

Government

December 15-19 VQ Work

Day 1

Read 13-5

Complete 13-5 Study Guide Handout

Complete 13-5 questions 1-5

Day 2

Read 14-1

Complete 14-1 Study Guide Handout

Complete 14-1, questions 1-5

Day 3

Read 14-2

Complete 14-2 Study Guide Handout

Complete 14-2, questions 1-5

Day 4

Read 14-3

Complete 14-3 Study Guide Handout

Complete 14-3, questions 1-5

Day 5

Read 14-4

Complete 14-4 Study Guide Handout

Complete 14-4, questions 1-5

STUDY GUIDE Chapter 13, Section 5

For use with textbook pages 376–382.

FREEDOM OF ASSEMBLY

KEY TERMS

- picketing** Patrolling an establishment to persuade workers and the public not to enter it (page 378)
Holocaust The mass extermination of Jews and other groups by the Nazis during World War II (page 379)
heckler's veto Public veto of free speech and assembly rights of unpopular groups by claiming demonstrations will result in violence (page 379)

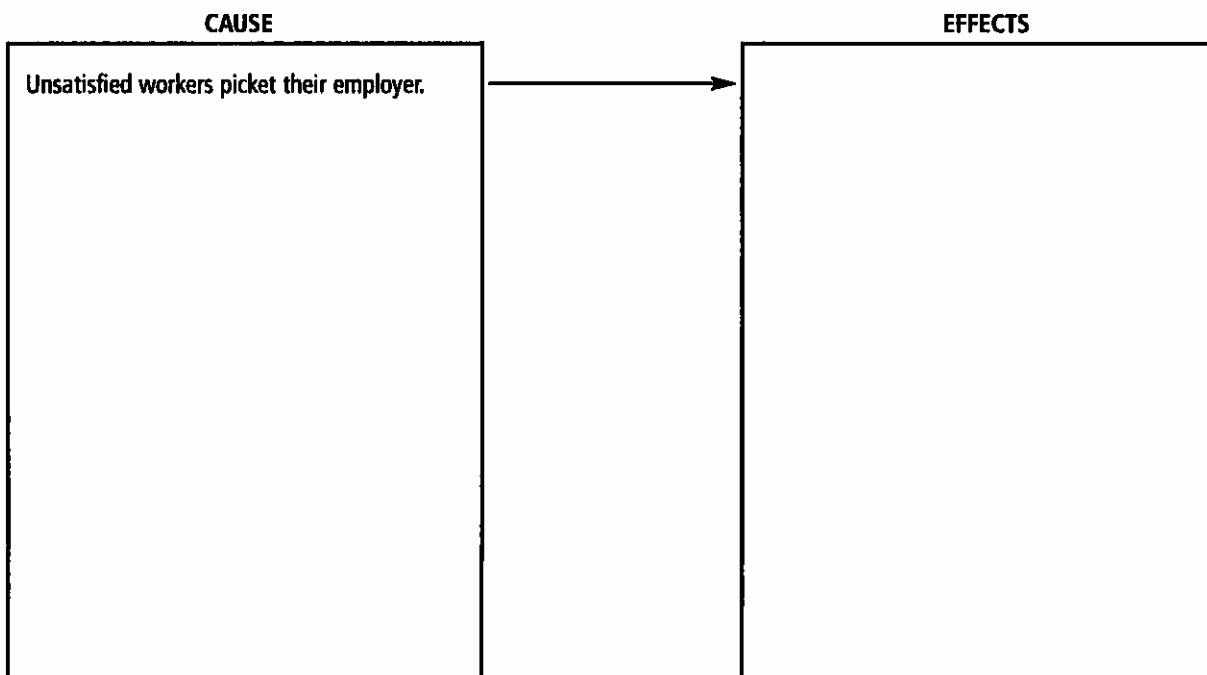
DRAWING FROM EXPERIENCE

Have you taken part in a walkathon? Or signed a petition to save a local wilderness from development? Then you have exercised the freedom of assembly.

This section focuses on the constitutional protections of and the limits on the right to assemble.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the intended effects of a picket line.



STUDY GUIDE (continued)**Chapter 13, Section 5****READ TO LEARN****Introduction** (page 376)

The First Amendment freedom of assembly applies to meetings in private homes and in public places. It also protects the right to make views known to public officials through petitions, letters, lobbying, carrying signs in parades, and marching.

Protecting Freedom of Assembly (page 376)

Freedom of assembly is closely related to freedom of speech because most gatherings involve some form of protected speech. Political parties and interest groups that influence government would be impossible without freedom of assembly.

In *DeJonge v. Oregon* (1937), the Supreme Court established the following two principles:

- A. The right of assembly was as important as the rights of free speech and free press.
- B. The due process clause of the Fourteenth Amendment protects freedom of assembly from state and local governments.

Freedom of assembly includes the right to parade and demonstrate in public. These forms of assembly may interfere with the rights of others because they usually occur in parks, streets, or on sidewalks. Verbal and physical clashes might occur when the parades and demonstrations advocate unpopular causes. As a result, parades and demonstrations are subject to greater government control than exercises of pure speech and other kinds of assembly.

In *Cox v. New Hampshire* (1941), the Supreme Court upheld a law that required a permit for a parade. The Court ruled that the law was not designed to silence unpopular ideas. Rather, it was intended to ensure that parades would not interfere with other citizens using the streets.

Demonstrations may occur in airports, libraries, courthouses, and schools. However, the Court has set limits. For example, in *Cox v. Louisiana* (1965), the Court upheld a law that banned demonstrations and parades near courthouses if they could interfere with trials. The Court also required that limits on freedom of assembly apply evenly to all groups. For instance, in *Police Department of Chicago v. Mosely* (1972), the Court voided a law that banned demonstrations around schools, except for picketing by labor unions. **Picketing** is patrolling an establishment to persuade workers and the public not to enter it.

