

EST. 2013
LOVGOV

AP GOV

CIVIL RIGHTS & *Civil Liberties*



BUILT TO ALIGN WITH EDWARDS 15TH ED

Includes unit & lesson plans, formative & summative assessments,
FRQ practice, & summary materials

Does not include access to other free web-based resources / readings from books

REWRITE FRIENDLY

PLUG & PLAY



Civil Rights & Liberties

UNIT V AP GOVERNMENT & POLITICS SYLLABUS

TEST DATE	DROP DEAD DATE – LATE TESTS ARE ALL FRQ

Changes to this unit:

This unit features a large group project and a significant portion of independent work. While you are working on this unit's project, you are still responsible for reading the content. We will be covering two chapters in six classes.

The project requires presentations in class. Therefore, class day six is our flex class where we will watch a film. If we fail to present all classes on the scheduled day, we will use the flex class to complete presentations.

Please note that there are several Supreme Court case quizzes covering material presented in the text. You are responsible for all of the court cases listed in the vocabulary section. You should be able to identify the cases by their description.

This unit highlights collaborative learning. You will be working with partners in and out of class to complete your assignment. Expectations are that you work with your partner(s) to complete work on time. You will be expected to use your schoogle accounts to complete work.

Learning Objective:

1. I can explain how provisions of the Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.
2. I can explain how the due process clause of the Fourteenth Amendment has been interpreted through judicial review to selectively protect or restrict individual liberty.
3. I can explain that how since the Fourteenth Amendments' enactment; it has often been cited to support the advancement of equality.

Student Tasks (Homework):

- Watch Adam Norris's on [Chapter 4](#) and [Chapter 5](#).
- Complete your readings of Edwards 15th Ed. Chapters 4 and 5 on the assigned days.
- Review vocab [Chapters 4 and 5](#) for vocab quiz.

CONSTITUTIONAL TERMS				
Civil liberties	Bill of Rights	First Amendment	Fourteenth Amendment	Due process clause
Privileges and Immunities clause	Equal Protection clause	Establishment clause	Free exercise clause	Freedom of expression
Fourth Amendment	Fifth Amendment	Sixth Amendment	Seventh Amendment	Eighth Amendment
Ninth Amendment	Thirteenth Amendment	Fifteenth Amendment	Nineteenth Amendment	Twenty-fourth Amendment
Double Jeopardy	Unreasonable searches and seizures	Self-incrimination		

OTHER TERMS				
Incorporation doctrine	Selective incorporation	Universal incorporation	Reverse incorporation	Probable cause
Symbolic speech	Search warrant	Exclusionary rule	Self-incrimination	Plea bargaining
Cruel and unusual punishment	Right to privacy	Civil rights	Segregation <i>de jure</i>	Segregation <i>de facto</i>
Suffrage	Poll taxes	White primary	Gerrymandering	Affirmative Action
Reverse discrimination				
POLICY				
Civil Rights Act of 1964	Title IX	Voting Rights Act of 1965	Equal Rights Amendment	Americans with Disability Act of 1990
SUPREME COURT CASES TO KNOW				
<i>Barron v Baltimore</i> (1833)	<i>Gitlow v New York</i> (1925)	<i>Lemon v Kurtzman</i> (1971)	<i>Zelman v Simmons Harris</i> (2002)	<i>Engle v Vitale</i> (1962)
<i>School District of Abington Township, Pennsylvania v Schempp</i>	<i>Schenck v United States</i> (1919)	<i>Texas v Johnson</i> (1989)	<i>Tinker v Des Moines</i> (1969)	<i>Roth v United States</i> (1957)
<i>Miller v California</i> (1973)	<i>NAACP v Alabama</i> (1958)	<i>District of Columbia v Heller</i> (2008)	<i>McDonald v Chicago</i> (2010)	<i>Mapp v Ohio</i> (1961)
<i>Miranda v Arizona</i> (1966)	<i>Gideon v Wainwright</i> (1963)	<i>Hamdan v Rumsfeld</i> (2006)	<i>Boumediene v Bush</i> (2008)	<i>Furman v Georgia</i> (1972)
<i>Gregg v Georgia</i> (1976)	<i>Woodson v North Carolina</i> (1972)	<i>McCleskey v Kemp</i> (1987)	<i>Atkins v Virginia</i> (2002)	<i>Roper v Simmons</i> (2005)
<i>Griswold v Connecticut</i> (1965)	<i>Roe v Wade</i> (1973)	<i>Planned Parenthood v Casey</i> (1992)	<i>Webster v Reproductive Health Services</i> (1989)	<i>Scott v Sanford</i> (1857)
<i>Plessy v Ferguson</i> (1896)	<i>Brown v Board of Education</i> (1954, 1955)	<i>Hernandez v Texas</i> (1954)	<i>Korematsu v United States</i> (1944)	<i>Reed v Reed</i> (1971)
<i>Craig v Boren</i> (1976)	<i>Regents of the University of California v Bakke</i> (1978)	<i>Adarand Constructors v Pena</i> (1995)	<i>Gratz v Bollinger</i> (2003)	<i>Grutter v Bollinger</i> (2003)
<i>Fischer v UT Austin</i> (2016)	<i>Loving v Virginia</i> (1967)	<i>Windsor v US</i> (2013)	<i>Obergefell v Hodges</i> (2015)	<i>Lawrence v Texas</i> (2003)

Obj.	Learning Objective (What should I be able to answer when I am done reading?)	Readings (Required; Homework)	Learning Activity (Classwork supported by the assigned homework)	Remediation (OPTIONAL to aid in retakes or studying)
After test: Begin work on Supreme Debates & Review SCOTUS Cases at a Glance.				
2	<ul style="list-style-type: none"> Assess the implications of the doctrine of selective incorporation for the balance of power in the federal system. <ul style="list-style-type: none"> The selective incorporation of rights has not always led to a 	READING 1 Read <i>Edwards</i> pgs 93-96	WARNING: This lecture is very intense. Discussion: Selective Incorporation: A History <i>Take notes as we move along!</i>	Confused? Watch these videos: Crash Course Due Process HHH Fourteenth Amendment HHH Habeas Corpus in 1 minute

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	<ul style="list-style-type: none"> limits on state power <ul style="list-style-type: none"> ▪ <i>Gitlow v New York</i> ○ The doctrine of selective incorporation imposes some limitations on state regulation of civil rights and liberties <ul style="list-style-type: none"> ▪ <i>McDonald v Chicago</i> 		<p><i>Exit Questions</i></p> <p>Resources:</p> <ul style="list-style-type: none"> • Note Sheet • Supreme Debates Worksheet • SCOTUS Case at a Glance 	
1	<ul style="list-style-type: none"> • Explain the extent to which the SCOTUS's interpretation of the First and Second Amendments reflects a commitment to individual liberty. <ul style="list-style-type: none"> ○ The interpretation and application of the First Amendment's establishment and free exercises clause reflect the tension between majoritarian religious practice and free exercise <ul style="list-style-type: none"> ▪ <i>Engle v Vitale</i> ▪ <i>Lemon v Kurtzman</i> ▪ <i>Wisconsin v Yoder</i> ○ The Supreme Court has held that symbolic speech is protected by the First Amendment. <ul style="list-style-type: none"> ▪ <i>Tinker v Des Moines</i> • Explain the tensions between social order and individual freedom are reflected in interpretations of the First Amendment that limit speech, including: <ul style="list-style-type: none"> ○ Time, place, manner regulations ○ Defamatory, offensive, and obscene statements and gestures. <ul style="list-style-type: none"> ▪ <i>Schenck v United States</i> ○ The Supreme Court's interpretation of the Second Amendment reflects a constitutional commitment to individual liberty <ul style="list-style-type: none"> ▪ <i>DC v Heller (2008)</i> 	<p>READING 2</p> <p>Read <i>Edwards</i> pgs. 96-106 (minus prior restraint); 109 (commercial speech only); 110-113</p> <p><i>Readings on free press will be covered in the media unit.</i></p>	<p>Warm up: Court Quiz on Amendment 1/2</p> <p>Activity: Work on Supreme Debates in class.</p> <ul style="list-style-type: none"> • Court Quiz 	<p>Confused? Watch these crash course videos:</p> <p>Freedom of Religion</p> <p>Freedom of Speech</p>
1	<ul style="list-style-type: none"> • Explain to what degree the Fourth, Fifth, Sixth, and Eighth Amendments provide constitutional protection of the rights of the accused. <ul style="list-style-type: none"> ○ The Miranda rule involves the interpretation and application of accused persons due process rights as protected by the Fifth and Sixth Amendments ○ Pretrial rights of defendants, particularly the right to an attorney and the prohibition of unreasonable searches and seizure, are intended to ensure that the rights of the accused are not eclipsed by the need for social order. ○ Court decisions defining cruel and unusual punishment involve interpretation of the Eighth Amendment and its application to 	<p>READING 3</p> <p>Read <i>Edwards</i> pgs 113-123</p> <p>Handout due in next class</p>	<p>Warm up: Court Quiz on Amendments 4-8</p> <p>Activity: Work on Supreme Debates in class.</p> <p>Reading Quiz</p>	<p>Confused? Watch these videos:</p> <ol style="list-style-type: none"> 1. Search and seizure 2. HHH 8th Amendment 3. HHH 9th Amendment

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	state death – penalty statutes.			
2	<ul style="list-style-type: none"> • Explain the extent to which state are limited by the due process clause from infringing upon individual rights. <ul style="list-style-type: none"> ○ The due process has been applied to guarantee the right to an attorney and protection from unreasonable search and seizures <ul style="list-style-type: none"> ▪ <i>Gideon v Wainwright</i> ▪ <i>Mapp v Ohio</i> ○ The Court has applied the due process clause to protect or restrict the right of privacy from state infringement as represented by <ul style="list-style-type: none"> ▪ <i>Griswold v Connecticut</i> ▪ <i>Roe v Wade</i> 	<p>READING 4</p> <p>Read <i>Edwards</i> pg. 123-127</p> <p>Presentations due in next class</p>	<p>Activity: Present Supreme Debates in class.</p>	
3	<ul style="list-style-type: none"> • Explain how constitutional provisions have supported and motivated social movements and policy responses. <ul style="list-style-type: none"> ○ The application and interpretation of the following Supreme Court rulings and legislative policies explain how constitutional provisions can motivate policy responses as represented by: <ul style="list-style-type: none"> ▪ The Civil Rights Act of 1964 ▪ Title IX of CRA ▪ Voting Rights Act of 1965 ▪ <i>Brown v Board I & II</i> ○ The leadership and events associated with civil, women’s and LGBT rights are evidence of how the equal protection clause can motivate social movements 	<p>READING 5</p> <p>Read <i>Edwards</i> 139-156</p> <p><i>Pages 141-143 will be reviewed again when we get to Chapter 10: Elections and Voting Behavior</i></p>	<p>Warm up: Court Quiz on Civil Rights</p> <p>Activity: Civil Rights Discussion</p> <p>Assessment:</p> <p>Resources:</p> <ul style="list-style-type: none"> • Court Quiz 	<p>Read and summarize how certain groups have advocated for civil rights of their members, considering the following tactics:</p> <ul style="list-style-type: none"> • Legislation • Litigation • Protest • Media Events • Community Solidarity in times of crisis • Constitutional Amendments <ol style="list-style-type: none"> 1. The LGBTQ movement 2. Women’s Rights movement 3. Native American Rights movement
3	<ul style="list-style-type: none"> • Compare how the Court has at times allowed the restrictions of minority groups and at other times has protected those rights <ul style="list-style-type: none"> ○ Decisions affecting the rights of minority groups demonstrates that minority rights have been restricted at times and protected at other times <ul style="list-style-type: none"> ▪ <i>Plessy v Ferguson</i> ▪ <i>Brown v Board I and II</i> • The Supreme Court has applied the interpreted decisions that protect the rights of the majority, particularly those that limit inter-district school bussing and those that prohibit majority-minority districting. • The debate on affirmative action shows how the Court has protected and limited minority rights. 	<p>READING 6</p> <p>Read <i>Edwards</i> pg. 133-139; 157-161</p> <p>Reflection Paper Due in next class</p>	<p>Warm up: Vocab Quiz</p> <p>Activity: Eyes on the Prize, Episodes 4 and 5.</p> <p>Resources:</p> <ul style="list-style-type: none"> • Vocab Quiz 	<p>Confused? Watch these videos: HHH Obergefell explained CC’s Affirmative Action CC’s Equal Protection</p>

