

Citizens and the Law

networks

There's More Online about citizens and the law.

CHAPTER 15

ESSENTIAL QUESTION

How do laws protect individual rights?

Lesson 1

Sources and Types of Law

Lesson 2

The American Legal System

The Story Matters...

A car moves swiftly down the highway. Is it going faster than the posted speed limit? Suddenly, blue lights flash and a siren wails. From out of nowhere, a police cruiser appears. It catches up to the speeding car. The officer waves the car over to the side of the road.

If you have witnessed a police officer ticketing a driver, then you have seen law enforcement in action. Such encounters are among the most obvious ways that citizens see public laws and regulations at work. Drivers need to understand and obey the laws regarding speed limits and roadway safety. Laws made by the government require drivers to pass tests to get their licenses. The government also regulates the placement of traffic signs along the roadside. Driving laws, along with the other types of laws that citizens follow every day, are necessary. They allow people to live together in a peaceful, orderly society.

◀ *If a driver gets a ticket for violating a traffic law, he or she may face a fine, traffic school, higher insurance payments, or even a suspended driver's license.*

PHOTO: Blend Images/SuperStock





Students will understand the following benchmarks from the Next Generation Sunshine State Standards.

SS.7.C.2.2 Evaluate the obligations citizens have to obey laws, pay taxes, defend the nation, and serve on juries.

SS.7.C.3.9 Illustrate the law making process at the local, state, and federal levels.

Real-Life Civics

► PURPOSE OF LAWS

Laws are created to keep citizens safe and to maintain order in society. This sign reminds beachgoers that certain activities are against the law on this stretch of sand. It also tells the public that these rules will be strictly enforced. Most of the restrictions are related to safety. Glass containers may easily break, exposing bare feet to sharp shards of glass. Tether lines on surfboards help to protect surfers and nearby swimmers from injury. Drinking alcohol and then swimming is also dangerous behavior. While this list may seem long, each rule has a purpose. The same is true of all our laws. However, laws can sometimes become outdated. Then they may lose the support of the citizens they affect. When that happens, laws can be changed.

This sign alerts the public to the activities that are not allowed on a particular beach in Florida.





▲ Citizens against gun violence gather for the Million Mom March held on the National Mall in Washington, D.C.

▶ CHANGING LAWS

On Mother's Day, May 14, 2000, many thousands of people gathered on the National Mall in Washington, D.C. They carried signs, posters, and banners protesting what they believed was a lack of meaningful U.S. gun control laws. Called the Million Mom March, the demonstration actually included women and men from around the country. Their goal was to prevent gun violence by changing current laws or making new laws. Supporters of causes like this one march in the hope that Congress will take action. Rallies are not the only way to change our laws. In fact, it takes great commitment and support from both citizens and lawmakers to alter or create a law. It can happen—but it does take time.

CIVIC LITERACY



Analyzing In what ways are the beach regulations and the laws being addressed in the gun control rally related? What does this tell you about the general purpose of our laws?

Your Opinion Describe two laws that affect your life. Would you like to change these laws? Why or why not?

There's More Online!

- ✓ **GRAPHIC ORGANIZER**
Characteristics of a Good Law
- ✓ **CHART**
Comparing Felonies and Misdemeanors



Lesson 1

Sources and Types of Law

ESSENTIAL QUESTION *How do laws protect individual rights?*

IT MATTERS BECAUSE

Laws protect public safety and keep order in society.

Why We Have Laws

GUIDING QUESTION *What is the purpose of laws?*

Have you ever wondered why certain laws exist? Why, for example, do many states require children to wear bicycle helmets? More injuries from bicycling than any other sport send children aged 5 to 14 to hospital emergency rooms. Using a bicycle helmet greatly reduces the risk of head injury. As you can see, helmet laws are meant to protect you from getting hurt. Laws affect nearly everything we do—the food we eat, how we drive our cars, how we buy and sell things, and so much more.

Keeping the Peace

Laws are sets of rules that help people get along. People, organizations, and governments deal better with one another when they follow the same rules. Laws establish which actions a society permits and which it does not. They set the rules for working out civil disagreements over money, property, and contracts.

Laws also help keep the peace and prevent criminal acts. The police and the courts enforce the law. If you break the law, you can expect to be punished. Laws set punishments to discourage **potential** criminals.

NGSSS covered in
"Why We Have Laws"



SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

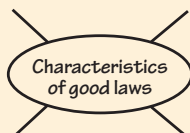
LA.7.1.6.1 The student will use new vocabulary that is introduced and taught directly.

LA.7.1.7.3 The student will determine the main idea or essential message in grade-level or higher texts through inferring, paraphrasing, summarizing, and identifying relevant details.

Reading HELPDESK

Taking Notes: Identifying

As you read, complete a graphic organizer identifying characteristics of a good law. **LA.7.1.7.3**



Content Vocabulary

- **common law**
- **lawsuit**
- **case law**
- **precedent**
- **constitutional law**
- **administrative law**
- **statute**

PHOTOS: (tl) Cohen/Ostrow/Getty Images; (tr) Richard T. Nowitzki/Corbis; (tl) Richard T. Nowitzki/Corbis; (tr) Chung Sung-Jun/Getty Images

What Makes a Law a Good Law?

Some laws are better than others. Good laws share certain characteristics. Such laws are

- fair
- reasonable
- understandable
- enforceable

A fair law gives equal treatment to all people who are in similar situations. Thus, a rule that says only tall people are allowed to ride on a public bus and short people must walk would not be fair.