The right to assemble does not allow a group to use private property for its own use, even if the property is open to the public. For example, in *Lloyd Corporation v. Tanner* (1972), the Court ruled that a group protesting the Vietnam War did not have the right to gather in a shopping mall. The Court has also upheld laws that create a fixed buffer zone around abortion clinics. These zones are intended to keep anti-abortion demonstrators from blocking the entrances to the clinics.

1. What was decided in *Lloyd Corporation v. Tanner*?

Public Assembly and Disorder (page 378)

People have a right to assemble regardless of the views they hold. However, police have a hard time protecting this right when assemblies threaten public safety. For example, in 1977 the American Nazi

STUDY GUIDE (continued)**Chapter 13, Section 5**

Party announced plans to hold a rally in Skokie, Illinois. The many Jewish residents of Skokie were outraged. Many were survivors of the Holocaust—the mass killing of Jews and other groups by the Nazis during World War II. The city required the Nazis to pay a \$300,000 bond to get a parade permit. The Nazis claimed the high bond interfered with free speech and assembly. A federal appeals court ruled that no community could use parade permits to interfere with free speech and assembly. The Skokie case is an example of the *heckler's veto*. The public vetoes the free speech and assembly rights of unpopular groups by claiming demonstrations will end in violence.

Amid other circumstances, the Supreme Court decides that public safety overrides the right to free speech. In *Feiner v. New York* (1951), the Court upheld the conviction of a man who refused a police order to stop speaking, even though the listeners were angry and threatening violence. The Court argued that the police had acted to keep the peace and not to stop free speech. However, in *Gregory v. City of Chicago* (1969), the Court overturned the convictions of peaceful demonstrators who had been arrested because hecklers were throwing rocks and eggs at them.

2. Why did the Supreme Court uphold the conviction of the speaker in *Feiner v. New York*?

Protection for Labor Picketing (page 380)

Picketing sends a message, so it is a form of speech and assembly. But labor picketing does more. It tries to persuade customers and workers not to deal with a business. In *Thornhill v. Alabama* (1940), the Supreme Court ruled that peaceful picketing was a form of free speech. However, in *Hughes v. Superior Court* (1950), it refused to overturn California's ban on picketing at a supermarket to force it to hire African American workers. According to Justice Felix Frankfurter, the Court ruled this way because picketing "produces consequences different from other modes of communication."

3. How is labor picketing different from other kinds of picketing?

Freedom of Association (page 382)

The right to freely assemble includes the right of individuals to freedom of association. This means the freedom to join a political party, an interest group, or any other organization. However, in 1927 the Court limited the freedom of association by its decision in *Whitney v. California*. It argued that joining the Communist party presented a clear and present danger to the nation because the party promoted the violent takeover of private property. In later cases, however, the Court ruled that only actual preparation for use of force against the government was a just reason for limiting freedom of association.

4. Explain freedom of association.

STUDY GUIDE Chapter 14, Section 1

For use with textbook pages 387–390.

A NATION OF IMMIGRANTS

KEY TERMS

alien A person who lives in a country where he or she is not a citizen (page 387)

resident alien A person from a foreign nation who has established permanent residence in the United States (page 387)

non-resident alien A person from a foreign country who expects to stay in the United States for a short, specified period of time (page 387)

enemy alien A citizen of a nation with which the United States is at war (page 387)

illegal alien A person without legal permission to be in a country (page 387)

amnesty A group pardon to individuals for an offense against the government (page 390)

private law A law that applies to a particular person (page 390)

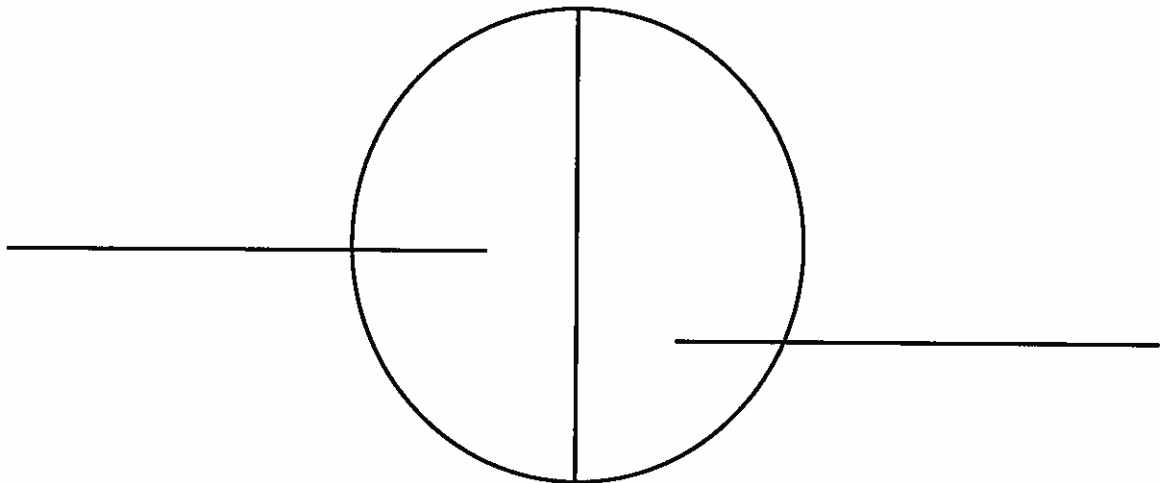
DRAWING FROM EXPERIENCE

Are you the descendant of immigrants? Most likely, you are. Most American families began as immigrants from other countries.

This section focuses on the laws that control immigration.

ORGANIZING YOUR THOUGHTS

Use the diagram below to help you take notes as you read the summaries that follow. Think about the way the Immigration Reform Act of 1965 categorized immigrants to the United States. Then label the diagram.