Today's Instructional Goal:

- Assess the implications of the doctrine of selective incorporation for the balance of power in the federal system.
 - The selective incorporation of rights has not always led to a limits on state power
 - *Gitlow v New York*
 - The doctrine of selective incorporation imposes some limitations on state regulation of civil rights and liberties
 - *McDonald v Chicago*

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Key Terms from today's class (bolded terms are key terms from the unit)

- Fourteenth Amendment
- Due Process Clause
- Privileges and Immunities Clause
- Equal Protection Clause
- Fifth Amendment
- Incorporation Doctrine
- Selective Incorporation
- Universal Incorporation
- Reverse Incorporation
- *Barron v Baltimore*
- *Gitlow v New York*
- Warren Court

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Exit Questions

1. What are privileges and immunities?

Found in Article IV and Amendment 14; apply only to citizens of the United States.

Concepts contained in the U.S. Constitution that place the citizens of each state on an equal basis with citizens of other states in respect to advantages resulting from citizenship in those states and citizenship in the United States. Predominantly defined by the states' laws, but not used to resolve controversy because other clauses have been used to resolve these problems. Examples include licenses to hunt, fish, drive; in state tuition.

2. What is the significance of Barron v Baltimore?

Supreme Court decided that the Fifth Amendment protection of due process rights, specifically taking away property without just compensation, cannot be guaranteed or required of the states. The Bill of Rights only applies to the actions between the national government and the injured.

3. What is the significance of Scott v Sanford?

"First time" substantive due process is employed... used to distinguish between what kinds of acts are subject to regulation by law and what acts the courts can put beyond the reach of government interference. In this case, the courts said that the right to property was beyond the reach of government interference and therefore Sanford's due process rights were being violated. (though this case is flawed in its arguments... no one saw Justice Taney's decision before he handed it down... Justice Benjamin Curtis resigned in a matter of principle after seeing it, and it was challenged by a NY Supreme Court decision in Lemmon v People.)

4. Who and what does each clause of the Fourteenth Amendment protect?

- **Privileges and Immunities:** Citizens; a universe of benefits reserved for citizens. Sometimes those benefits can be more exclusive to citizens of a state
- **Due Process of Law:** persons; a protection from arbitrary governmental intrusion into one's right to life, liberty, and property to effect legal fairness
- **Equal Protection:** persons; The Constitutional guarantee that no person or class of persons shall be denied the same protection of the laws that is enjoyed by other persons or other classes in like circumstances in their lives, liberty, property, and pursuit of happiness.

5. What is the difference between substantive and procedural due process?

- **Substantive:** WHAT the law does to your fundamental rights, to see if the government can do anything to limit these rights.
- **Procedural:** examines HOW the law impacts your fundamental rights, assuming the law can impact at all.

6. What is selective incorporation?

A constitutional doctrine that ensures states cannot enact laws that take away the constitutional rights of American citizens that are enshrined in the Bill of Rights.

Exit Questions

1. What are privileges and immunities?
2. What is the significance of *Barron v Baltimore*?
3. What is the significance of *Scott v Sanford*?
4. Who and what does each clause of the Fourteenth Amendment protect?
5. What is the difference between substantive and procedural due process?
6. What is selective incorporation?

Exit Questions

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6. What is selective incorporation?



Throughout the lecture, you will have to answer several questions. Be sure to pay attention!

1. How are privileges and immunities different from civil liberties?
2. What is the difference between substantive and procedural due process?
3. What is selective incorporation?
4. Which court is synonymous with selective incorporation and how has that court changed the nomination process for Supreme Court vacancies?
5. What is reverse incorporation, and why is it important?

Significant Cases *summarize the significance of this case.*

<i>Barron v Baltimore</i>	
<i>Scott v Sanford</i>	
<i>Slaughterhouse Cases</i>	
<i>Lochner v New York</i>	
<i>Gitlow v New York</i>	
<i>Palko v Connecticut</i>	
<i>Gideon v Wainwright</i>	
<i>Mapp v Ohio</i>	
<i>Griswold v Connecticut</i>	
<i>Roe v Wade</i>	
<i>McDonald v Chicago</i>	
<i>Brown v Board of Education</i>	



Throughout the lecture, you will have to answer several questions. Be sure to pay attention!

1. How are privileges and immunities different from civil liberties?

Privileges and immunities are benefits of citizenship granted by states via legislation. They are protected by the Fourteenth Amendment to a limited degree. (Slaughterhouse Cases: only meant to protect citizens of other states within the state in question who are of similar conditions and circumstances. As long as 1.) the P&I does not discriminate out of state US Citizens fundamental rights (as defined in the BOR, protection by the government of the enjoyment of life, and liberty, the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety) and then 2.) the court looks to see if the state has a valid reason for the discrimination, it is all good.

Civil liberties are core rights reserved to the citizens that cannot be taken away by state or national government without due process.

2. What is the difference between substantive and procedural due process?

Substantive due process looks at what the laws is in substance to determine if it violates fundamental rights just through its existence. Has multiple tests for different scenarios.

Procedural due process looks at how the laws are executed in such a way to guarantee the individual sufficient notice, the right to being heard in court to prove damages so that they can be removed or relieved of these burdens.

3. What is selective incorporation?

It is the right by right process of holding states to federal civil liberties standards. It is done through the 5th amendment protection for federal due process and the 14th amendment protection for state due process. (Not universal incorporation) Done for the first time in *Gitlow v New York*.

4. Which court is synonymous with selective incorporation and how has that court changed the nomination process for Supreme Court vacancies?

Warren Court; has put additional pressure on both parties to appoint justices who may further or reverse the changes done by the Warren Court precedent.

5. What is reverse incorporation, and why is it important?

Using the 5th-14th Amendment bridge, case law has started to hold the federal government to equal protection standards, since there is no equal protection clause for the federal government. (*Bolling v Sharpe* is precedent). This has created case law that deals with federal equal protection of gay marriage in cases like *US v Windsor* (tests constitutionality of DOMA laws) and *Obergefell v Hodges* (right to marry is guaranteed to same-sex couples)

Name

Date

LANDMARK SCOTUS CASE IN BRIEF

Directions As you circulate around the classroom, capture and record the following information. This will be collected upon its completion and counted as a test grade.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
Judicial Review				
<i>Marbury v Madison</i>	Article 3 & 6	1803	N	Est. the implied power of judicial review on acts of Congress and the Presidency
<i>Fletcher v Peck</i>	Article 1 Section 10 & 6	1810	N	Applied judicial review to acts of states.
Federalism				
<i>McCulloch v Maryland</i>	Supremacy Cl.	1819	N	Constitution grants implied powers in order for the government to carry out the expressed powers. Furthermore, the states cannot trample the supremacy of the government in matters of expressed (and implied) issues.
<i>Gibbons v Ogden</i>	Commerce Clause	1824	N	Court says only national government has exclusive constitutional right to regulate interstate commerce. Court broadened “commerce” to include traffic and intercourse, including navigation via implied powers. Also stated that “among” means “intermingled with,” which means that commerce does not stop at the physical border of the state.
<i>Scott v Sanford</i>	Article III Amendment 5	1857	N	Court sides with slavery and declares that blacks cannot be citizens of the United States. Court declared parts of the Missouri Compromise unconstitutional, violates 5th amendment due process right to property; Scott was treated as property not a person, thus not a citizen.
<i>US v Lopez</i>	Commerce Clause	1995	N	Court found for Lopez, stating that commerce is limited to channels of commerce, instrumentalities, persons or things in commerce, and activities that substantially affect or relate to interstate commerce. Carrying a handgun does not relate to or affect commerce, the Act is unconstitutional.
<i>US v Morrison</i>	Commerce & 10 th	2000	N	Court overturned a section of the Violence Against Women Act on the grounds that it was an unwarranted extension of commerce clause and an encroachment on the 10 th amendment.
<i>Arizona v United States</i>	Article I Section 8 Article 6 Amendment X	2010	N	AZ SB 1070 into law, which made illegal immigrant status a crime in AZ if they are without necessary federal documentation. State/local police can enforce immigration laws; prosecute those sheltering, hiding, or transporting illegals. The courts struck down all but the ability to investigate an individual stopped if reasonable suspicion exists, as AZ violates the enumerated federal powers