Good laws are not only fair, but also reasonable. In England in the 1700s, if you stole a loaf of bread you might have had your hand cut off. In some ancient cultures, crimes such as stealing or causing a public disturbance were punishable by death. Today we view such harsh punishments as unreasonable because the punishment does not seem appropriate. That is, it does not fit the crime.

Moreover, good laws are understandable. If a law is not easy to understand, people might disobey it without realizing they are doing so. Of course, ignorance of a law is no excuse for breaking that law. Still, if laws are too complicated, people might break them unintentionally.

Finally, good laws are enforceable by local communities, state authorities, or federal authorities. People tend to obey laws they understand and believe to be reasonable and fair. The government's ability to enforce a law often depends on the people's willingness to obey it.

PROGRESS CHECK

Making Connections How do laws help people live together peacefully?



The Laws of Florida

In 2010, the Florida state legislature passed nearly 300 laws. They covered topics as diverse as hurricane relief, elevator safety, and state parks. Go to the Florida Department of State archives Web site to learn how many laws the Florida legislature passed this year. Under Quick Links, go to General Laws. Make a list of five laws that interest you.

Some states have laws that require young bicyclists to wear helmets, but others do not.

CRITICAL THINKING

Speculating Why do you think this is so?

Academic Vocabulary

potential capable of being or becoming



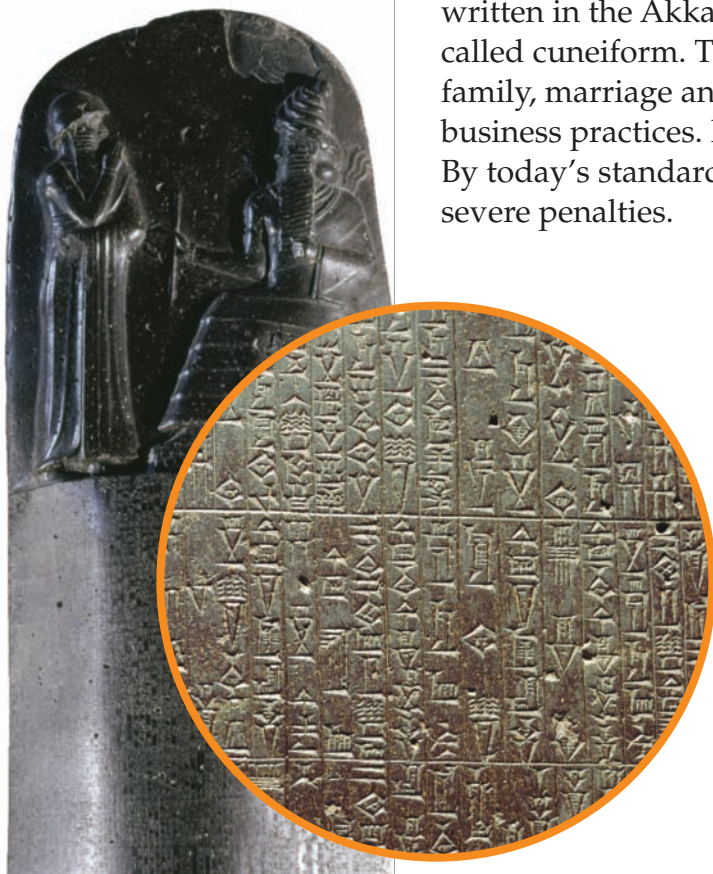
SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

LA.7.1.6.2 The student will listen to, read, and discuss familiar and conceptually challenging text.

Hammurabi (standing) receives the blessing of Shamash, the god of justice. The Code of Hammurabi was carved into the stone pillar in cuneiform (inset).

▶ CRITICAL THINKING

Analyzing Visuals Why do you think this scene is at the top of the monument? Why is it significant? **LA.7.1.7.3**



Development of the Legal System

GUIDING QUESTION What early legal systems influenced the laws we live by today?

The writers of the U.S. Constitution based the nation's system of laws on ideas, traditions, and laws passed down from generation to generation. Some of these ideas date back thousands of years.

Scholars believe that some kind of law existed in even the earliest human societies. It is thought that prehistoric people used unwritten rules of behavior. These rules helped them avoid or cope with social conflict. The earliest laws were probably passed orally from one generation to the next. Over time, people began to write down their laws.

Code of Hammurabi

The earliest example of a written **code** of law was developed in Babylonia, an ancient Middle Eastern empire. In about 1760 B.C., the legal decisions of King Hammurabi (HA • muh • RAH • bee) were collected and carved into a large stone pillar. They were written in the Akkadian language in wedge-shaped script called cuneiform. The code included laws related to the family, marriage and adoption, slavery, and agricultural and business practices. It also set prices for goods and services. By today's standards, the Code of Hammurabi laid down very severe penalties.

PRIMARY SOURCE

“If fire break[s] out in a house, and some one . . . take[s] the property of the master of the house, he shall be thrown into that self-same fire.”

—Code of Hammurabi, c. 1760 B.C.

Israelite Law

The Israelites were another ancient people who lived near the eastern Mediterranean coast. They followed a different set of written laws. These laws forbade acts such as murder and theft. Under our modern laws, these acts are also crimes.

Reading HELPDESK

Reading Strategy: Paraphrasing

When you paraphrase, you restate a particular sentence or sentences in your own words. Paraphrase the quote from the Code of Hammurabi. **LA.7.1.7.3**

Academic Vocabulary

code an organized statement of a body of law



Roman Law

The most important laws that developed in the Western world came from ancient Rome. The first code of Roman law was published in 450 B.C. Over centuries, the Roman senate adopted a great many laws. Roman judges wrote commentaries on them, which often became part of the law. As the Roman Empire grew, its laws spread to parts of Europe, Africa, and Asia.