STUDY GUIDE (continued)**Chapter 14, Section 1****READ TO LEARN****Introduction** (page 387)

An American historian once wrote that “immigrants are American history.”

Immigrants and Aliens (page 387)

An **alien** is a person who lives in a country where he or she is not a citizen. An immigrant is a person who comes to a country intending to live there permanently.

United States law puts aliens into the following categories:

- A. A **resident alien** is a person from a foreign nation who has established permanent residence in the United States. Thus, immigrants are resident aliens until they become American citizens.
- B. A **non-resident alien** is a person from another country who expects to stay in the United States for a short, specified time. An example is a Nigerian reporter who comes to the United States to write about a presidential election.
- C. An **enemy alien** is a citizen of a nation with which the United States is at war.
- D. Refugees are people fleeing to escape persecution or danger in their own countries.
- E. An **illegal alien** is a person who comes to the United States without a legal permit, such as a passport, visa, or entry permit.

The Bill of Rights protects aliens as well as citizens. The Supreme Court has repeatedly struck down state laws that have tried to limit the rights of aliens. For example, in 1982 the Supreme Court ruled that the state of Texas could not deny free public education to the children of illegal aliens. In recent years, debate over whether such rights should be limited has increased because the number of illegal immigrants has grown significantly. Aliens are expected to pay taxes, obey the law, and be loyal to the government. They cannot vote and usually do not have to serve in the military or on juries. Unlike citizens, aliens cannot travel freely in the United States. They must notify the Immigration and Naturalization Service when they change residences.

1. What is the difference between an enemy alien and an illegal alien?

Immigration Policy (page 390)

Congress controls immigration policy, which practically did not exist until 1882. Since 1882, U.S. immigration policy has gone through the following stages:

1882–1924 In 1882 Congress barred the immigration of people such as the mentally handicapped, convicts, and penniless people. That same year Congress passed the Chinese Exclusion Act. It restricted the admission of Chinese laborers and prevented all foreign-born Chinese from becoming citizens. This law marked the first time a federal law had restricted either immigration or citizenship on the basis of nationality or ethnicity. The number of restrictions grew but so did the number of immigrants. Between 1882 and 1924, about 25 million immigrants entered the United States.

STUDY GUIDE (continued)**Chapter 14, Section 1**

1924–1965 In 1924 the Johnson Act lowered the number of immigrants allowed into the country to less than 165,000 a year. This was 80 percent less than in the years before World War I. The law started the national origins system which favored immigrants from northern and western nations, such as England and Ireland, over those from southern European nations, such as Italy and Greece.

Immigration Reform Act of 1965 This legislation got rid of the national origins system. It set up the following classes of citizens:

- A. Those who could come from Europe, Asia, and Africa
- B. Those who could come from Canada, Mexico, and the nations of Central and South America

Congress fixed the number of immigrants from Western Hemisphere countries at 120,000 per year and the number from other countries at 170,000 per year. The law also set up preference categories of immigrants, such as immigrants with skills.

Immigration Reform and Control Act of 1986 The major provisions of this law are:

- A. Illegal aliens who have resided in the United States since before 1982 can apply for amnesty. This is a general pardon offered by the government. Then they can eventually become permanent residents.
- B. Aliens may apply for United States citizenship after five years of permanent American residence.
- C. Employers are forbidden to hire illegal aliens.
- D. Employers must ask applicants for documents such as passports or birth certificates to prove they are either citizens or otherwise qualified to work in the United States.

Immigration Act of 1990 This act reintroduced the countries of origin system. Only up to 7 percent of all visas granted could go to one country. It permitted about 675,000 immigrants per year and encouraged immigration of workers with special skills. The law also established a category for special immigrants, who fall into three groups:

- A. Refugees displaced by war
- B. Close relatives of United States citizens
- C. Those admitted through private laws passed by Congress. A **private law** is one that applies to a particular person.

Immigration legislation of 1996 This legislation addressed illegal immigration by:

- A. establishing stiffer penalties for people who created false citizen papers or smuggled illegal workers into the United States;
- B. barring people without proper documentation from most public welfare programs; and,
- C. enlarging the border patrol.

2. Under which law—the Johnson Act or the Immigration Act of 1990—could more Irish, English, and French immigrants be allowed into the country per year? Explain your answer.

STUDY GUIDE Chapter 14, Section 2

For use with textbook pages 391–397.

THE BASIS OF CITIZENSHIP

KEY TERMS

naturalization The legal process by which a person is granted citizenship (page 392)

jus soli (YOOS SOH•LEE) Latin phrase meaning “law of the soil”; the principle that grants citizenship to nearly all people born in a country (page 393)

jus sanguinis (YOOS SAHN•gwuh•nuhs) Latin phrase meaning “law of blood”; the principle that grants citizenship on the basis of the citizenship of one’s parents (page 393)

collective naturalization A process by which a group of people become U.S. citizens through an act of Congress (page 394)

expatriation Giving up one’s citizenship by leaving to live in a foreign country (page 395)