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Williams-Yulee v Florida Bar</i>	1 st Amendment	2015	N	The Court held that rules limiting speech in charitable solicitation contexts have typically been subjected to strict First Amendment scrutiny because such speech often deals with issues of public concern in precisely the manner the First Amendment was meant to protect. Therefore, the government may only restrict the speech of a judicial candidate when the restriction is narrowly tailored to serve a compelling state interest. The Court held that the restriction in this case serves the compelling state interest of preserving public confidence in the integrity of the judiciary and is sufficiently narrowly tailored to that interest.
Checks and Balances				
<i>Reynolds v US</i>	Article 2	1953	N	the court held that cause for executive privilege must be reasonably demonstrated. As a result, the government may withhold information for reasons of national security even when that information is vital to the plaintiff's case.
<i>US v Nixon</i>	Art 2	1974	N	A break-in at the Democratic HQ @ the Watergate complex in DC was tied back to the Nixon administration, including allegations that Nixon was complicit in the break in. Special prosecutor Leon Jaworski subpoenaed Nixon's tapes and papers to be released to a grand jury. Nixon released edited transcripts, citing executive privilege on the rest of the materials. The Court disagreed that the POTUS had an absolute, unqualified executive privilege of immunity from the judicial process under all circumstances, but did recognize the informal power of exec. priv.
<i>Clinton v Jones</i>	Art 2	1997	N	a sitting President of the United States has no immunity from civil law litigation against him, for acts done before taking office and unrelated to the office.
<i>National Labor Relations Board v Canning</i>	Article 1 & 2	2014	N	Court ruled that recess appointments cannot happen during recesses in which pro forma sessions are used, as the Constitution leaves the Senate authority over determining the rules of the chamber.
<i>Clinton v New York</i>	Article 1	1998	N	Presentment Clause says legislation that passes both Houses of Congress must either be entirely approved (i.e. signed) or rejected (i.e. vetoed) by the President. Declares line-item veto unconstitutional
<i>INS v Chadha</i>	Article 1 & 2	1983	N	Legislative vetoes that act to check the president or executive actions by undoing or repealing law or money through legislative oversight or congressional votes are an unconstitutional check, and encroach on the powers found in the presentment and vestment clauses of the Constitution
Voting Rights				
<i>Baker v Carr</i>	14 th Amendment	1962	N	Six factor test created to determine if cases are political in nature, and determined that cases dealing with apportionment are justiciable. The Court also formulated the 'one person, one vote' standard for legislative redistricting.
<i>Reynolds v Sims</i>	14 th Amendment	1964	N	Using Baker as precedent, the Court expanded 14th amendment protections to include state representatives under the premise that misappropriation violated the requirement of a republican government. This helped specifically urban counties be more equitably represented. This meant in some cases that rural counties had to share representatives, as representation is for people, not arbitrary geographical boundaries.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Wesberry v Sanders</i>	14 th Amendment	1964	N	James Wesberry Jr filed a suit against Georgia Governor Carl Sanders in protest over the irregular apportionment in his home district, which had a population two to three times bigger than other districts. He argued his vote was diluted, and violated the 14th amendment. The majority decision, written by Justice Black, stated that the Constitution requires that state legislatures draw districting lines so that no one vote is more precious than another; not expanding or contracting value relatively. These decisions do not and have not prevented gerrymandering. Incorporated
<i>Shelby County v Holder</i>	10 th & 14 th Amendment	2013	N	The Court held that Section 4 of the Voting Rights Act imposes current burdens that are no longer responsive to the current conditions in the voting districts in question. Although the constraints this section places on specific states made sense in the 1960s and 1970s, they do not any longer and now represent an unconstitutional violation of the power to regulate elections that the Constitution reserves for the states.
<i>Bush v Gore</i>	14 th Amendment	2000	N	Republican nominee George Bush won the state of Florida by less than 0.5% of the vote, which triggered a statutorily mandated recount. Bush needed the results of Florida to win the election of 2000. As the results were closer after the recount, Gore requested a hand count in four counties which was running up on the required 7-day certification of election results. The state was given to Bush despite an incomplete recount. In a per curiam (no author) decision, the Court gave the decision to Bush. The precedent of count first, rule on legality afterwards was dangerous.
Campaign Finance				
<i>McConnell v FEC</i>	1 st	2003	N	Senator Mitch McConnell challenged the constitutionality of the Bipartisan Campaign Reform Act (2002) arguing that the legislation infringed political speech, specifically through the ban on soft money donations and a restriction on issue ads. The court found that since the regs dealt with monies used to register voters and increase attendance at polls, the restriction on political speech was minimal. Also, the government had a legitimate interest in preventing the appearance of corruption and actual corruption.
<i>Buckley v Valeo</i>	1 st	1976	N	First, it held that restrictions on individual contributions to political campaigns and candidates did not violate the First Amendment since the limitations of the FECA enhance the "integrity of our system of representative democracy" by guarding against unscrupulous practices. Second, the Court found that governmental restriction of independent expenditures in campaigns, the limitation on expenditures by candidates from their own personal or family resources, and the limitation on total campaign expenditures did violate the First Amendment. Since these practices do not necessarily enhance the potential for corruption that individual contributions to candidates do, the Court found that restricting them did not serve a government interest great enough to warrant a curtailment on free speech and association