In A.D. 527, Justinian I became ruler of the Eastern Roman Empire, also known as the Byzantine (BIH•zahn•TEEN) Empire. By that time, law in the empire was in a state of confusion. In A.D. 533, Justinian simplified Roman law into an orderly body of rules. This set of laws, called the Justinian Code, became the basis of law for the Byzantine Empire. It also became part of the laws of the Roman Catholic Church, known as canon law. Although canon law dealt with church rules and regulations, it influenced legal procedures outside the church.

Napoleonic Code

The Justinian Code eventually shaped the laws of many European countries, such as France. In 1804 the French emperor Napoleon Bonaparte carried out a major reform of France's laws. As the ancient Romans had done, Napoleon brought his unified law code, or Napoleonic Code, to the lands he controlled. In addition, many other places in Europe and South America based their laws on the Napoleonic Code.

In 1825 the state of Louisiana wrote a set of laws based on the Napoleonic Code. The Louisiana Territory had been under French rule before the United States bought it in 1803. Although they have been revised over the years, the laws of Louisiana still bear their Napoleonic origins.

Justinian I (center) helped organize the laws of the vast Byzantine Empire over which he ruled.

► CRITICAL THINKING

Making Connections Why is it important for the United States to have a unified code of laws? **LA.7.1.6.2**

21st Century SKILLS

Interpret Points of View

Although Justinian I and Napoleon Bonaparte lived more than 1,200 years apart, each is known for creating a law code. Write a dialogue between Justinian I and Napoleon in which they discuss the reasons they created their respective codes. **LA.7.1.6.2**



English Common Law

The most important influence on the American legal system is English law. The English system of **common law** is based on court decisions rather than on a legal code. The system involves analyzing how a previous judge applied a law and then applying it in the same manner.

Common law developed after 1066. At that time, conquerors from northern France, the Normans, took control of England. They set up a new royal family. The English kings began to send judges into the countryside. The judges held trials to carry out the law. Judges decided a new case by following **precedent**, or the rulings set forth earlier in similar cases. Precedents are legal opinions that become part of the common law. In this way, laws became unified, or common to all regions.

The English blended Roman law and canon law into the body of common law. The law came to incorporate basic principles of individual rights. These principles include the idea that a person should be considered innocent until proven guilty.

Because it is based on the decisions of judges, common law is considered judge-made law. It was the main source of laws in England for hundreds of years. Over time, the English Parliament gained the power to create laws as well. Laws created by legislative bodies such as Parliament are known as **statutes**. Although statutes passed by Parliament came to play an increasing role in the legal system, common law remained the foundation of English law.

When English settlers came to North America in the 1600s and 1700s, they brought with them their traditions of common law and individual rights. Both became key parts of the basic laws of the new nation, the United States. They continue to play a key role in the U.S. judicial system today.

PROGRESS CHECK

Making Connections How are Roman law, the Justinian Code, and the Napoleonic Code related?

Even today, English barristers, or lawyers, and judges wear robes and wigs during criminal cases, a tradition that dates back hundreds of years.

CRITICAL THINKING

Identifying Central Issues How did the tradition of common law come about in England? [SS.7.C.3.10](#)

Reading **HELP**DESK

common law a system of law based on precedent and customs

precedent a ruling that is used as the basis for a judicial decision in a later, similar case

statute a law written by a legislative branch of government

Types of Laws

NGSSS covered in
"Types of Laws"



GUIDING QUESTION *What types of laws exist in the American legal system?*

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

If you watch the local television news or read the newspaper, you have probably seen stories about crimes. Criminal laws prohibit, or ban, such acts as theft or drunk driving. Other kinds of laws deal with disputes between people (or groups of people) or between the government and its citizens. These are known as civil laws. Another branch of laws is called public laws. These regulate how individuals deal with the government. They also regulate the organization and conduct of the government. You learned about public laws earlier.

Criminal and civil laws directly affect all Americans. These laws help maintain a peaceful and orderly society. People who break these laws are likely to find themselves in a courtroom.

Criminal Law

Criminal laws seek to protect public safety. Crimes are graded as either felonies or misdemeanors. Murder, robbery, and other serious crimes are felonies. Felonies have serious consequences for the victim and the criminal. Misdemeanors are lesser offenses, such as vandalism or stealing low-cost items. Typically, misdemeanors carry a fine or a jail sentence of less than one year.

Crimes against property are the most common type of crime. They do not involve force or the threat of force against the victim. These include crimes in which property is destroyed, damaged, or stolen. Stealing a bike, shoplifting, identity theft, and setting fires are examples of crimes against property.

Graffiti is a violation of criminal law. It is a form of property crime. Here a map at Coney Island in New York has been vandalized.

► CRITICAL THINKING

Analyzing Why do you think it is a crime to write graffiti?

PHOTO: Afon Almaraz/Getty Images



Why It MATTERS

Student Government

Laws in our country are in place to maintain a peaceful and orderly society. Just like these laws, school rules ensure the safety and security of students. Make a list of some of the rules in your school. Add a few rules that you think should also be on the list and explain why.

In addition to following the laws of the United States, those in the military must conform to another set of laws.

► CRITICAL THINKING

Assessing Why do you think it is important that the armed forces have their own set of laws? **SS.7.C.3.10**

Civil Law

Civil laws do not concern society at large or criminal offenses. Rather, they are about disputes between people or groups. A civil case may be a disagreement over a broken contract. For example, suppose you order something from a mail-order catalog and charge it to your credit card. The mail-order company has, in effect, made a contract with you. If you do not receive the item, the company has broken the contract. You can then take the company to court to get your money back.