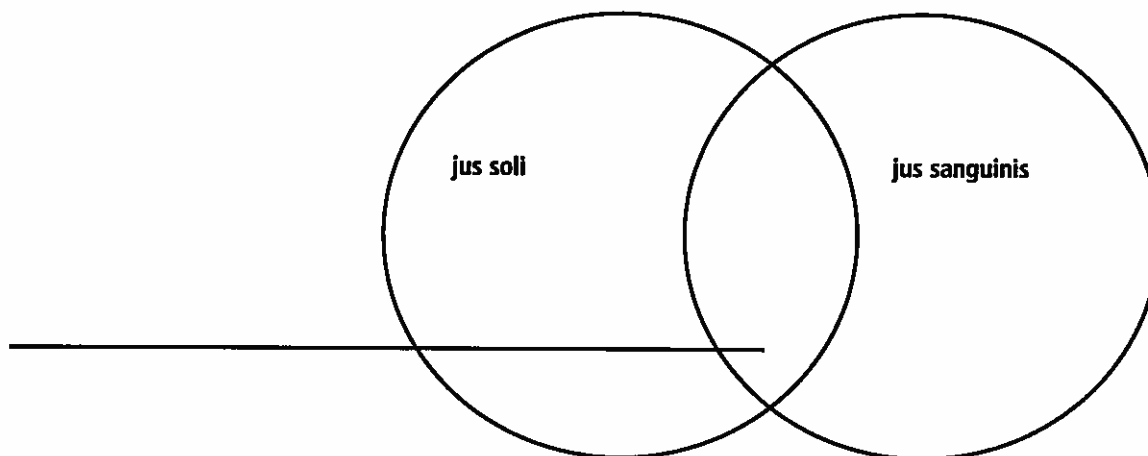
denaturalization The loss of citizenship through fraud or deception during the naturalization process (page 396)

DRAWING FROM EXPERIENCE

How did you become a citizen? Most American citizens, but not all, were born in the United States. This section focuses on the different sources of U.S. citizenship.

ORGANIZING YOUR THOUGHTS

Use the Venn diagram below to help you take notes as you read the summaries that follow. Think about the cases when jus soli and jus sanguinis overlap. Then write an explanation of the intersection in the diagram.



STUDY GUIDE (continued)**Chapter 14, Section 2****READ TO LEARN****Introduction** (page 391)

The members of a nation are called citizens. United States citizens have duties and responsibilities. Their duties include obeying the law, paying taxes, and being loyal to the American government. The responsibilities are being informed, voting, respecting the rights and property of others, and respecting different opinions and ways of life.

National Citizenship (page 391)

The nation's Founders left the job of deciding who was a citizen to the states. The exceptions were African Americans and immigrants who became citizens through **naturalization**. This is the legal process by which a person is granted the rights and privileges of a citizen.

In *Dred Scott v. Sandford* (1857), the Supreme Court decided that African Americans could not be citizens. Only descendants of people who were state citizens at the time the Constitution was written, or immigrants who became citizens through naturalization, were United States citizens.

In 1868 the Fourteenth Amendment overturned the *Dred Scott* decision. The amendment guaranteed that people of all races born in the United States and subject to its government are citizens. State citizenship became an automatic result of national citizenship.

1. What is the definition of citizenship that the Fourteenth Amendment established?

Citizenship by Birth (page 393)

The two sources of citizenship by birth are:

Jus Soli This is a Latin phrase that means "law of the soil." This principle grants citizenship to nearly all people born in the United States. However, people born in the United States who are not subject to the jurisdiction of the United States government are not granted citizenship. For example, a foreign diplomat's child who is born in the United States is not an American citizen.

Jus Sanguinis This Latin phrase means "law of blood." It grants citizenship to people born of American parents. However, the rules of jus sanguinis make these exceptions:

- A. If an individual is born in a foreign country and both parents are United States citizens, the child is a citizen provided one of the parents has been a legal resident of the United States or its possessions at some time.
- B. If only one of the parents is a U.S. citizen, that parent must have lived in the United States or one of its possessions for at least 5 years, 2 of which had to occur after age 14.

2. Explain the basic idea of jus soli.

STUDY GUIDE (continued)**Chapter 14, Section 2****■ Citizenship by Naturalization** (page 393)

All immigrants who wish to become citizens must go through naturalization. Immigrants need the following qualifications to apply:

- A. Applicants must have entered the United States legally.
 - B. They must be of good moral character.
 - C. They must declare their support of the principles of American government.
 - D. They must prove they can read, write, and speak English. However, applicants over 50 who have lived in the United States more than 20 years do not have to meet the English-language requirement.
 - E. They must show some basic knowledge of American history and government.
3. Briefly sum up the qualifications needed for naturalization.
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■ The Steps to Citizenship (page 394)

The naturalization process requires the following steps:

- A. An applicant must file a petition requesting citizenship. Anyone who is at least 18 years old and who has lived in the United States for 30 months out of the previous 5 years and in the state from which the petition is filed for at least 3 months may apply for citizenship. The wife or husband of an American citizen needs to live in the United States only 3 years before applying.
- B. The Immigration and Naturalization Service conducts an investigation and holds a preliminary hearing. The hearing is a test of the applicant's qualifications.
- C. An applicant who makes it through the first hearing must attend a final hearing. There a judge administers the United States oath of allegiance. Then the judge issues a certificate of naturalization that declares the person a citizen of the United States.

A less common process is **collective naturalization**. In this process, a group of people living in the same area become American citizens through an act of Congress. For example, Congress granted citizenship to all people living in Hawaii in 1900. In another exception to regular naturalization, Congress made all Native Americans citizens in 1924. Congress also does away with naturalization requirements in special cases, such as that of a 99-year-old Russian immigrant who wanted to die a U.S. citizen.

4. What is the third step in the naturalization process?
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STUDY GUIDE (continued) Chapter 14, Section 2

❑ Losing Citizenship (page 395)

Only the federal government can both grant citizenship and take it away. The three ways to lose citizenship are:

Expatriation The simplest way to lose citizenship is through **expatriation**. This is the voluntary or involuntary giving up of one's native country to live in a foreign one. A person who becomes a naturalized citizen of another country voluntarily gives up his or her citizenship. A child of expatriates involuntarily loses his or her citizenship.

Punishment for a Crime A person may lose citizenship when convicted of certain federal crimes, such as treason, taking part in a rebellion, or trying to overthrow the government through violence.

Denaturalization The loss of citizenship through fraud or deception during the naturalization process is called **denaturalization**. This could also occur if an individual joins a Communist or totalitarian organization less than five years after becoming a citizen.