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<i>Citizens United v FEC</i>	1st	2010	N	The Supreme Court overruled <i>Austin v. Michigan Chamber of Commerce</i> and portions of <i>McConnell v. FEC</i> . (In the prior cases, the Court had held that political speech may be banned based on the speaker's corporate identity.) By a 5 to 4 vote along ideological lines, the majority held that under the First Amendment corporate funding of independent political broadcasts in candidate elections cannot be limited.
<i>McCutcheon v FEC</i>	1 st	2014	N	The plurality, led by Chief Justice Roberts, invalidated aggregate contribution limits on an individual, while maintaining limits an individual can give to any single campaign in a campaign cycle. A limit on contributions violates right to participate in electing our political leaders. Congress can only guard against corruption or the appearance of corruption, here specifically quid pro quo corruption.
Civil Liberties				
<i>Lemon v Kurtzman</i>	1 st Est. Cl (14 th)	1971	Y	Est. the Lemon Test to determine whether or not a state's action in lieu of a religion or religions is an unnecessary entanglement of state and religion and therefore unconstitutional.
<i>Coates v Cincinnati</i>	1 st assembly (14 th)	1971	Y	State and local governments cannot criminalize assembly on public property when protesting. Requires a notification of time, place, manner to authorities in advance.
<i>Santa Fe Board of Education v Doe</i>	1 st (14 th)	2000	Y	School district's policy permitting student-led, student-initiated prayer at football games violates the Establishment Clause. The Court concluded that the football game prayers were public speech authorized by a government policy and taking place on government property at government-sponsored school-related events and that the District's policy involved both perceived and actual government endorsement of the delivery of prayer at important school events.
<i>Oregon v Smith</i>	1 st (14 th)	1989	Y	Native Americans are withheld unemployment benefits for using hallucinogens as a part of religious ceremonies. Court says individual's religious beliefs do not excuse him from compliance with an otherwise valid law prohibiting conduct that government is free to regulate. Allowing exceptions to every state law or regulation affecting religion "would open the prospect of constitutionally required exemptions from civic obligations of almost every conceivable kind." Scalia cited as examples compulsory military service, payment of taxes, vaccination requirements, and child-neglect laws.
<i>Gitlow v NY</i>	1 st (14 th)	1925	N	Ben Gitlow, a socialist, published the "Left Wing Manifesto" in a radical newspaper. He was charged with criminal anarchy under NY's Criminal Anarchy Law. Court found law to be unconstitutional under 14th Amendment and incorporation. His political speech was protected under 1st Amendment. Additionally, case overturned <i>Barron v Baltimore</i> (1833), which ruled BoR only applies to Fed. This is the first incorporation case that brought states to federal standards under the BoR.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Everson v Bd of Ed</i>	1 st (14 th)	1947	Y	Bussing reimbursement was separate and marked off from religious education, but the definition of establishment was clearly demarcated as a “ wall of separation between church and state ” for the first time. first selective incorporation of 1st amend
<i>Engle v Vitale</i>	1 st (14 th)	1962	Y	Government written prayers were not to be recited in public schools b/c no other purpose than religious, and the state penning a prayer violates the separation between church and state. Coercion or absence still is a promotion incorporated.
<i>Near v Minnesota</i>	1 st (14 th)	1931	N	Jay Near (a described bigot) began publishing the Saturday Press in 1927. The paper began accusing politicians of racketeering, graft, incompetency, and bias. Governor Olson filed a complaint against Near under the Public Nuisance Law (aka MN Gag Law) for publishing malicious, scandalous, and defamatory articles. SCOTUS held censorship, except in rare cases, is unconstitutional. Public Nuisance Law was unconstitutional via 14th due to the way in which it operates regardless of the truth Does leave a loophole for prior restraint, to be used in future cases. Incorporated.
<i>Cantwell v CT</i>	1 st (14 th)	1940	Y	The court found that the establishment clause and free exercise clause are to be embodied in the 14th amend Due Process Clause. legislature (state and national) is incompetent when protecting religious rights. Incorporated.
<i>Texas v Johnson</i>	1 st (14 th)	1989	N	“Joey” Johnson participated in a rally at the RNC Convention and burned a US flag, and received a year in jail for desecration of venerated objects under TX law. Justice Brennan wrote for the majority that non-speech acts have ‘long been protected, as speech does not end at the spoken word.’ As seen in Tinker. The court looks for ‘intent to convey a message, and if that message would be understood by those who viewed it.’ This is a protected right under 1st and 14th amendments, and is incorporated.
<i>City of Boerne v Flores</i>	1 st (14 th)	1997	N	Bishop Flores wanted to expand his church, but was denied because the church was in a protected historic district. He sued under the Religious Freedoms and Restoration Act, saying it put a substantial burden on his 1st amend rights; and the state lacked a compelling interest. (RFRA was passed after Employment Division to keep commonplace religious practices from being illegal). Kennedy struck RFRA down as unconstitutional. Congress cannot define your substantive rights (life, liberty, prop.) as listed in 14th. Established the ‘congruence and proportionality test,’ which said Congress can’t legislatively exceed or expand the court’s definition of religious freedoms rights.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Schenck v US</i>	1 st (14 th)	1919	N	Schenck was involved in printing & distributing flyers that called conscription a violation of involuntary servitude under 13th amend, and to not comply. Schenck was charged under Espionage Act; but felt it was at odds with 1st amend. Holmes decided against Schenck, saying war is different. "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. [...] The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent" In war times, speech is ltd.
<i>NY Times v Sullivan</i>	1 st	1964	N	The press freedoms enable media to report, even if it is factually inaccurate, unless it can be proved that the media intended 'actual malice.' If actual malice can be proven by public officials over their conduct in office, libel and defamation law suits can continue. This worked to advance civil rights reporting critical of Southern states.
<i>Tinker v Des Moines</i>	1 st (14 th)	1969	Y	The court stated that the states have to show that actions to censor speech have to be more than to avoid unpleasant situations, as well as speech that would materially interfere with the operation of school.
<i>NY Times v United States</i>	1 st	1971	N	While the US was at war in Vietnam, Defense Secretary McNamara ordered a top-secret review of actions in Indochina, aka "Pentagon Papers". The US sought a restraining order against the NYT, who had a copy and was reporting on it. This order, called prior restraint, examined national security 1st amend. Govt had to prove 'grave and irreparable' danger. While no clear verdict, justices supported superiority of 1st amend. "The press was to serve the governed, not the governors..The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government."
<i>Miller v CA</i>	1 st	1973	Y	In order to not inhibit speech, but protect the community from obscenities, Miller Test created. 1.) average person finds work as a whole lewd 2.) if the work depicts offensively sexual conduct or excretory functions and 3.) if work as a whole lacks serious literary, artistic, political, or scientific value. Is incorporated.
<i>Reno v ACLU</i>	1 st	1997	N	Congress passed the Communications Decency Act, primarily to criminalize the transmission of obscene or indecent messages to minors over the Internet. This is one of the first major cases dealing with First Amendment rights and the Internet. The court struck down the law, particularly the anti-indecency provisions, as unconstitutional forays into 1st amend. Rights. Justice Stevens wrote for the majority that the CDA is overly restrictive on communications held by and meant for adults to justify the intrusion on First Amendment rights. He felt it was unjustifiable if there are less restrictive alternatives.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Burwell v Hobby Lobby</i>	1 st	2014	N	The Court held that Congress intended for the RFRA to be read as applying to corporations since they are composed of individuals who use them to achieve desired ends. Because the contraception requirement forces religious corporations to fund what they consider abortion, which goes against their stated religious principles, or face significant fines, it creates a substantial burden that is not the least restrictive method of satisfying the government's interests. In fact, a less restrictive method exists in the form of the Department of Health and Human Services' exemption for nonprofit religious organizations, which the Court held can and should be applied to for-profit corporations such as Hobby Lobby. Additionally, the Court held that this ruling only applies to the contraceptive mandate in question rather than to all possible objections to the Affordable Care Act on religious grounds, as the principal dissent fears.
<i>DC v Heller</i>	2 nd	2008	Y	The Court held that the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self-defense within the home. The Court based its holding on the text of the Second Amendment, as well as applicable language in state constitutions adopted soon after the Second Amendment
<i>McDonald v Chicago</i>	2 nd /14 th	2010	Y	Several suits were filed against Chicago and Oak Park in Illinois challenging their gun bans after the Supreme Court issued its opinion in <i>District of Columbia v. Heller</i> . The Supreme Court reversed the Seventh Circuit, holding that the Fourteenth Amendment makes the Second Amendment right to keep and bear arms for the purpose of self-defense applicable to the states. The Court recognized in <i>Heller</i> that the right to self-defense was one such "fundamental" and "deeply rooted" right. The Court reasoned that because of its holding in <i>Heller</i> , the Second Amendment applied to the states and left it to the 7 th Circuit Court to examine just the issues of this case. Not incorporated nationwide
<i>Weeks v US</i>	1 st	1914	N	Freemont Weeks was arrested by a policy officer while other officers entered his home without a search warrant twice to obtain evidence that he was sending lottery tickets through the mail. He was incriminated, but the Supreme Court established the exclusionary rule pursuant to the Fourth Amendment, which means that evidence obtained without a valid warrant is to be excluded from evidence in trial.
<i>Wolf v CO</i>	4 th (14 th)	1946	N	A case tried before incorporation; court found that exclusionary rule did not apply to states in evidence collection. Overturned in <i>Mapp</i> .
<i>Mapp v Ohio</i>	4 th (14 th)	1961	Y	Application of exclusionary rule : Evidence obtained without a legal warrant is not to be used in state criminal prosecutions
<i>Terry v Ohio</i>	4 th	1968	Y	Court held that the search undertaken by the officer was reasonable under the Fourth Amendment and that the weapons seized could be introduced into evidence against Terry. Allows for police to stop and frisk when there is a reasonable suspicion.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Missouri v McNeely</i>	4 th	2012	Y	Court ruled that policy must generally obtain a warrant for a blood test, as it is a search. However, in 'exigent' circumstances as cited in Schmerber. These circumstances may include some drunk-driving cases, but those cases will be judged on its own facts so officers will never be able to predict of failure to obtain a warrant would lead to evidence in DUI trial being thrown out.
<i>Kelo v New London</i>	5 th /14 th	2005	Y	The Court held that the city's taking of private property to sell for private development qualified as a "public use" within the meaning of the takings clause. The city was not taking the land simply to benefit a certain group of private individuals, but was following an economic development plan.
<i>Maryland v King</i>	5 th	2013	Y	Alonzo King, Jr. was arrested for assault in MD. A DNA swab was obtained during his processing, and the results linked him to an unsolved 2003 rape. Maryland appealed the excluded evidence, and the Supreme Court found on behalf of MD stating that buccal swabs for DNA is a legitimate police booking procedure and it is reasonable search and seizure of evidence so long as probable cause existed for their detention in the first place.
<i>Riley v California</i>	5 th	2014	Y	The Court held that the warrantless search exception following an arrest exists for the purposes of protecting officer safety and preserving evidence, neither of which is at issue in the search of digital data. The digital data cannot be used as a weapon to harm an arresting officer, and police officers have the ability to preserve evidence. The Court characterized cell phones as minicomputers filled with massive amounts of private information, which distinguished them from the traditional items that can be seized from an arrestee's person, such as a wallet.
<i>Korematsu v US</i>	5 th	1944	N	Fred Korematsu refused to obey the wartime order to leave his home and report to a relocation camp for Japanese Americans. He was arrested and convicted. After losing in the Court of Appeals, he appealed to the United States Supreme Court, challenging the constitutionality of the deportation order. SCOTUS upheld the order excluding persons of Japanese ancestry from the West Coast war zone during World War II. The court said that the act was valid because it was to protect the war efforts and keep citizens safe.
<i>Malloy v Hogan</i>	5 th (14 th)	1964	Y	Incorporated the right of someone interrogated to not self-incriminate to states.
<i>Miranda v Arizona</i>	5 th /6 th (14 th)	1966	Y	Court, decided that any confession achieved without clearly informing the accused of their rights to an attorney and remain silent is admissible under 5th and 6th amend rights; even for states. This right was selectively incorporated.
<i>Escobedo v Illinois</i>	6 th (14 th)	1964	Y	Criminal suspects have the right to counsel during police interrogations during the interrogation but before arrested.
<i>Gideon v Wainwright</i>	6 th (14 th)	1963	Y	Court found that the 6th amend. Rt for assistance in counsel was a fundamental right, and is required for all cases, including states. There is no const. distinction btwn capital/non-capital cases. This selectively incorporated right, and overturned Betts v Brady.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>US v Salerno</i>	8 th	1989	N	The court found that this detention of an arrestee prior to trial was constitutional, provided the government can prove that the individual was potentially dangerous to other people and the community. Additionally, establishes test to challenge laws that are unconstitutional 'on their face.' (overbreadth doctrine).
<i>Furman v Georgia</i>	8 th (14 th)	1972	Y	Created a two-year <i>de facto</i> moratorium on capital punishment by the states due to the arbitrary and inconsistent use of thereof. States created sentencing guidelines and separate sentencing phases of trials; moratorium ended with <i>Gregg v GA</i>
<i>Roper v Simmons</i>	8 th (14 th)	2005	Y	The Court ruled that standards of decency have evolved so that executing minors is "cruel and unusual punishment" prohibited by the Eighth Amendment. The majority cited a consensus against the juvenile death penalty among state legislatures, and its own determination that the death penalty is a disproportionate punishment for minors.
<i>Gregg v Georgia</i>	8 th (14 th)	1976	Y	Court ended the de facto moratorium on DP. 35 states changed their death penalty laws after Furman (showing widespread support), and court recognized the purpose of DP as revenge and deterrence. Came up with two broad guidelines for legislatures to follow when creating a constitutional DP law: 1.) Scheme must provide objective criteria to direct and limit the death sentence discretion. Ensured by appellate review. 2.) should allow a review of the defendant's character and record.
<i>Stack v Boyle</i>	8 th /14 th	1951	Y	a 'defendant's bail cannot be set higher than an amount that is reasonably likely to ensure the defendant's presence at the trial.' Financial resources and evidence can be considered. Incorporated.
<i>Boumediene v Bush</i>	A1S9/5 th	2008	N	The Court found on his behalf, stating that the fact that Boumediene was being held in Cuba (a sovereign nation) does not complicate the application of HC protection found in A1S9, as it is entitled to citizens and aliens alike. Congress's intention to suspend this right must offer the prisoner a meaningful opportunity to demonstrate an erroneous detention, which Congress had failed to do.
Found Liberties				
<i>Griswold v CT</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	1965	Y	famous "penumbras" and "emanations" decision, stating that the right to privacy can be found in the shadows of the 1st, 3rd, 4th, 5th, and 9th amendments, thus making it a found right. Other justices also argued that it is protected by the due process clause in the 14 th amendment. Incorporated.
<i>Roe v Wade</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	1973	Y	Court issued a majority opinion on behalf of Roe, saying that abortion is a fundamental right under the right to privacy in the 14th amendment or the 9th amendment's reservation of rights. Since it is a 14th amendment case in Blackmun's view, abortion laws are subject to strict scrutiny. Once fetal viability (3rd trimester) reached, exception only for maternal health..

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Webster v RHS</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	1989	Y	The court ruled the prohibition on state funding did not violate Roe, and requiring viability tests after 20 weeks in the pregnancy was constitutional as long as it did not limit abortions in the second trimester. Rehnquist stated that the plurality decision (didn't have the majority, but had more support than other opinions.) would modify and narrow Roe and succeeding cases.
<i>Planned Parent v Casey</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	1992	Y	The court found that Congress acted within their expressed powers under the commerce clause . There was no merit to the 13 th amendment claim. The motel definitely impacted out-of state commerce as it was near two major highways and had more than 75% of its clientele from out of state.
<i>Cruzan v Dept of MO</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	1990	Y	The court found on behalf of the Missouri Dept. of Health, while upholding the legal standard that competent persons can exercise their right to refuse medical treatment under the Due Process Clause and its implied right to privacy. Spurred the creation of living will statutes in several states, which indicate end of life preferences..
<i>Clapper v Amnesty International</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	2013	N	Amnesty International filed suit against James Clapper, the Director of National Intelligence, to challenge the constitutionality of probable-causeless surveillance on suspected foreign agents. This authority comes from the Foreign Intelligence Surveillance Act of 2008, in which requests for surveillance permission without probable cause are sent to the FISA Court. This includes all people who are conducting electronic exchanges with overseas contacts. Citing a 1923 case, PA v WV, the court ruled that the challengers did not have standing under A3 to file their case in a regular court. The issue of constitutionality was not addressed. This both narrowed the ability to sue, as well as possible protecting of secretive programs.
<i>Obergefell v Hodges</i>	1 st , 3 rd , 4 th , 5 th , 9 th , 14 th	2015	Y	Any ban on same-sex marriage in any state is a violation of the 14th Amendment due process and equal protection clauses. Citing the right to liberty that is prevalent for every person, it also allows persons, within a lawful realm, to define and express their identity." Kennedy also cited the fundamental rights, as found in Griswold v. Connecticut (1965) "extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs," but the "identification and protection" of these fundamental rights "has not been reduced to any formula." According to the majority, this includes the right to marry.
Civil Rights				
<i>Plessy v Ferguson</i>	14 th	1896	Y	Equal but separate accommodations for whites and blacks imposed by the State of Louisiana do not violate the Equal Protection Clause of the Fourteenth Amendment.
<i>Brown v Board I and II</i>	14 th	1954 & 1955	Y	I: Separate but equal educational facilities for racial minorities is inherently unequal violating the Equal Protection Clause of the Fourteenth Amendment II: The Brown (1) decision shall be implemented "with all deliberate speed"