A civil case brought before a court is called a **lawsuit**. This is a legal action to seek a remedy for harm that has been done. People who think they have been wronged take action by filing a lawsuit. The government cannot bring such a case.

Military Law

Military law is a set of statutes that apply to those serving in the armed forces of the United States. These laws also apply to civilians who work for the military. People subject to these statutes also have to follow the civil laws. Military laws concern such acts as disobeying or showing disrespect to

superior officers, physically striking superior officers, desertion, and mutiny. People accused of serious offenses may end up at a court-martial. This is a court, made up of officers, that tries those accused of breaking military laws.

Sources of Law

Laws that govern our lives and protect our rights come from many sources. These include

- the U.S. Constitution
- state constitutions
- statutes
- case law
- administrative agencies



PHOTO: Chung Sung/Jun/Getty Images

Reading HELPDESK

lawsuit a legal action in which a person or group sues to collect damages for some harm that is done

constitutional law branch of law dealing with the formation, construction, and interpretation of constitutions

case law a law established by judicial decisions instead of by legislative action

administrative law rules and regulations set by government agencies

The U.S. Constitution is the most important source of law in the United States. It is the supreme, or highest, law of the nation. Although each state has its own state constitution, no state or local law may conflict with the U.S. Constitution.

Constitutional law deals with the structure and meaning of constitutions. Constitutional cases decide the limits of the government's power and the rights of the individual.

A statute is a law written by a legislative branch of government. The U.S. Congress, state legislatures, and local legislatures write thousands of statutes. Statutes regulate our behavior in many ways. They set speed limits, minimum wages, and rules for food inspection, to name a few. Statutes are also the source of many of the rights and privileges we take for granted, such as the right to a free public education.

Case Law

As you have read, judicial precedent plays an important role in our justice system. Often, especially in civil cases, a judge decides the outcome of a case. Judicial decisions carry the weight of law. Sometimes a case cannot be decided by existing statutes. In such situations, judges look to precedent to make a decision. Law established by judicial decision is called **case law**.

Administrative Law

Administrative law refers to the rules and regulations that the executive branch makes to carry out its job. The federal and state constitutions give legislatures the power to create administrative agencies. Many agency rules and regulations carry the weight of law. For example, the Federal Aviation Administration might issue an order requiring airlines to install a new type of safety device. Such a regulation would be an administrative law.

PROGRESS CHECK

Identifying What is the most important source of law in the United States?

LESSON 1 REVIEW

Review Vocabulary

1. How are *common law* and *precedent* related?
[LA.7.1.6.1](#)
2. What is a *statute*? [LA.7.1.6.1](#)
3. What is the difference between *case law* and *administrative law*? [LA.7.1.6.1](#)

Answer the Guiding Questions

4. **Explaining** What are some reasons that society needs laws? [SS.7.C.3.10](#)

5. **Making Connections** What role did English common law have in the United States? [SS.7.C.3.10](#)

6. **Identifying** What is the difference between civil and criminal laws? [SS.7.C.3.10](#)

7. **EXPOSITORY WRITING** How have the systems of law dating from ancient Rome influenced the U.S. legal system? [SS.7.C.3.10](#)



Miranda v. Arizona

The *Miranda* decision strengthened the rights of people accused of crimes and dramatically impacted police procedure for dealing with those in their custody.

Background of the Case

Starting at a young age, Ernesto Miranda made a career out of car theft, armed robbery, assault, and other serious offenses. In 1963 he was arrested in Arizona on suspicion of armed robbery. While in police custody, he confessed to the robbery, as well as to kidnapping and rape. His written confession included a preprinted statement. The statement indicated that he knew of his right to remain silent. At trial, Miranda's signed confession convinced the jury that he was guilty.

Miranda appealed the decision. His lawyer argued that Miranda was unaware of his right against self-incrimination and his right to have a lawyer present during interrogation. The lawyer also claimed that Miranda was tricked into confession. He asked that the confession obtained while in police custody be inadmissible, or not used as evidence in court.

The Decision

The Supreme Court ruled in Miranda's favor. The Court based its decision on several factors. It noted that police interrogations by their very nature put severe emotional pressure on a suspect. Without support of counsel and a full understanding of their rights, suspects can be pressured and tricked into making incriminating statements. The Court also held that individuals cannot fully practice their Fifth Amendment rights if they do not understand the consequences of waiving those rights.

The Court outlined a set of procedures police must follow in order to ensure that individuals can exercise their Fifth

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.



Ernesto Miranda (right) speaks with his attorney.

Amendment rights. It held that unless these procedures are followed, the state cannot prove that a suspect was aware of his or her rights.

Why It Matters

The *Miranda* decision caused a major change in police procedure. When police question individuals in their custody, they must first fully inform them of their Fifth Amendment rights. This procedure is known as the Miranda Warnings. The Court instructed the police to inform individuals in their custody that

1. they have the right to remain silent.
2. anything they say can be used against them in court.
3. they have the right to consult with a lawyer and to have the lawyer present during interrogation.
4. if they cannot afford a lawyer, one will be appointed to represent them.

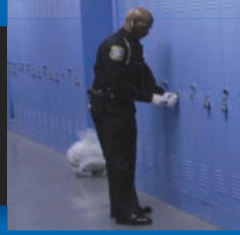
Analyzing the Case

1. **Identifying the Main Idea** On what basis did Miranda appeal his conviction?
2. **Inferring** Why do you think it is important for individuals in police custody to have a lawyer present during questioning?

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There's More Online!