5. Describe voluntary expatriation.

❑ The Responsibilities of Citizens (page 396)

Enjoying one's rights as a citizen depends on accepting the following responsibilities:

- A. Learning about rights and laws at school or from legal aid societies, consumer protection groups, or other organizations
- B. Participating in political life by campaigning for a candidate, distributing leaflets for a political party, or working at the polls on election day
- C. Voting helps Americans to share responsibility for how their society is governed.

6. How does a citizen help to assure his or her rights by voting?

STUDY GUIDE Chapter 14, Section 3

For use with textbook pages 398–405.

THE RIGHTS OF THE ACCUSED

KEY TERMS

exclusionary rule A law stating that any illegally obtained evidence cannot be used in a federal court (page 399)

counsel An attorney (page 401)

self-incrimination Testifying against oneself (page 402)

double jeopardy Retrial of a person who was acquitted in a previous trial for the same crime (page 404)

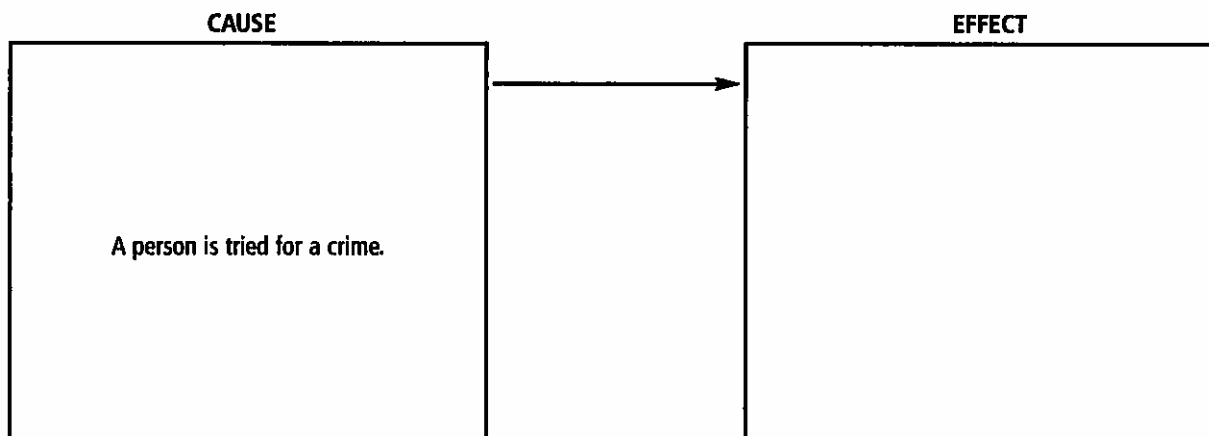
DRAWING FROM EXPERIENCE

Have you ever been accused of something you did not do? The American system of justice tries to protect people who are unjustly accused.

This section focuses on the rights of the accused.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about how a person is protected against double jeopardy.



STUDY GUIDE (continued)**Chapter 14, Section 3****READ TO LEARN**

■ **Introduction** (page 398)

Justice in a democracy means protecting the innocent as well as punishing the guilty. Thus the Constitution guards the rights of the accused as well as the rights of society.

■ **Searches and Seizures** (page 398)

Getting evidence to accuse people of crimes often requires searching people or their homes, cars, or offices. The Fourth Amendment guards against unreasonable searches and seizures. Courts decide what is unreasonable on a case-by-case basis. Today police generally need a warrant to search for evidence, but in many situations, police may conduct a search without one. For example, police may arrest and search anyone who commits a crime in their presence.

In *Weeks v. The United States* (1914), the Supreme Court established the **exclusionary rule**—that illegally obtained evidence cannot be used in a federal court. Critics ask whether criminals should go free just because police made a mistake in collecting evidence. In *United States v. Leon* (1984), the Court relaxed the exclusionary rule—as long as the police act in good faith when requesting a warrant, their evidence may be used even if the warrant proves defective. The Court also ruled in 1984 that improperly obtained evidence can be used at a trial if the evidence would have been eventually discovered anyway. Other related cases are:

California v. Acevedo (1991) The Court established the precedent that police are free to search an automobile if they have probable cause to believe unlawful substances are hidden there.

New Jersey v. T.L.O. (1985) The Supreme Court ruled that school officials do not need warrants or probable cause to search students or their property.

Katz v. United States (1967) The Court overruled an earlier decision by prohibiting wiretapping without a warrant. Since then Congress has passed two laws that practically prohibit all kinds of electronic eavesdropping without a warrant, even wiretapping and bugging for national security reasons.

Hudson v. Michigan (2006) So long as there is a valid warrant, evidence can be used even if the police entered a home without announcing their presence.

1. When may police conduct a search without a warrant?

■ **Guarantee of Counsel** (page 401)

The Sixth Amendment guarantees a defendant the right to **counsel**, or an attorney. Generally, the federal courts provided counsels. For years, people could be tried in state courts without a lawyer. In *Gideon v. Wainright* (1963), the Court ruled that every accused person had the right to an attorney. Clarence Gideon and hundreds of other Florida prisoners were retried and found innocent. The Court has since extended the *Gideon* decision. Any time a punishment of six months or more in prison is possible, the accused has a right to a lawyer at public expense from the time of arrest through the appeals process.

2. How did the *Gideon* decision extend the guarantee to counsel in the Sixth Amendment?

STUDY GUIDE (continued)**Chapter 14, Section 3****Self-incrimination** (page 402)

The Fifth Amendment says that no one can be forced to testify against himself or herself. The courts have interpreted this amendment's protection against **self-incrimination** to cover witnesses before congressional committees and grand juries as well as defendants in criminal cases. The Fifth Amendment also protects defendants against forced confessions. The Supreme Court under Chief Justice Earl Warren expanded protection against self-incrimination in the following cases:

- A. *Escobedo v. Illinois* (1964)** The Court ruled that a confession or other incriminating statement that an accused person makes without access to a lawyer may not be used in trial.
- B. *Miranda v. Arizona* (1966)** The Court decided that suspects must be clearly informed of their rights before police question them. Their statements may not be used in court if they are not so informed.