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Swann v Charlotte-Mecklenberg Board of Education</i>	14 th	1971	Y	Court held that once violations of previous mandates directed at desegregating schools had occurred, the scope of district courts' equitable powers to remedy past wrongs were broad and flexible, including the bussing of students to correct racial imbalances within the school district. Led to judicial enforcement of desegregation in Southern school districts. (enforcement).
<i>Loving v Virginia</i>	14th	1967	Y	Court wrote that anti-miscegenation laws unconstitutional. That marriage was so fundamental a freedom and necessary to existence and survival, and classifications were so subversive to the classifications of the 14th Amendment. Found the freedom to marry or not marry is left to the individual and not to be infringed by the state. Incorporated.
<i>Heart of Atlanta v US</i>	14 th	1964	Y	In a challenge to the Civil Rights Act, the owner of the HoA Motel, Mr. Rolleston, sued the government stating that portions of the act exceeded Congress's ability to regulate interstate commerce. He also violated his 5th amend due process rights to operate his business as he wished, and that he was under involuntary servitude for being forced to rent his rooms to blacks. The court found that Congress acted within their expressed powers under the commerce clause. There was no merit to the 13th amendment claim. The motel definitely impacted out-of state commerce as it was near two major highways and had more than 75% of its clientele from out of state.
<i>CA Regents v Bakke</i>	14 th	1978	Y	Justice Powell delivered the plurality opinion in this highly controversial case, the minority admissions program as written could not let in less qualified applicants solely on race (thus, quotas.) A university can adopt a program where race or ethnic background is simply one element to be weighed against other elements in a selective process.
<i>Gratz v Michigan and Grutter v Michigan (University of Michigan Cases)</i>	14 th	2003	Y	Grutter: Court held that the Equal Protection Clause does not prohibit the Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body. The Court reasoned that, because the Law School conducts highly individualized review of each applicant, no acceptance or rejection is based automatically on a variable such as race and that this process ensures that all factors that may contribute to diversity are meaningfully considered alongside race. Gratz: Court held that the University of Michigan's use of racial preferences in undergraduate admissions violates both the Equal Protection Clause and Title VI. While rejecting the argument that diversity cannot constitute a compelling state interest, the Court reasoned that the automatic distribution of 20 points, or one-fifth of the points needed to guarantee admission, to every single "underrepresented minority" applicant solely because of race was not narrowly tailored and did not provide the individualized consideration Moral: Type of admissions process and scrutiny of candidates matters when considering race of applicants.

Case name	Constitution or Amendment Modified	Year	Incorporated	Established Precedent
<i>Fisher v University of Texas Austin</i>	14 th	2012/16	Y	The court vacated and remanded the case back to the 5th circuit ct of appeals for failing to apply strict scrutiny, which is found in the case precedent, Grutter v Bollinger. The court did not directly revisit the issue of the constitutionality of using race as a factor in admissions, instead relying on Grutter and Bakke. Preserved the ability of universities to maintain race as a an appropriate yet limited factor; and consideration narrowly tailored. Incorporated.
<i>Adarand Cont. v Pena</i>	14th	1995	N	The court was to determine if this presumption of disadvantage solely on race is a discriminatory practice under the 14th amendment. The court created the most stringent level of review, called strict scrutiny, in which the racial classifications be narrowly tailored to further compelling or essential government interests only.
<i>Windsor v US</i>	5 th	2013	N	Edith Windsor, legally married to Thea Spyer in Canada, and residents of NY, was forced to pay \$363K on her wife's estate. Had her marriage been valid, she would have virtually paid no taxes on the estate. She sued that the Defense of Marriage Act is unconstitutional under the Due Process and Equal Protection clause in the 5th. The Court held because the State of NY approved of her marriage, the federal government must recognize same-sex marriages. The contested portion of DOMA was unconstitutional.

PROCESSING COURT CASES

Done on poster & turned in

1. For each case that is incorporated, color the fourth column in BLUE.
2. For each case that establishes a found right through the "silent 9th amendment," draw a green star next to the case name in the left margin.
3. Read the following definition of police powers. Explain how selective incorporation has impacted police powers and the 10th Amendment.

In United States constitutional law, police power is the capacity of the states to regulate behavior and enforce order within their territory for the betterment of the health, safety, morals, and general welfare of their inhabitants. Under the Tenth Amendment to the United States Constitution, the powers not delegated to the Federal Government are reserved to the states or to the people. This implies that the Federal Government does not possess all possible powers, because most of these are reserved to the State governments, and others are reserved to the people.

Police power is exercised by the legislative and executive branches of the various states through the enactment and enforcement of laws. States have the power to compel obedience to these laws through whatever measures they see fit, provided these measures do not infringe upon any of the rights protected by the United States Constitution or in the various state constitutions, and are not unreasonably arbitrary or oppressive. Methods of enforcement can include legal sanctions, physical means, and other forms of coercion and inducement. Controversies over the exercise of police power can arise when its exercise by the federal government conflicts with the rights of the states, or when its exercise by federal or state authorities conflicts with individual rights and freedoms.

4. Create a chart that shows 3 key cases that restrict each of the following: the Presidency, Congress, and the States. (that is 9 cases total)
5. Create a chart that shows how the courts have defined our civil rights and liberties by the following rights. You will be assigned rights to display in class. Include a brief description with any pertinent vocabulary and key cases. Highlight incorporated cases in YELLOW HIGHLIGHTER

Write all First Amendment rights in RED:

- Free Exercise Clause
- Establishment Clause
- Speech (including expression, prior restraint, obscenity, libel & slander, symbolic, and commercial speech)
- Press
- Assemble/Associate

Write all Second Amendment rights in ORANGE:

- Bear Arms

Write all Fourth Amendment rights in GREEN.

- Search and Seizure
- Probable cause

Write all Fifth Amendment rights in BLUE.

- Double Jeopardy
- Self Incrimination
- Due Process
- Grand Jury

- Eminent Domain
- Habeas Corpus (AISB)

Write all Sixth Amendment rights in PURPLE

- Speedy trial
- Public trial
- Impartial jury
- Informed of charges
- Confront & compel witnesses
- Assistance of counsel

Write all Seventh Amendment rights in PINK

- Jury in civil common law cases

Write all Eighth Amendment rights in BLACK

- Bail
- Cruel and unusual punishment

Write all FOUND RIGHTS via the 9th amendment in BROWN

6. James Madison believed that a Bill of Rights was unnecessary, eventually to have his mind changed. He felt that the states each had a Bill of Rights that resembled rights preserved in the English bill of Rights. He thought that the government would probably violate people's rights during times of crisis, and that the best way to restrain a tyrannical government is to create a structure that restricts. He recanted in order to have the Constitution ratified. Do you agree with him? Why or why not?

Vocabulary:

Policing powers, strict scrutiny, Prior restraint, libel, exclusionary rule, symbolic speech, commercial speech, due process, probable cause, plea bargaining, search warrant, unreasonable search and seizures, cruel and unusual punishment, dual federalism, cooperative federalism, judicial review, judicial activism, clear and present danger, search warrant, right to privacy, right to self-determination, right to dignity, right to reproduction, implied powers, expressed powers, double jeopardy, grand jury, eminent domain, habeas corpus

You must know the cases highlighted in BLACK for the AP Exam.



STUDY GUIDE DUE DATE
PROJECT DUE DATE
REFLECTION PAPER DUE DATE

Purpose:

4. I can explain how provisions of the Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.
 - Explain the extent to which the SCOTUS's interpretation of the First and Second Amendments reflects a commitment to individual liberty.
 - Explain the tensions between social order and individual freedom are reflected in interpretations of the First Amendment that limit speech
 - Explain to what degree the Fourth, Fifth, Sixth, and Eighth Amendments provide constitutional protection of the rights of the accused.
 - Explain the extent to which state are limited by the due process clause from infringing upon individual rights.
5. I can explain how the due process clause of the Fourteenth Amendment has been interpreted through judicial review to selectively protect or restrict individual liberty.

Concept:

In pairs, you will work to prepare a short debate covering a topic in case law. Together, you introduce a concept in case law and then take a stand on merits of staying with this precedent or if precedent should be changed. Each of these concepts has several key cases that are essential to understanding the interpretation of this amendment, and therefore should be included in your examination. Your grade will be assessed for the following:

1. A completed presentation via prezzi (11 minutes total)
 - a. Precedent; mandatory to include bolded essential cases, optional for the rest of the cases (3 minutes total presentation time divided between all team members)
 - b. Pros and cons of current interpretation (2 minutes per side to debate)
 - c. Rebutals (3 minutes per side)
 - d. Closing argument (1 minute per side)
2. A study guide (one copy due the class period preceding presentation day)
3. Discussion of accompanying Supreme Court cases as listed below
4. Equitable work effort and participation
5. Reflection paper as detailed below
6. BONUS of 5 test points to best presentation as determined by peers

Topics:

Concept 1: Explain the extent to which the SCOTUS's interpretation of the First and Second Amendments reflects a commitment to individual liberty.	
Position Statements	Cases/concepts to Cover
The Supreme Court's interpretation emphasizes majoritarian religious practices over the free exercise rights of individuals.	<ul style="list-style-type: none"> • <i>Lemon v Kurtzman</i> • <i>Zelman v Simmons-Harris</i> • <i>Engle v Vitale</i> • <i>Abington Township v Schempp</i> • <i>Employment Division v Smith</i> • <i>Hobby Lobby v Sebelius</i>

	<ul style="list-style-type: none"> • <i>Wisconsin v Yoder</i> • Lemon Test
The Supreme Court's interpretation is too lenient on what constitutes free expression, including speech, association, and assembly.	<ul style="list-style-type: none"> • <i>Schenck v United States</i> • <i>Roth v United States</i> • <i>Miller v California</i> • <i>Texas v Johnson</i> • <i>Tinker v Des Moines</i> • <i>Citizens United v Federal Election Commission</i> • <i>NAACP v Alabama</i> • Symbolic speech • Commercial speech • Obscenity • Time, Place, & Manner
The Supreme Court's interpretation of Second Amendment rights correctly reflects a constitutional commitment to personal liberty.	<ul style="list-style-type: none"> • <i>United States v Cruikshank</i> • <i>Presser v Illinois</i> • <i>United States v Miller</i> • <i>Printz v United States</i> • <i>District of Columbia v Heller</i> • <i>McDonald v Chicago</i> • <i>Caetano v Massachusetts</i> • Commerce clause • Right to bear arms • State militia
Concept 2: Explain to what degree the Fourth, Fifth, Sixth, and Eighth Amendments provide constitutional protection of the rights of the accused.	
Position Statements	Cases/concepts to Cover
The Supreme Court has appropriately balanced the need for public safety with the individual's protection against unreasonable searches and seizures before national and state law enforcement.	<ul style="list-style-type: none"> • <i>Whren v US</i> • <i>Miranda v Arizona</i> • <i>Mapp v Ohio</i> • <i>King v Maryland</i> • <i>California v Acevedo</i> • <i>Terry v Ohio</i> • <i>Florida v Bostick</i> • Probable cause • Stop and frisk • Consented search • Exclusionary rule
The Supreme Court's interpretation of the rights of the accused allows sufficient protections against arbitrary arrest and prosecution.	<ul style="list-style-type: none"> • <i>Miranda v Arizona</i> • Self-incrimination • Due process • Writ of habeas corpus • Entrapment • Plea bargaining • <i>Herring v United States</i> • <i>Gideon v Wainwright</i> • <i>Powell v Alabama</i> • <i>Jacobson v United States</i> • <i>Hamadan v Rumsfeld</i>
The Supreme Court's interpretation of those imprisoned guarantees a protection against cruel and unusual punishment.	<ul style="list-style-type: none"> • Cruel and unusual punishment • <i>Furman v Georgia</i> • <i>Gregg v Georgia</i> • <i>McClesky v Kemp</i> • <i>Wainwright v Witt</i> • <i>Ford v Wainwright</i> • <i>Atkins v Virginia</i> • <i>Roper v Simons</i>

