reading:

Case	How did this decision extend the rights of individuals?	How did this decision constrain the rights of individuals?
<i>Boyd v. United States</i> (1886)	The Court said that forcible removal of a man's papers to be used as evidence against him is not permissible under the Fourth Amendment.	Applied ruling to searches involving "forcible and compulsory extortion" and to evidence used in criminal trials.
<i>Weeks v. United States</i> (1914)	The exclusionary rule prohibited the police from using illegally obtained evidence in a trial.	The ruling applied only to the United States and federal officials. It remained to be seen whether the exclusionary rule applied to the states.
<i>Wolf v. Colorado</i> (1949)	The Court made the Due Process Clause of the 14th Amendment applicable to the states.	The Court said the Fourth Amendment exclusionary rule was not applicable to the states.

4. Why didn't the Court's decision in *Wolf v. Colorado* protect Mapp?

The Court's decision in *Wolf* did not protect Ms. Mapp because at issue in her case was not simply the Fourth Amendment, but the exclusionary rule.

5. The U.S. Supreme Court must balance the protection of the rights of individuals against the protection of society. If the police had not searched Mapp's house they would never have found the trunk containing "lewd and lascivious" materials. With this in mind, do you think the rights of Mapp or society should have been given more weight? Why?

A case can be made for either response. One could argue that the protection of society should be given more weight because a suspected bomber could pose an immediate threat to the community, in which case it is acceptable to temporarily suspend individual rights in order to protect the group as a whole. On the other side of the coin, one could argue that the rights of Ms. Mapp should have been given more weight. The police clearly were not that concerned that the bomber was a threat to the community as they had already staked out the house for several hours. They could have waited a little longer to get a proper search warrant. It is also clear that they would not have expected to find a bomber inside the trunk.