In several cases after 1966, the Court relaxed its *Miranda* and *Escobedo* rules. However, in *Dickerson v. United States* (2000), the Court strengthened *Miranda*. The justices insisted that whether or not *Miranda* warnings were given was the standard for admitting self-incriminating statements as evidence at a trial.

3. In what two cases did the Supreme Court expand the protection of the Fifth Amendment?

Double Jeopardy (page 404)

The Fifth Amendment also protects against **double jeopardy**. This means a person may not be tried twice for the same crime. In 1989 the Supreme Court ruled that a civil penalty could not be imposed after a criminal penalty for the same crime. However, in 1997 the Court also ruled that people who paid civil fines for violating regulations could also face criminal charges. Also, if a crime violates both state and federal laws, the case can be tried at both levels. When a single act involves more than one crime, a person may be tried separately for each offense.

4. For what kinds of crimes can a person be tried twice?

Cruel and Unusual Punishment (page 405)

The Eighth Amendment forbids cruel and unusual punishments. The Court rarely uses this provision. However, there is a debate over how this protection applies to the death penalty. In *Gregg v. Georgia* (1976), the Supreme Court ruled that the death penalty does not make up cruel and unusual punishment when imposed under adequate guidelines. These guidelines refer to trials and appeals that attempt to do away with arbitrary decisions and racial prejudice in imposing the death penalty.

5. When is the death penalty a cruel and unusual punishment?

STUDY GUIDE Chapter 14, Section 4

For use with textbook pages 406–410.

EQUAL PROTECTION OF THE LAW

KEY TERMS

rational basis test Used by a court to determine whether a state law is reasonably related to an acceptable goal of the government (page 406)

suspect classification A classification made on the basis of race or national origin that is subject to strict judicial scrutiny (page 407)

fundamental right A basic right of the American system or one that is indispensable in a just system (page 407)

discrimination Unfair treatment of individuals based solely on their race, gender, ethnic group, age, physical disability, or religion (page 407)

Jim Crow law Law requiring racial segregation in such places as schools, buses, and hotels (page 408)

separate but equal doctrine A policy which held that if facilities for different races were equal, they could be separate (page 409)

civil rights movement The efforts to end segregation (page 410)

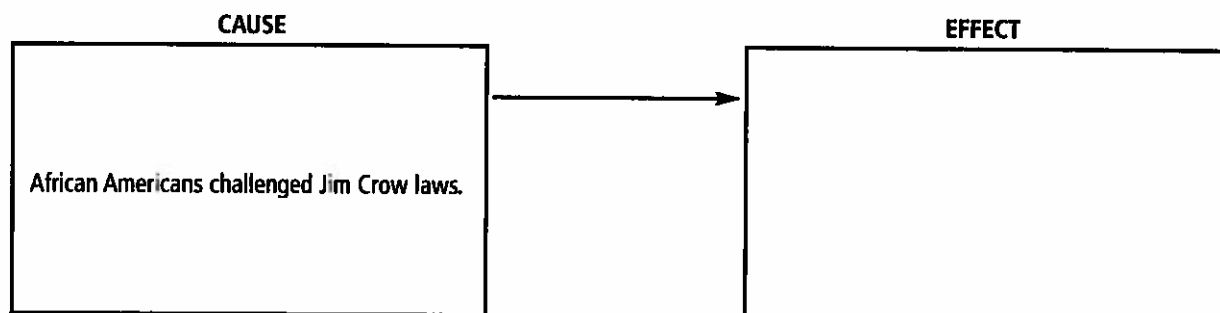
DRAWING FROM EXPERIENCE

Suppose your teacher passes only students with green eyes. Why is this unfair? Because the teacher is making an unreasonable distinction among students. Fortunately, the Constitution protects against this kind of injustice.

This section focuses on the meaning of *equal protection*.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the results of the civil rights movement.



STUDY GUIDE (continued)**Chapter 14, Section 4****READ TO LEARN****Introduction** (page 406)

The democratic ideal of equality means people are entitled to equal rights and treatment before the law.

Meaning of Equal Protection (page 406)

Both the Fifth and Fourteenth Amendments include equal protection clauses. They forbid state and local governments from drawing unreasonable distinctions among different groups of people. Many laws classify or draw distinctions among people. For example, a cigarette tax taxes smokers but not nonsmokers. When a citizen challenges a law because it violates the equal protection clause, the issue is not whether a distinction has been made. The issue is whether the distinction is reasonable.

The **rational basis test** provides that the Supreme Court will uphold a state law when the state can show a good reason for the classification applied in the law. The Court usually puts the burden of proving that a law is unreasonable on the people challenging the law. However, a special case arises when the state law involves one of the following:

- A. A **suspect classification** is made on the basis of race or national origin. For example, a law that requires African Americans but not whites to ride in the back of the bus would be a suspect classification. The state must show the Court that there is some important public interest to justify the law and its classifications.
- B. **Fundamental rights** go to the heart of the American system. The Court looks at state laws dealing with fundamental rights very closely. For example, a state law that limits the right to travel freely between states would be ruled unconstitutional because freedom to move among states is fundamental.

1. What must a state show to persuade the Supreme Court to uphold a state law of suspect classification?

Proving Intent to Discriminate (page 407)

Laws that classify people unfairly are said to “discriminate.” **Discrimination** exists when individuals are treated unfairly solely because of their race, gender, ethnic group, age, physical disability, or religion.

In *Washington v. Davis* (1976), the Supreme Court ruled that to prove a state guilty of discrimination, one must prove that the state intended to discriminate. The case arose over a District of Columbia police department examination that more African American recruits failed than white recruits.