	<ul style="list-style-type: none"> • <i>Coker v Georgia</i> • <i>Kennedy v Louisiana</i> • <i>Ring v Arizona</i> • <i>Hall v Florida</i> • <i>Graham v Florida</i> • <i>US v Salerno</i> • <i>Stack v Boyle</i> • <i>Miller v Alabama</i> • <i>Boumediene v Bush</i>
Concept 3: Explain to what degree the Court has applied the due process clause to protect or restrict the right of privacy from state infringement	
Position Statements	Cases/concepts to Cover
The Supreme Court's interpretation of the Ninth Amendment to allow "found rights" is a valid protection of the individual's natural rights.	<ul style="list-style-type: none"> • Found Right • Ninth Amendment • Right to privacy • Right to self determination • Right to reproduction • <i>Griswold v Connecticut</i> • <i>Roe v Wade</i> • <i>Webster v Reproductive Health Services</i> • <i>Planned Parenthood v Casey</i> • <i>Sternberg v Carhart</i> • <i>Gonzales v Carhart</i> • <i>Cruzan v Health Department of Montana</i> • <i>Obergefell v Hodges</i> • <i>United States v Windsor</i>

Regarding the handout

You must have ready in class the class period before the due date a single copy of your groups handout. Included in your handout should be:

- Your position statement
- The original text of the amendments you are responsible for
- Key cases as indicated in bold (clearly identified as key cases)
- Supplemental cases your team covers
- Summaries of your arguments
- The names of the presenters

Copies will be made and distributed for students to take notes during class.

Reaction Paper

You will then write a 500 word reflection on the debate you found most interesting, where you will determine which side was the most compelling or convincing. You must cite specific parts of the compelling argument, using your own notes from class as a guide. Your response should be typed in 12 pt Times New Roman with 1 inch margins and uploaded to Google Classroom. This will take the place of an FRQ for this unit.

The student that receives the most votes for most compelling will get an extra 5 points on the unit test.

Presentation

Since this is a debate, presentation matters. Remember that the more professional presentation you give, the more likely you are to sway your peers. Dress to impress. Be on time.

Teams that are well prepared for the debate will also make a more compelling case. Knowing your cases, as well as your opponent's arguments so that you can prepare rebuttal arguments are recommended to improve your presentation. Work together to craft the best arguments and counter arguments you can. This will be taken into consideration in your team work grade

Criteria	Novice 6-10 points	Proficient 8-12.5 points	Mastery 10- 15 points
Prezi 15 Points	<ul style="list-style-type: none"> You identify required precedent and explain its significance with few major errors. You briefly introduce concepts related to your position statement. 	<ul style="list-style-type: none"> You identify the required precedent and explain its significance clearly and accurately. Your position statement is clearly stated. Your presentation covers information essential to understanding your position statement. 	<ul style="list-style-type: none"> You identify the required and additional precedent and explain its significance clearly and accurately. Your position statement is clearly stated. Your presentation is visually appealing and concise. Your verbal presentation gives additional depth of information necessary to fully understand complex issues relating to your position statement.
Debate 15 Points	<ul style="list-style-type: none"> Incomplete attempts on one/both sides to identify supporting precedent, history, constitutional passages & interpretation. There is little evidence of cooperation. 	<ul style="list-style-type: none"> Each debater has identified precedent, history, constitutional passages & interpretation that justify their argument. Rebuttals are factually based and respond to criticisms. There is evidence of cooperation. 	<ul style="list-style-type: none"> Each debater has identified precedent, history, constitutional passages & interpretation that justify their argument. Evidence throughout the debate show high levels of cooperation between each position, anticipating and answering criticisms with additional supporting evidence. The debate quality centers on strength of argument and counterargument while carefully selecting supporting evidence.
Handout 10 Points	<ul style="list-style-type: none"> Your handout fails to identify team members, position statements, constitutional text, key cases, and summaries 	<ul style="list-style-type: none"> Your handout identifies team members, position statements, constitutional text, key cases in your presentation, and summaries of your presentation. 	<ul style="list-style-type: none"> Your handout identifies team members, position statements, constitutional text, key and supplemental cases in your presentation, and summaries of your presentation.
Reflection Paper 15 Points	<ul style="list-style-type: none"> Your reflection identifies the most compelling argument from the debate of your choice. 	<ul style="list-style-type: none"> Your reflection identifies the most compelling argument from the debate of your choice. Your reflection provides examples of precedent, history, constitutional passages & interpretation. 	<ul style="list-style-type: none"> Your reflection identifies the most compelling argument from the debate of your choice. Your reflection provides examples of precedent, history, constitutional passages & interpretation. Your reflection addresses weaknesses from rebuttal and explains using examples why you decided as you did.
Work Ethic (individual) 10 points	<ul style="list-style-type: none"> Your work ethic was identified as insufficient by your teammate, and attempts to work together were documented. 	<ul style="list-style-type: none"> Your work ethic was collaborative and seamless, with all teammates working together in an equitable fashion. 	<ul style="list-style-type: none"> Your work ethic was collaborative and seamless, with all teammates working together in an equitable fashion. Evidence of all members working together was demonstrated in confidence with the material, pride in presentation, and punctuality.
Mechanics and Conventions 10 Points	<ul style="list-style-type: none"> Could communicate more clearly. Errors are distracting and/or detract from understanding your written communication 	<ul style="list-style-type: none"> Communicates effectively using standard mechanics and conventions. Minor errors are not distracting. 	<ul style="list-style-type: none"> Communicates effectively using standard mechanics and conventions. Few or no errors. Strong personal voice.

Total Points: 60 points (3 project grades)

AP US Government

Chapter 4- Court case quiz

Directions: Write the correct word/phrase next to the definition.

1. _____ - holding that freedom of press and speech are protected by due process of the 14th amendment.
2. _____ - holding that favored a state program providing families with vouchers that could be used to pay tuition at religious schools.
3. _____ - holding that a prayer written by state officials and recited by school children was unconstitutional.
4. _____ - holding that groups did not have to reveal membership lists in order to protect an individual rights to associate.
5. _____ - holding that struck down a state law banning the burning of the American flag, declaring the burning of the flag as symbolic speech
6. _____ - holding that established a test for determining if state aid to church related school is constitutional.
7. _____ - holding that unconnected the individual's right to firearms from serving in the militia.
8. _____ - holding that the Bill of Rights restrained only the national government, and not the states and cities.
9. _____ - holding that the government can limit speech if it presents a "clear and present danger" of substantial evils.
10. _____ - holding that allowed the states to prosecute certain religious practices if the government has a compelling interest in doing so.
11. _____ - holding that a law requiring Bible reading in school violates the establishment clause
12. _____ - holding that obscenity is not a protected form of speech or press.
13. _____ - holding that extended the individual's rights to firearms as superior to state and local gun control laws.
14. _____ - holding that avoided defining obscenity by establishing a test that allows the community's own standards

Supreme Court cases

- *Barron v Baltimore*
- *District of Columbia v Heller*
- *Engle v Vitale*
- *Employment Division v Smith*
- *Gitlow v New York*
- *McDonald v Chicago*
- *Miller v California*
- *NAACP v Alabama*
- *Roth v United States*
- *School District of Abington Township, Pennsylvania v Schempp*
- *Texas v Johnson*
- *Zelman v Simmons-Harris*

Key

1. *Gitlow v New York*
2. *Zelman v Simmons-Harris*
3. *Engle v Vitale*
4. *NAACP v Alabama*
5. *Texas v Johnson*
6. *Lemon v Kurtzman*
7. *District of Columbia v Heller*
8. *Barron v Baltimore*
9. *Schenck v United States*
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11. *School District of Abington Township, Pennsylvania v Schempp*
12. *Roth v United States*
13. *McDonald v Chicago*
14. *Miller v California*

AP US Government

Chapter 4 Civil Liberties- Court Quiz

Directions: Write the correct word/phrase next to the description.

1. _____ - holding that upheld death penalty in face of a Fourteenth Amendment equal protection challenge because minority defendants were more likely to receive the death penalty than white defendants.
2. _____ - holding that required all persons accused of a felony crime in state courts is guaranteed representation.
3. _____ - holding that banned the use of death penalty on the intellectually disabled.
4. _____ - holding that overturned the use of death penalty due to arbitrary or "freakish" use in state courts.
5. _____ - holding that banned mandatory death penalty sentences for certain crimes.
6. _____ - holding that extended the exclusionary rule to the states, preventing the introduction of illegally obtained evidence.
7. _____ - holding that all persons, including those tried at t were guaranteed a right to challenge their detention under *habeas corpus* procedures as an enemy combatant
8. _____ - holding that bans death penalty on those who were under 18 at the time the defendant committed the crime.
9. _____ - holding that altered the states' ability to restrict abortions, allowing more regulation using an "undue burden" on an individual's right to an abortion
10. _____ - holding that reversed the ban on death penalty and upheld the use of death penalty as an expression of society's outrage
11. _____ - holding that sets guidelines for police questioning of accused persons to protect against self-incrimination and right to counsel.
12. _____ - holding that overturned state bans on abortion in the first two trimesters
13. _____ - holding that first guaranteed the right to an individual's privacy
14. _____ - holding that upheld a state ban on the use of state funds or use of state employees to perform abortions.

Supreme Court Cases

- *Atkins v Virginia*
- *Boumediene v Bush*
- *Furman v Georgia*
- *Gideon v Wainwright*
- *Gregg v Georgia*
- *Griswold v Connecticut*
- *Mapp v Ohio*
- *Miranda v Arizona*
- *McCleskey v Kemp*
- *Roe v Wade*
- *Roper v Simmons*
- *Webster v Reproductive Health Services*
- *Woodson v North Carolina*

Key

1. *McClesky v Kemp*
2. *Gideon v Wainwright*
3. *Atkins v Virginia*
4. *Furman v Georgia*
5. *Woodson v North Carolina*
6. *Mapp v Ohio*
7. *Boumediene v Bush*
8. *Roper v Simmons*
9. *Planned Parenthood v Casey*
10. *Gregg v Georgia*
11. *Miranda v Arizona*
12. *Roe v Wade*
13. *Griswold v Connecticut*
14. *Webster v Reproductive Health Services*

AP US Government

Chapter 5 Civil Rights- Court Quiz

Directions: Write the correct word/phrase next to the description.