- ✓ **GRAPHIC ORGANIZER**
Protecting Rights of the Accused
- ✓ **CHART**
Constitutional Rights of the Accused
- ✓ **GAME**
- ✓ **TIME LINE**
Equal Protection



Lesson 2

The American Legal System

ESSENTIAL QUESTION *How do laws protect individual rights?*

IT MATTERS BECAUSE

Under the American system of justice, the U.S. Constitution protects the rights of individuals.

Basic Legal Rights

GUIDING QUESTION *What basic legal rights are provided to all Americans?*

In many American schools, school officials or police officers sometimes search students' lockers, book bags, and other belongings. They cannot, however, look through students' things whenever they wish. This is because you are protected from such unreasonable searches by the U.S. Constitution. The Constitution establishes this and many other important rights concerning individuals and the law.

Protections Against Unlawful Imprisonment

One of the most important protections, found in Article I, is the **writ of habeas corpus**. *Habeas corpus* (HAY•bee•uhs KAWR•puhs) is a Latin phrase that roughly means "you should have the body." This odd phrase refers to the practice of bringing a prisoner ("the body") before a judge to justify his or her imprisonment. In the United States, a prisoner has the right to ask for a writ of habeas corpus. The writ is a court order. It requires a prison official to bring the prisoner before a judge. The judge will then decide whether the accused was lawfully imprisoned. Habeas corpus safeguards individuals against being kept in jail unlawfully.

NGSSS covered in
"Basic Legal Rights"



SS.7.C.2.4 Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

SS.7.C.2.5 Distinguish how the Constitution safeguards and limits individual rights.

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

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PHOTO: (tl) Getty Images; (tc) Scott Lindey/Star Ledger/Corbis; (tr) Blend Images/Getty Images

Reading HELPDESK

Taking Notes: Identifying SS.7.C.2.4

As you read, complete a graphic organizer to show what the government *cannot* do and *must* do to protect the rights of the accused.

Protecting Rights of the Accused	
Cannot	Must

Content Vocabulary

- **writ of habeas corpus**
- **bill of attainder**
- **ex post facto law**
- **due process**
- **search warrant**
- **exclusionary rule**



Lady Justice symbolizes impartiality and equal protection under the law. Blindfolded, she judges guilt or innocence with the scales in her left hand and fights evil with the sword in her right hand.

► CRITICAL THINKING

Explaining What does Lady Justice's blindfold symbolize?

NGSSS covered in "The Rights of the Accused"



SS.7.C.2.4 Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

SS.7.C.2.5 Distinguish how the Constitution safeguards and limits individual rights.

SS.7.C.2.11 Analyze media and political communications (bias, symbolism, propaganda)

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

Reading HELPDESK

Content Vocabulary (cont.)

- **Miranda Warning**
- **double jeopardy**
- **bail**

writ of habeas corpus

a court order that requires police to bring a prisoner to court to explain why the person is being held

bill of attainder

a law that punishes a person accused of a crime without a trial or a fair hearing in court

ex post facto law

a law that would allow a person to be punished for an action that was not against the law when it was committed

Article I also forbids the government from issuing bills of attainder and ex post facto laws. A **bill of attainder** is a law that punishes a person accused of a crime without a trial or a fair hearing in court. An **ex post facto law** is a law that would allow a person to be punished for an action that was not against the law when it was committed. *Ex post facto* means "after the fact."

Administration of Justice

The Constitution also makes sure that the government respects our individual rights as it carries out the law. After the Civil War, the Fourteenth Amendment granted civil rights to formerly enslaved people. This amendment requires the states to treat all people equally under the law. It bans unequal treatment based on factors such as gender, race, and religion. Since the 1950s, the amendment has been used to challenge policies that discriminate against minorities and women.

The Fourteenth Amendment also strengthens the Fifth Amendment right of due process. **Due process** means that the government may not take our lives, liberty, or property without following legal procedure. For example, a person accused of a crime must have the opportunity for a trial by jury.

✓ PROGRESS CHECK

Explaining How does the Constitution protect you from unlawful imprisonment?

The Rights of the Accused

GUIDING QUESTION What legal protections does the U.S. Constitution offer a citizen who is accused of a crime?

Have you ever seen a movie in which police officers read suspects their rights? This reading gives suspects the protection of the U.S. Constitution.

The Constitution makes sure that people accused of crimes receive fair treatment. They must also have every chance to defend themselves. The rights it grants are based upon the **presumption** of innocence. A person is believed to be innocent until proven guilty in a court of law.

Fourth Amendment Rights

The Fourth Amendment protects citizens against "unreasonable searches and seizures." It gives Americans the right to be

Chambers v. Florida

Chambers v. Florida was a 1940 Supreme Court case that paved the way for the *Miranda* ruling more than 20 years later. Thurgood Marshall—who would later become a justice of the Supreme Court—argued the case for the defendants, four black men accused of murdering a white man in Pompano Beach. Marshall argued that the men’s confessions had been obtained through police pressure. The Court agreed. It ruled that the confessions could not be used as evidence and overturned the men’s convictions.

secure in their homes and property. No police officer or other government agent can search your home or take your property without probable cause, or a valid reason. If law officers want to search your home for evidence of a crime, they must first get a search warrant. A **search warrant** is a judge’s authorization for a search. It describes the exact place to be searched and what objects may be seized, or taken. Police must show the judge that they have probable cause to obtain a search warrant.

If police find evidence of a crime through an illegal search, the evidence may not be used in court. The 1961 Supreme Court case *Mapp v. Ohio* ruled that illegally obtained evidence will be excluded, or barred, from a state court trial. Such evidence had already been banned from a federal court trial. This rule is known as the **exclusionary rule**. In other words, evidence gained in a way that violates the Fourth Amendment may not be used in a trial.