Since the *Washington* case, the Supreme Court has applied the intent to discriminate to other areas. For example, the Court upheld an Illinois ordinance that permitted only single-family homes in an area, prohibiting housing projects. The justices believed there was no intent to discriminate.

2. List the different kinds of discrimination.

STUDY GUIDE (continued)**Chapter 14, Section 4****■ The Struggle for Equal Rights** (page 408)

For almost 100 years, the courts upheld discrimination against and segregation of African Americans. Racial discrimination is treating members of a race differently simply because of race. Segregation is separation of people from the larger social group. By the late 1800s, half the states had adopted **Jim Crow laws**. These laws required racial segregation in such places as schools, public transportation, and hotels.

The Supreme Court justified Jim Crow laws in *Plessy v. Ferguson* (1896). The Court said that the Fourteenth Amendment allowed separate facilities as long as they were equal. However, in *Brown v. Board of Education of Topeka* (1954), the Court overturned the **separate-but-equal doctrine**.

This decision marked the beginning of a long, difficult battle to desegregate the public schools. Though public schools were no longer segregated by law, housing patterns in many areas created segregated school districts that were largely either African American or white. In *Swann v. Charlotte-Mecklenburg Board of Education* (1971), the Court declared that children should be bused to schools outside their neighborhoods to ensure integrated schools.

After the *Brown* decision, many African Americans and whites worked together to end segregation through the **civil-rights movement**. African Americans deliberately broke laws supporting racial segregation. When arrested, they were almost always found guilty. They then could appeal and challenge the constitutionality of the laws. The most important leader of the civil rights movement was Dr. Martin Luther King, Jr., a Baptist minister from Georgia. Influenced by the civil rights movement, Congress passed the Civil Rights Act of 1964 and other laws to ensure voting rights and equal job opportunities for African Americans.

3. How did the *Brown* decision affect American schools?

STUDY GUIDE Chapter 14, Section 5

For use with textbook pages 412–418.

CHALLENGES FOR CIVIL LIBERTIES

KEY TERMS

affirmative action Government policies that award jobs, government contracts, promotions, admissions to schools, and other benefits to minorities and women in order to make up for past discriminations (page 412)

security classification system The provision that information on government activities related to national security and foreign policy may be kept secret (page 416)

transcript A summary record (page 417)

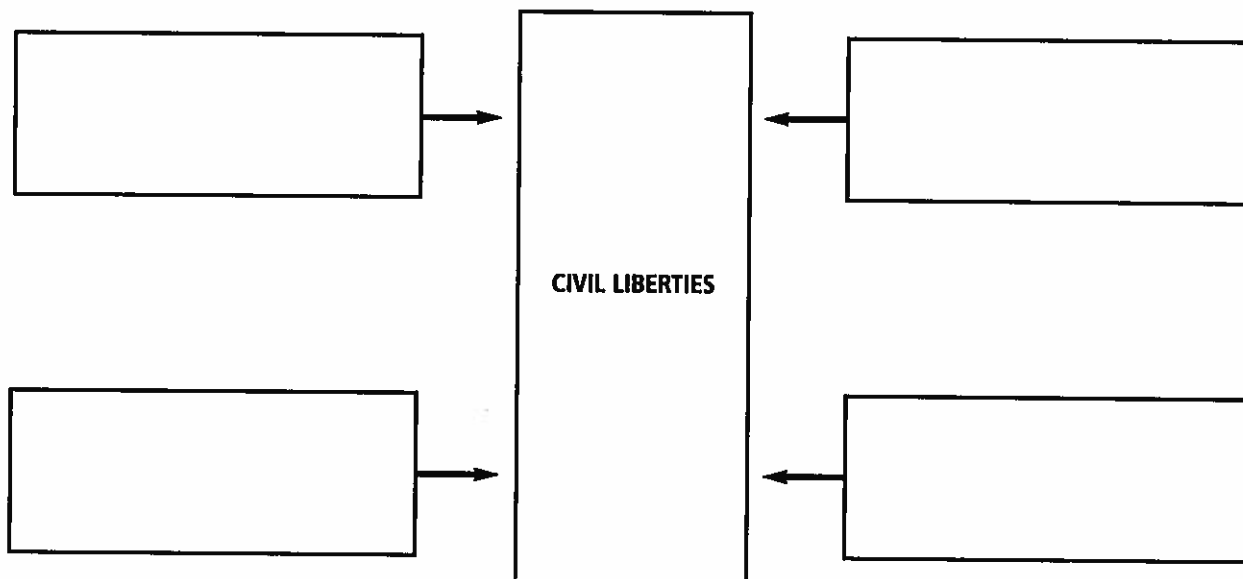
DRAWING FROM EXPERIENCE

Have you ever tried to make up for hurting another person? The government tries something similar when it uses policies like affirmative action to make up for discrimination against people.

This section focuses on government and civil liberties.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the new issues involving civil liberties.



STUDY GUIDE (continued)**Chapter 14, Section 5****READ TO LEARN****Introduction** (page 412)

Changing ideas, social conditions, and technology raise new civil liberties issues. These issues involve affirmative action, discrimination against women, the right to know about government actions, privacy, and the fight against terrorism.

Affirmative Action (page 412)

Affirmative action refers to policies that directly or indirectly award jobs, government contracts, promotions, admissions to schools and training programs, and other benefits to minorities, women, or the physically challenged in order to make up for past discrimination. Most affirmative action programs are required by federal government regulations and court decisions. Others are voluntary efforts.

One of the most important applications of affirmative action has been in the field of education. In *Regents of the University of California v. Bakke* (1978), the Supreme Court ruled that colleges and universities could take race into account when admitting students. In *Grutter v. Bollinger* (2003), the Court upheld an admissions policy at the University of Michigan that gave preference to minorities who applied to its law school by considering race as a “plus factor” along with other characteristics such as special talents. With this decision, the Court endorsed the idea that universities have a special mission to consider race in admissions in order to provide diverse, well-trained graduates. However, the Court has also made it clear that not all forms of affirmative action in college admissions are acceptable. For example, colleges cannot set aside a certain quota of slots for minority candidates (*Bakke*), or use a point system that automatically gives extra points to minority applicants (*Gratz v. Bollinger*, 2003).