1. _____ - holding that extended protection against discrimination to Hispanics
2. _____ - holding that a state university could weigh race or ethnic background as one element in admissions but could not set aside places for members of particular groups.
3. _____ - holding that provided constitutional justification for segregation by ruling separate but equal accommodations for black and white citizens was constitutional.
4. _____ - holding that struck down undergraduate admissions policy that created a virtual quota system to award admission to underrepresented minorities.
5. _____ - holding that struck down state laws banning same-sex marriage
6. _____ - holding that mandated lower courts to proceed with public school desegregation with all deliberate speed.
7. _____ - holding that upheld a claim of gender discrimination for the first time, stating that any "arbitrary" gender-based classification violated the equal protection clause of the Fourteenth Amendment
8. _____ - holding that established the "intermediate scrutiny" standard for determining gender discrimination.
9. _____ - holding that the Defense of Marriage Act is an unconstitutional violation of the Fifth Amendment equal protection when same sex couples are legally married under state laws.
10. _____ - holding that found school segregation inherently unconstitutional because it violated the Fourteenth Amendment's guarantee of equal protection, marking the legal end of segregation.
11. _____ - holding that upheld as constitutional the internment of more than 100,000 Japanese Americans during World War II
12. _____ - holding that federal programs that classify people by race, even for an ostensibly benign purpose such as expanding opportunities for minorities, should be presumed unconstitutional.
13. _____ - holding that found a law school's admission policy to find race as a "plus," while maintaining individualistic reviews of applicants
14. _____ - holding that voided a state anti-sodomy law as the law is an unconstitutional intrusion into the right to privacy

Court Cases

- *Adarand Constructors v Pena*
- *Brown v Board I*
- *Brown v Board II*
- *Craig v Boren*
- *Gratz v Bollinger*
- *Grutter v Bollinger*
- *Hernandez v Texas*
- *Korematsu v United States*
- *Ledbetter v Goodyear Tire*
- *Reed v Reed*
- *Plessy V Ferguson*
- *Regents of the University of California v Bakke*
- *Windsor v US*

Key

1. *Hernandez v Texas*
2. *Regents of the University of California v Bakke*
3. *Plessy v Ferguson*
4. *Gratz v Bollinger*
5. *Brown v Board II*
6. *Obergefell v Hodges*
7. *Reed v Reed*
8. *Craig v Boren*
9. *Windsor v US*
10. *Brown v Board I*
11. *Korematsu v United States*
12. *Adarand Constructors v Pena*
13. *Grutter v Bollinger*
14. *Lawrence v Texas*

Today's Instructional Goal:

- Explain how constitutional provisions have supported and motivated social movements and policy responses.
 - The application and interpretation of the following Supreme Court rulings and legislative policies explain how constitutional provisions can motivate policy responses as represented by:
 - The Civil Rights Act of 1964
 - Title IX of CRA
 - Voting Rights Act of 1965
 - *Brown v Board I & II*
- The leadership and events associated with civil , women's and LGBT rights are evidence of how the equal protection clause can motivate social movements
- Compare how the Court has at times allowed the restrictions of minority groups and at other times has protected those rights
 - Decisions affecting the rights of minority groups demonstrates that minority rights have been restricted at times and protected at other times
 - *Plessy v Ferguson*
 - *Brown v Board I and II*

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Key Terms from today's class (bolded terms are key terms from the unit)

- Civil Rights Amendments (13-15)
- Nineteenth Amendment
- Twenty-fourth Amendment
- Civil Rights
- Segregation de jure
- Segregation de facto
- Suffrage
- Poll taxes
- White primary
- Gerrymandering
- Affirmative action
- Reverse discrimination
- Civil Rights Act of 1964
- Voting Rights Act of 1965
- Title IX
- Equal Rights Amendment
- Americans With Disability Act
- *Scott v Sanford*
- *Plessy v Ferguson*
- *Brown v Board I, II*
- *Hernandez v Texas*
- *Korematsu v US*
- *Reed v Reed*
- *Craig v Boren*
- *Regents of the University of California v Bakke*
- *Adarand Contractors v Pena*
- *Gratz v Bollinger*
- *Grutter v Bollinger*
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- *Grutter v Bollinger*
- *Fisher v UT Austin*
- *Windsor v US*
- *Obergefell v Hodges*
- *Lawrence v Texas*

Exit Questions

7. What clauses are key to civil rights and civil liberties case law?
 - Civil Rights: Equal Protection Clause of the Fourteenth Amendment, Fifth Amendment Due Process Clause for Reverse Incorporation
 - Civil Liberties: Fifth and Fourteenth Amendment Due Process Clause
8. Define the following:
 - **Strict Scrutiny**: Used on cases that examine race and ethnicity. Is the classification necessary to accomplish a compelling (essential) government purpose and is this the least restrictive way to reach the goal?
 - **Intermediate Scrutiny**: Used on cases of gender and sexuality and gun ownership. Does the classification bear a substantial relationship to an important governmental goal?
 - **Rational Basis**: Used when fundamental rights or suspect classes are not being used. Does the classification have a rational relationship to a legitimate government interest?
9. How were blacks' rights violated after Reconstruction?
 - **Jim Crow**: Race targeting laws that restricted civil rights for blacks on the premise that separate but equal is constitutional and that private individuals cannot be compelled to be race neutral
 - **Race-neutral laws**; laws written in a way to target common cultural attributes for the black population to restrict access to voting

There are additional ways associated with segregation de jure and de facto not covered in the discussion, like employing of vigilante harassment and violence that was above the law, cultural practices that resulted in separation of black and white populations, community regulations used in real estate, access to public and private accommodations, etc. (libraries, schools, job opportunities, land zoning, public transportation, public accommodations, restaurants, hotels, resorts, swimming pools, etc).

10. How did civil rights groups work to dismantle segregation?
 - **Targeting Public opinion**: protests, marches, sit-ins that were media events; using crises to reach citizens via the media
 - **Legal Changes**: Civil Rights Act, Voting Rights Act, Open Housing Act, Affirmative Action
 - **Court cases**: Brown v Board I, II; Swann v Mecklenberg
 - **Constitutional Amendments**: 24th Amendment
11. What is reverse discrimination? How have the courts sought to deal with reverse discrimination?

reverse discrimination: the practice or policy of favoring individuals belonging to groups known to have been discriminated against previously over those of the majority.

Courts have maintained the need for affirmative action while stating that race cannot give a universal advantage; it must be a factor and considered in the context of the individual.

Exit Questions

1. What clauses are key to civil rights and civil liberties case law?

2. Define the following:
 - Strict scrutiny

 - Intermediate scrutiny

 - Rational basis

3. How were blacks' rights violated after Reconstruction?

4. How did civil rights groups work to dismantle segregation?

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Exit Questions

1. What clauses are key to civil rights and civil liberties case law?

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4. How did civil rights groups work to dismantle segregation?

5. What is reverse discrimination? How have the courts sought to deal with reverse discrimination?

AP US Government

Chapter 7 Media- Civil Rights and Civil Liberties Quiz

Directions: Write the correct word/phrase next to the description.

1. _____ - the situation occurring when the police have reason to believe that a person should be arrested. In making the arrest, police are legally allowed to search for and seize incriminating evidence.
2. _____ - Trial or punishment for the same crime by the same government; forbidden by the Constitution.
3. _____ - A constitutional amendment that protects the rights of people from unreasonable search and seizure.
4. _____ - Segregation by law; established by most Southern states during the Jim Crow period. Included race-neutral and race-targeting laws.
5. _____ - a policy designed to give special attention to or compensatory treatment for members of some previously disadvantaged group.
6. _____ - The case-by-case process by which liberties listed in the Bill of Rights have been applied to the states using the Due Process Clause of the Fourteenth Amendment.
7. _____ - the practice or policy of favoring individuals belonging to groups known to have been discriminated against previously over those of the majority.
8. _____ - Part of the Fourteenth Amendment guaranteeing that persons cannot be deprived of life, liberty, or property by the United States or state governments without due process
9. _____ - The legal concept under which the Supreme Court has nationalized the Bill of Rights by making most of its Provisions applicable to the states through the Fourteenth Amendment.
10. _____ - The legal constitutional protections against government. Although our civil liberties are formally set down in the Bill of Rights, the courts, police, and legislators to find their meaning.
11. _____ - the rule that evidence cannot be introduced into a trial if it was not constitutionally obtained. The rule prohibits the use of evidence obtained through unreasonable search and seizure.
12. _____ - a constitutional amendment designed to protect the rights of persons accused of crimes, including protection against Double Jeopardy, self-incrimination, and Punishment without due process of law.
13. _____ - policy designed to protect people against arbitrary or discriminatory treatment by government officials or individuals.
14. _____ - A proposed constitutional amendment stating that equality of rights under the law shall not be denied or Abridged by the United States or by any state on account of sex despite public support the amendment for sort of the three fourths of State legislation required for Passage.

Court Cases

- Affirmative action
- Civil liberties
- Civil Rights
- Double jeopardy
- Due process clause
- Equal Rights Amendment
- Exclusionary rule
- Fifth Amendment
- Fourth Amendment
- Incorporation Doctrine
- Probable cause
- Reverse discrimination
- Segregation de jure
- Selective incorporation

Key

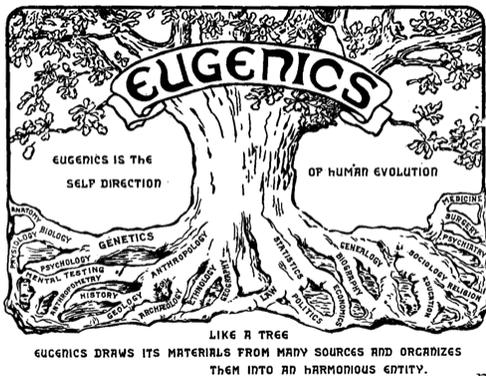
1. Probable Cause
2. Double jeopardy
3. Fourth Amendment
4. Segregation de jure
5. Affirmative action
6. Selective incorporation
7. Reverse Discrimination
8. Due process clause
9. Incorporation Doctrine
10. Civil liberties
11. Exclusionary rule
12. Fifth Amendment
13. Civil rights
14. Equal Rights Amendment

Revisionist History: Buck v Bell

Objectives:

1. I can explain how provisions of the Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.
2. I can explain how the due process clause of the Fourteenth Amendment has been interpreted through judicial review to selectively protect or restrict individual liberty.
3. I can explain that how since the Fourteenth Amendments' enactment; it has often been cited to support the advancement of equality.

Goal: At the completion of this unit's evaluation of Civil Rights and Civil Liberties, you are challenged to consider one of the most notorious cases of American Supreme Court history. We will look at this as if this case was argued today, and you will decide for the case. In this exercise, you will not be given the traditional briefing documents sent up by the petitioner and the respondent. Instead, you will get a brief summary of the times and the two parties in the case. Then you will decide the case. Afterwards, we will discuss the results of this most infamous of cases.