Fifth Amendment Rights

The Fifth Amendment states that no person can be forced “to be a witness against himself” in a criminal case. It protects individuals against self-incrimination. This means that individuals do not have to answer questions that might show they were involved in a crime.

Before the 1960s, police often pressured suspects to confess to a crime before they saw a lawyer or appeared in court. This practice ended in 1966 with the Supreme Court case *Miranda v. Arizona*. The Court ruled that police must inform suspects of their right to refuse to answer police questions.

Drug searches such as this one at a school seek to prevent potential harm caused by drug use. At the same time, protecting people’s rights is always important. In this search, lockers are being swabbed for traces of drugs. If traces are found, they represent probable cause for a search.

► CRITICAL THINKING

Inferring How is the probable cause requirement in the Fourth Amendment a reflection of the presumption of innocence?

SS.7.C.2.5



PHOTO: Scott Utzchy/Star Ledger/Corbis

due process

following established legal procedures

Academic Vocabulary

presumption an attitude or belief based on likelihood

search warrant

a court order allowing law-enforcement officers to search a suspect’s home or business and take specific items as evidence

exclusionary rule

a rule that evidence gained by police in a way that violates the Fourth Amendment may not be used in a trial

CHART SKILLS

CONSTITUTIONAL RIGHTS OF THE ACCUSED

The Constitution protects the rights of people accused of crimes in many different ways.

► CRITICAL THINKING

- 1 Describing** What protections does the Fifth Amendment guarantee?
- 2 Analyzing** How does due process of law limit what government can do?
SS.7.C.2.4

Source	Rights
Article I	<ul style="list-style-type: none">• habeas corpus• protects against bills of attainder• protects against ex post facto laws
Fourth Amendment	<ul style="list-style-type: none">• protects against unreasonable searches and seizures
Fifth Amendment	<ul style="list-style-type: none">• guarantees due process• protects against self-incrimination• protects against double jeopardy• provides for grand juries in the case of federal crimes
Sixth Amendment	<ul style="list-style-type: none">• guarantees the right to counsel• guarantees the right to know the accusations• guarantees the right to a speedy public trial• guarantees the right to confront witnesses• guarantees the right to be tried by an impartial jury
Eighth Amendment	<ul style="list-style-type: none">• forbids cruel and unusual punishments• prohibits excessive bail
Fourteenth Amendment	<ul style="list-style-type: none">• requires the states to treat all people equally under the law• guarantees due process

The case began in 1963, when Arizona resident Ernesto Miranda was convicted, or found guilty, on charges of kidnapping and other serious crimes. His conviction was based on a confession he had made while in police custody. Miranda appealed his conviction. He claimed that he did not know that he had the right to remain silent and to have a lawyer with him while the police questioned him.

The Arizona Supreme Court rejected Miranda's appeal. Miranda next appealed his conviction to the U.S. Supreme Court. The nation's highest court agreed to hear his appeal. In a landmark 5–4 decision, the court ruled in Miranda's favor. They threw out his conviction and ordered that he be given a new trial. In the new trial, the prosecution would not be allowed to present Miranda's confession as evidence. Despite his new trial, Miranda was found guilty.

The Court's decision, however, had a far-reaching effect. It required police nationwide to follow certain new procedures. These procedures are designed to protect a suspect's Fifth Amendments rights. They are also designed to ensure that any confession the police obtain can be used in court. Before they

Reading HELPDESK

Reading Strategy: *Making Connections* **SS.7.C.3.12**

When you make connections, you state how one idea connects to another in your own words. Read what Ernesto Miranda claimed again. Read the bulleted text that identifies Miranda rights. Write a paragraph explaining how the Miranda case led to the Miranda Warning.

can question a person in their custody, police must now issue what is known as a **Miranda Warning**. The Miranda Warning informs suspects that

- they have the right to remain silent
- anything they say may be used against them as evidence
- they have the right to an attorney; if they cannot afford one, the court will provide one

The Fifth Amendment also protects the accused from **double jeopardy**. *Jeopardy* means “to be put at risk of criminal penalty.” A person who is tried for a crime and found not guilty may not be tried again for the same crime.

The Fifth Amendment entitles people accused of serious federal crimes to be brought before a grand jury. A grand jury is a group of 12 to 23 citizens that hears evidence presented by a prosecutor. It decides whether the government has enough evidence to bring a suspect to trial. If the grand jury finds enough evidence to justify a trial, it indicts, or formally charges, the suspect. In some states, a preliminary hearing is used instead of a grand jury indictment.

Sixth Amendment Rights

The Sixth Amendment grants the accused the right to be defended by a lawyer. In the 1963 Supreme Court case *Gideon v. Wainwright*, the Court said that the amendment means that if a defendant cannot afford a lawyer, the state must provide one. Before this ruling, the federal government provided lawyers for poor defendants in federal cases. Some states, though, provided a lawyer only for crimes punishable by death. As you have read, the Supreme Court in the *Miranda* decision felt that a lawyer was necessary to protect a suspect against self-incrimination.

The accused have the right to know the accusations against them. They can question witnesses against them in court. They have the right to be tried by an impartial, or fair, jury. The jury is made up of people who know no one in the case and who do not have an opinion about it. Jurors are usually chosen from the area where the crime was committed.



This cartoon refers to *Berghuis v. Thompkins*, a 2010 case in which the Supreme Court ruled that if a suspect is silent, this can be a waiver of Miranda rights. A suspect must clearly state that he or she is invoking Miranda protections.