The Court’s attitude towards affirmative action in other areas has been less clear. In 1987 the Court supported the use of affirmative action in promotions by upholding a plan by a California transportation department to move women into high-ranking positions. However, in 1989 the Court struck down a plan setting aside 30 percent of city contracts for minority companies. In a 1995 case, the Court overturned earlier decisions supporting affirmative action when it held that federal programs classifying people by race are unconstitutional.

Supporters of affirmative action claim that the government has a responsibility to actively promote more equality for minorities. Opponents claim that any discrimination based on race or gender is wrong even when the purpose is to correct past injustices.

1. Why do some people support affirmative action?

Discrimination Against Women (page 414)

Before 1970, many laws were designed to protect women from night work, overtime work, heavy lifting, and dangers in society. In practice, these laws discriminated against women. The Supreme Court for the first time in 1971 declared a state law unconstitutional because it discriminated against women. In *Reed v. Reed*, the Court ruled that a law that automatically preferred a father over a mother as executor of a son’s estate violated the equal protection clause of the Fourteenth Amendment.

STUDY GUIDE (continued) Chapter 14, Section 5

The *Reed* case established a new standard for judging constitutionality in sex discrimination cases. The Court said that any law that classifies people based on gender “must be reasonable . . . and must rest on some ground of difference.” The difference must serve “important governmental objectives” and be substantially related to those objectives.

All of the following standards result from Court decisions that bar distinctions based on gender:

- A. States cannot set different ages at which men and women become legal adults.
- B. States cannot set different ages at which men and women are allowed to purchase alcohol.
- C. States cannot exclude women from juries.
- D. Employers cannot require women to take a pregnancy leave from work.
- E. Girls cannot be kept off Little League baseball teams.
- F. Private clubs and community service groups cannot exclude women from membership.
- G. Employers must pay equal retirement benefits to men and women.
- H. States cannot bar women from state-supported military colleges.

The following standards are based on Court decisions that allow differences based on gender:

- A. All-boy and all-girl public schools are allowed to exist as long as the enrollment is voluntary and quality is equal.
- B. A state can give widows a property tax exemption not given to widowers.
- C. A state may prohibit women from working in all-male prisons.
- D. Hospitals may bar fathers from the delivery room.

Congress has also protected women from discrimination by passing the following laws:

- A. The Civil Rights Act of 1964 banned job discrimination on the basis of gender.
- B. The 1972 Equal Employment Opportunity Act strengthened earlier laws by banning gender discrimination in activities ranging from hiring and firing to promotion, pay, and working conditions.
- C. In 1976 Congress required all schools to give boys and girls an equal chance to take part in sports programs.
- D. In 1991 the Civil Rights and Women’s Equity in Employment Act required employers to justify any gender distinctions in hiring.

2. What are three Supreme Court decisions that barred distinctions based on gender?
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Citizens’ Right to Know (page 416)

The right of citizens and the press to know what government is doing is an essential part of democracy. However, the national government’s **security classification system** keeps secret information on government activities related to national security and foreign policy.

In 1966 Congress passed the Freedom of Information Act requiring federal agencies to show citizens public records on request. Exceptions are granted for national defense materials, confidential personnel

STUDY GUIDE (continued)**Chapter 14, Section 5**

and financial data, and law enforcement files. People can sue the government if it denies their request to see materials.

The Sunshine Act of 1976 required that government meetings and hearings be open to the public. The law applies to about 50 federal agencies, boards, and commissions. These meetings must also be announced one week in advance. Some closed meetings are allowed, but then a **transcript**, or summary record, of the meeting must be made. If necessary, people can sue to force public disclosure of the proceedings of a meeting.

3. What does the Freedom of Information Act require?

▣ Citizens' Right to Privacy (page 416)

The Constitution does not mention a specific right to privacy. However, in *Griswold v. Connecticut* (1965), the Supreme Court ruled that personal privacy is one of the rights protected by amendments to the Constitution.

In many later decisions, the Court has recognized the right to privacy in areas of personal behavior, such as child rearing and abortion. However, the Court has also held that the right to personal privacy is limited when the state has a "compelling need" to protect society.

Widespread use of the Internet is creating many new challenges to the right to privacy. One concern is online surveillance by the government. Online privacy is also being threatened by the ability of Web sites, hackers, and marketers to gather personal information about people as they "surf" the Web and store it in "data warehouses," where it becomes available to nearly anyone willing to pay for it.

War and other national emergencies create tension between the need to maintain individual rights and the need to protect the nation's security. In response to the September 11, 2001, terrorist attacks, Congress passed the USA Patriot Act, which greatly increased the federal government's power to detain, investigate, and prosecute people suspected of terrorism. For example, it allows the government to seize a person's private records without showing "probable cause." The Act also broadened the scope of who could be considered a terrorist, allowed the FBI to share evidence collected in criminal probes, and gave the attorney general sweeping new powers to detain and deport people.

Though Americans strongly supported the Patriot Act at the time of its passage, concerns later arose over whether the Act poses a threat to civil liberties. Many legal experts have noted that the law could lead to changes in basic principles of the American legal system, such as the right to a jury trial, the privacy of attorney-client communications, and protections against preventative detention. By 2004, more than 140 U.S. cities and towns had passed resolutions critical of the Patriot Act. In 2002, however, the Act survived a court challenge when a federal appeals court overturned attempts to limit new surveillance tactics. In March 2006, the Act was renewed although a few limits were placed on the government's powers.

4. What new powers did the Patriot Act give to the federal government?