Historical Background

During the 1920s, Americans were caught in the latest ideological craze: eugenics. English and American academics blending Darwin, Malthus, and Spencer's scientific theories of evolution, population growth, and social Darwinism gave rise to eugenics movement. This academic movement in America was meant to preserve the 'superior Nordic race,' the English, Danish, and Germanic peoples who claimed North America for their own. Now threatened by immigration from Southern and Eastern European countries (as well as everywhere else in the world), the drive was to fight the enemy abroad through the 1924 Immigration Act that imposed restrictive and selective quotas. To fight those who sought to taint the genetic pool of the Nordics: the proposition of "cleaning" the gene pool was of increasing popularity. The desire in some circles was to prevent the bottom 10% of the country from passing on their "defective stock." This first

meant anti-miscegenation laws that allowed church and state more authority to deny marriage to undesirables. When this seemed insufficient, the idea of forced sterilization of the unfit became vogue. Using a French test better suited to measuring affluence and acculturation than intellect, those who took the Binet-Simon test were branded 'feeble-minded.' Morons had the intellect of 8-12 year olds, Imbeciles were pegged at 3-7 year olds, and idiots were less than three. These tests were delivered often to the incarcerated, but also included the institutionalized. Reasons for being sterilized included the "feeble-minded, insane, epileptic, inebriate, criminalistics, and others." Others wished to include those who were permanently ill or had birth defects. Of primary concern were the feeble-minded, who were often seen as a threat because of their virility and sexual promiscuity. These individuals, women in particular, would have 'unfit offspring' that would be a drain to society.

Particulars of the Case

Carrie Buck was born near Charlottesville, Virginia to Emma and Frank Buck. Carrie's family had fallen on hard times after the Civil War. By Carrie's birth in 1906, the family was destitute. Frank had left and was rumored to be dead; Emma was left to work in low-paying house work to support her and Carrie. Emma eventually had two more children before Carrie was removed from Emma's care after accusations of prostitution and other unsavory life habits circulated. Emma was institutionalized in 1920; Carrie continued living with the Dobbs family of Charlottesville. She went to school through 5th grade before she was removed to help Mrs. Dobbs keep house. In 1923, the Dobbs' nephew raped Carrie during summer vacation. Fearing the stigma of having an illegitimate mother in their household, they had Carrie institutionalized. They stated she was epileptic despite no record of the illness and that she was feeble-minded as evidenced by her promiscuous and sex-crazed persona. Carrie was in her last trimester of her pregnancy when she was removed to Virginia Colony for Epileptics and the Feeble-minded. The superintendent of this colony, Dr. Albert Priddy, was in the midst of a test case concocted to test the 1924 Virginia law legalizing forced sterilizations on the institutionalized. This law provided for a decision of sterilization to be handed down at a hearing by the hospital board. Only the institutionalized could be sterilized. The decision could be appealed to a court, but there were no guarantees that adequate council would be given in either case. In an attempt to test the constitutionality of the 1924 law, Carrie's council appealed the decision. Here, she was given council who was friends with Dr. Albert Priddy and lawyer who wrote and was defending the

1924 law, Aubrey Strode, and worked on the institutions' board. Her council never mounted a defense, contesting the use of the test (which was being contested by academics at the time.) Her council never protested the diagnosis of feeble-mindedness assessed on her mother and herself and her six-month old daughter, Vivian, using the Binet-Simon Test. (Cohen, 2016)

Carrie's Defense

Identify as many reasons to appeal this case using the short description above. You may assume you are arguing this case today, using our understanding of precedent.

1. Amendment 5: Due Process

Institutionalized not given adequate protection for Due Process. In State of Virginia at the time, Carrie was not told what her surgery was for. Her attorney appealed to test the 1924 law's constitutionality. (Many were not told what they were having done, were not included in the proceedings, were not given representation, or were lied to about the purpose of the proceedings.)

2. Amendment 6: Adequate defense

Carrie's defense displayed a conflict of interest in his personal ties to the Virginia Colony for Epileptics and Feeble-minded. Her council was friends with the opposing council. He never mounted a defense.

Gideon v Wainwright: State has to appoint an attorney to the accused

3. Amendment 8: Cruel and Unusual Punishment

Forced sterilization would constitute cruel and unusual punishment. The belief that sterilizing the 'defective' against their will in order to promote racial purity would not constitute a rational punishment.

(*Skinner v Oklahoma* – not discussed in class. Applied to compulsory sterilization of criminals.. Also a law that protects institutionalized persons called the Civil Rights of Institutionalized Persons of 1980.)

4. Amendment 9: Found right to privacy

Individuals are entitled to a right to privacy in procreation and other issues of sexuality.

Griswold v Connecticut, Lawrence v Texas.

5. Amendment 14: Equal Protection

Because institutions acted as a clearinghouse for those determined feeble-minded, those who were in the general population had no chance of being sterilized. Therefore, those being sterilized stood no chance of being sterilized.

1924 law, Aubrey Strode, and worked on the institutions' board. Her council never mounted a defense, contesting the use of the test (which was being contested by academics at the time.) Her council never protested the diagnosis of feeble-mindedness assessed on her mother and herself and her six-month old daughter, Vivian, using the Binet-Simon Test. (Cohen, 2016)

Carrie's Defense

Identify as many reasons to appeal this case using the short description above. You may assume you are arguing this case today, using our understanding of precedent.

Now read the decision of the court, by one of the great justices, Justice Oliver Wendell Holmes. Holmes is seen as a great civil liberties justice primarily because of his work to support freedom of speech. However, he also has a track record of deferring to the legislature to determine what is or is not legal.

Mr. JUSTICE HOLMES delivered the opinion of the Court

This is a writ of error to review a judgment of the Supreme Court of Appeals of the State of Virginia affirming a judgment of the Circuit Court of Amherst County by which the defendant in error, the superintendent of the State Colony for Epileptics and Feeble Minded, was ordered to perform the operation of salpingectomy upon Carrie Buck, the plaintiff in error, for the purpose of making her sterile. 143 Va. 310. The case comes here upon the contention that the statute authorizing the judgment is void under the Fourteenth Amendment as denying to the plaintiff in error due process of law and the equal protection of the laws.

Carrie Buck is a feeble minded white woman who was committed to the State Colony above mentioned in due form. She is the daughter of a feeble minded mother in the same institution, and the mother of an illegitimate feeble minded child. She was eighteen years old at the time of the trial of her case in the Circuit Court, in the latter part of 1924. An Act of Virginia, approved March 20, 1924, recites that the health of the patient and the welfare of society may be promoted in certain cases by the sterilization of mental defectives, under careful safeguard, &c.; that the sterilization may be effected in males by vasectomy and in females by salpingectomy, without serious pain or substantial danger to life; that the Commonwealth is supporting in various institutions many defective persons who, if now discharged, would become a menace, but, if incapable of procreating, might be discharged with safety and become self-supporting with benefit to themselves and to society, and that experience has shown that heredity plays an important part in the transmission of insanity, imbecility, &c. The statute then enacts that, whenever the superintendent of certain institutions, including the above-named State Colony, shall be of opinion that it is for the best interests of the patients and of society that an inmate under his care should be sexually sterilized, he may have the operation performed upon any patient afflicted with hereditary forms of insanity, imbecility, &c., on complying with the very careful provisions by which the act protects the patients from possible abuse.

The superintendent first presents a petition to the special board of directors of his hospital or colony, stating the facts and the grounds for his opinion, verified by affidavit. Notice of the petition and of the time and place of the hearing in the institution is to be served upon the inmate, and also upon his guardian, and if there is no guardian, the superintendent is to apply to the Circuit Court of the County to appoint one. If the inmate is a minor, notice also is to be given to his parents, if any, with a copy of the petition. The board is to see to it that the inmate may attend the hearings if desired by him or his guardian. The evidence is all to be reduced to writing, and, after the board has made its order for or against the operation, the superintendent, or the inmate, or his guardian, may appeal to the Circuit Court of the County. The Circuit Court may consider the record of the board and the evidence before it and such other admissible evidence as may be offered, and may affirm, revise, or reverse the order of the board and enter such order as it deems just. Finally any party may apply to the Supreme Court of Appeals, which, if it grants the appeal, is to hear the case upon the record of the trial in the Circuit Court, and may enter such order as it thinks the Circuit Court should have entered. There can be no doubt that, so far as procedure is concerned, the rights of the patient are most carefully considered, and, as every step in this case was taken in scrupulous compliance with the statute and after months of observation, there is no doubt that, in that respect, the plaintiff in error has had due process of law.

The attack is not upon the procedure, but upon the substantive law. It seems to be contended that in no circumstances could such an order be justified. It certainly is contended that the order cannot be justified upon the existing grounds. The judgment finds the facts that have been recited, and that Carrie Buck

is the probable potential parent of socially inadequate offspring, likewise afflicted, that she may be sexually sterilized without detriment to her general health, and that her welfare and that of society will be promoted by her sterilization,

and thereupon makes the order. In view of the general declarations of the legislature and the specific findings of the Court, obviously we cannot say as matter of law that the grounds do not exist, and, if they exist, they justify the result. We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices, often not felt to be such by those concerned, in order to prevent our being swamped with incompetence. It is better for all the world if, instead of waiting to execute degenerate offspring for crime or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. *Jacobson v. Massachusetts*, [197 U.S. 11](#). Three generations of imbeciles are enough.

But, it is said, however it might be if this reasoning were applied generally, it fails when it is confined to the small number who are in the institutions named and is not applied to the multitudes outside. It is the usual last resort of constitutional arguments to point out shortcomings of this sort. But the answer is that the law does all that is needed when it does all that it can, indicates a policy, applies it to all within the lines, and seeks to bring within the lines all similarly situated so far and so fast as its means allow. Of course, so far as the operations enable those who otherwise must be kept confined to be returned to the world, and thus open the asylum to others, the equality aimed at will be more nearly reached.

Judgment affirmed.

MR. JUSTICE BUTLER dissents.

Final Thoughts

This case has never been struck down; it is still active precedent. The last legal forced sterilization happened in 1981. In 2013, newspapers reported that nearly 150 female prisoners had been sterilized between 2006 and 2010. Consent was not always obtained.

As acting precedent, consider our discussions of how genome therapy, genetic mapping, designer babies, and cloning may utilize this decision to make the 'perfect race.'

How might this decision impact contemporary political and scientific discussions?

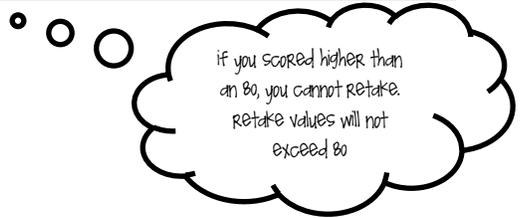


Use this worksheet to help you process the results of your test on Civil Rights and Liberties.

Learning Target	Pages	# correct	# out of
I can explain how provisions of the Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.	197-220		
I can explain how the due process clause of the Fourteenth Amendment has been interpreted through judicial review to selectively protect or restrict individual liberty.	93-96; 123-127		
I can explain that how since the Fourteenth Amendments' enactment; it has often been cited to support the advancement of equality.	133-161		

Reflection:

1. What terms did you not know on the test?
2. What concepts did you not know on the test?
3. What study skills helped you the most of the test? (Re-reading, note taking, vocab flashcards, mind mapping, studying pairs, etc.)
4. What would you change most for the next test? (Study more days in advance, more advanced studying, reading on assigned days, FRQ research, etc.)



FRQ Analysis: Record only incorrect responses to each point of the FRQ. Analyze what you did incorrectly: responding to the verb in the FRQ and/or responding with accurate content.

Point	Verb	Verb response	Content response	Reflection

5. What concepts were the most troubling for you?