► CRITICAL THINKING

Analyzing Based on what the police officer says to the motorist, what do you think the cartoonist's opinion is of the Supreme Court's ruling? [SS.7.C.2.11](#)

Miranda Warning list of rights police must inform persons of before questioning, including the right against self-incrimination and the right to counsel

double jeopardy putting someone on trial for a crime for which he or she was previously acquitted

The Sixth Amendment also guarantees the right to a speedy and public trial. This protects defendants from being held in jail for an unreasonably long time. It also means that trials should not be closed to the public or the news media.

Today, many cases do not go to trial. Instead, the prosecutor and the defendant agree to a plea bargain. A plea bargain is an agreement in which the defendant pleads guilty to a reduced charge. In return, the defendant receives a lighter sentence than he or she would get if found guilty of the original charge.

Eighth Amendment Rights

The Eighth Amendment outlaws excessive, or extreme, penalties. It forbids “cruel and unusual punishments.” A punishment may not be out of **proportion** to the crime. For example, a life sentence for shoplifting would be excessive.

Some people believe that the death penalty is cruel and unusual. In 1972 the Supreme Court ruled in *Furman v. Georgia* that the death penalty as then carried out was unconstitutional. The justices did not say that the death penalty itself was cruel and unusual. Instead, they found that it was being applied unequally. It unfairly targeted African Americans and the poor. Such unequal application of the law is a violation of the Fourteenth Amendment. After the *Furman* decision, states revised their death penalty laws to meet the Court’s guidelines.

The Eighth Amendment also prohibits excessive bail. **Bail** is a sum of money that serves as a security deposit. An arrested person can pay a court to be let out of jail while awaiting trial. When the defendant shows up for trial, the money is returned. In setting the amount of the bail, the judge looks at the seriousness of the crime, the criminal record of the accused, and the ability of the accused to pay bail.

PROGRESS CHECK

Explaining Explain why illegally obtained evidence cannot be used in court.

Academic Vocabulary

proportion relation of one part to another; balance

bail a sum of money used as a security deposit to ensure that an accused person returns for his or her trial

LESSON 2 REVIEW

Review Vocabulary

1. How does the Constitution’s Article I ban on *ex post facto* laws protect people? [LA.7.1.6.1](#)
2. What does the *exclusionary rule* prevent? How does the use of *search warrants* support this rule? [LA.7.1.6.1](#)
3. What is the purpose of the *Miranda Warning*? [SS.7.C.2.4](#)
4. What do courts expect an accused person will do in return for *bail*? [LA.7.1.6.1](#)

Answer the Guiding Questions

5. **Making Inferences** How would a bill of attainder threaten a person’s freedom? Provide an example. [SS.7.C.2.5](#)
6. **Finding the Main Idea** How do Fourth Amendment rights keep Americans secure in their homes? [SS.7.C.2.4](#)
7. **PERSUASIVE WRITING** Is the death penalty cruel and unusual punishment, and therefore a violation of the Eighth Amendment? Describe your reasoning in an essay. [SS.7.C.2.4](#)

Issues to Debate

SS.7.C.2.4 Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

SS.7.C.2.5 Distinguish how the Constitution safeguards and limits individual rights.

Can schools punish students for off-campus Internet speech?

In 1969, the Supreme Court ruled in *Tinker v. Des Moines* that on-campus student speech is protected by the First Amendment. In the ruling, this protection is limited. It does not extend to speech that significantly disrupts class work or school order. Nor may the speech harm the rights of others. Today, many students use technology to communicate through the Internet. Blogs, social networking sites, and other Internet-based communications blur the line between off-campus and on-campus speech. Can schools punish students for Internet speech that is created off campus?



Computers have become a common feature in many classrooms.

Yes

In 2007, two Pennsylvania middle school students created a fake profile of their principal on a social networking site. The school claimed that the fake profile violated school policies and suspended the students. The parents of one student sued the school district superintendent. They claimed that the school district cannot punish a student for out-of-school conduct that is not disruptive. The court ruled that the fake profile violated the principal's rights. The profile was against both school policy and the law.

“*[T]he line between on-campus and off-campus speech is blurred. . . . As technology allows such access [to the Internet in school], it requires school administrators to be more concerned about speech created off campus—which almost inevitably leaks onto campus—than they would have been in years past.*”

—Judge James M. Munley, U.S. District Court, *J.S. v. Blue Mountain School District* (2008)

No

In 2007, Florida high school student Katherine Evans created an online group attacking one of her teachers. On the social networking site, she asked others to express their “feelings of hatred” for the teacher. After two days, she deleted the group. Two months later, the school principal learned of the group and suspended Evans. Evans filed suit, claiming the principal had violated her right to free speech. In 2010, a federal district court denied the principal's efforts to have the case dismissed.

“*This is an important victory both for Ms. Evans and Internet free speech because it upholds the principle that the right to freedom of speech and expression in America does not depend on the technology used to convey opinions and ideas.*”

—Maria Kayanan, Associate Legal Director, ACLU of Florida

Debating the Issue

- 1. Identifying the Main Idea** How does the Internet affect school speech?
- 2. Describing** What does the judge say has changed for school administrators because of greater student access to the Internet?
- 3. Analyzing** What serious element did the case about the fake profile involve that the case about the online group did not?
- 4. Drawing Conclusions** Do you think freedom of speech on the Internet should be limited? Explain.

CHAPTER 15 Activities

Write your answers on a separate piece of paper.

1 Writing Activity SS.7.C.2.4, SS.7.C.2.5

EXPLORING THE ESSENTIAL QUESTION

How do laws protect individual rights?

In this chapter, you learned how our laws protect us from illegal imprisonment and protect our right to be treated fairly by the government if we are accused of a crime. Review the protections you have read about. Which one do you think is most important to citizens? Explain the reasons for your choice, and give some possible consequences if we did not enjoy this protection.

2 21st Century Skills SS.7.C.3.12

DRAWING INFERENCES AND CONCLUSIONS The Supreme Court's decision in *Miranda v. Arizona* greatly affected the rights of the accused and the procedures used by police. Use the Internet to research the limits of the *Miranda* decision. Use the information you find to create a list of frequently asked questions (FAQs) about the *Miranda* decision. Present your FAQs and their answers to the class.

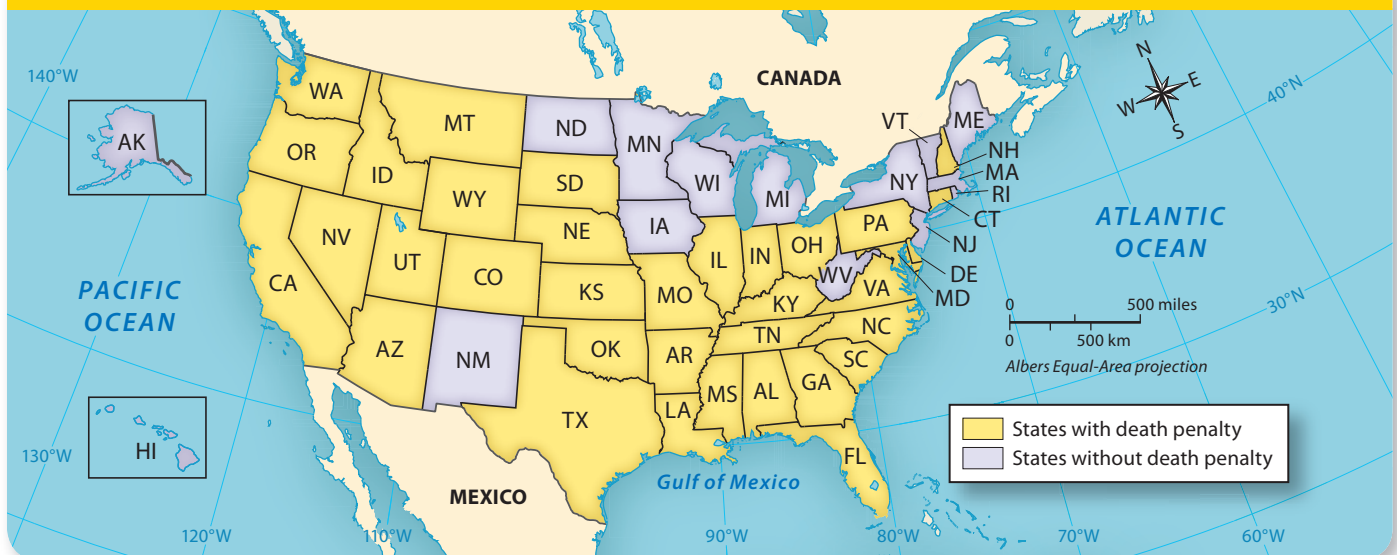
3 Being an Active Citizen SS.7.C.3.10

Our federal, state, and local legislatures pass laws that affect those they govern. In our legal system, ignorance of the law is no excuse. Your school community also has rules. Help students in your school and in your classroom understand the rules. Interview your principal and your teacher to find out what rules students are expected to follow. Create a chart showing the rules for your school and class. Make the chart clear and engaging. Post it in a visible place in the classroom.

4 Understanding Visuals SS.7.C.3.12

After the *Furman* decision in 1972, the death penalty was suspended. Some states eliminated the death penalty altogether. Most, however, rewrote their laws to comply with the Court's findings. Based on the information in the map, what generalizations can you make about the death penalty in the United States? Find your state on the map. Does your state allow the death penalty? From examining the map, write a paragraph to summarize what you know about the death penalty in the nation and your state.

STATES WITH CAPITAL PUNISHMENT



CHAPTER 15 Assessment



REVIEW THE GUIDING QUESTIONS

Directions: Choose the best answer for each question.

- 1** **SS.7.C.3.10** What is the most important influence on the American legal system?
- A. Roman law
 - B. the Justinian Code
 - C. English common law
 - D. the Napoleonic Code
- 2** **SS.7.C.3.10** In addition to criminal law, what type of law are all Americans most directly affected by?
- F. military law
 - G. civil law
 - H. public law
 - I. administrative law
- 3** **SS.7.C.2.5** At what point are criminal defendants no longer presumed to be innocent?
- A. once the trial starts
 - B. once bail is put up
 - C. once proven guilty
 - D. once a search warrant is obtained
- 4** **SS.7.C.2.4** Under the Fourteenth Amendment, all individuals are entitled to what legal protection?
- F. due process
 - G. double jeopardy
 - H. free counsel
 - I. indictment
- 5** **SS.7.C.2.4** What happens if a criminal defendant cannot afford a lawyer?
- A. He or she automatically loses the case.
 - B. The court appoints a grand jury to investigate.
 - C. The court will provide a defense lawyer.
 - D. The defendant is released without trial.
- 6** **SS.7.C.2.5** Which of the following must the police have in order to obtain a search warrant from a judge?
- F. bail
 - G. a Miranda Warning
 - H. habeas corpus
 - I. probable cause

NGSSS assessed in Chapter 15 Activities



SS.7.C.2.4 Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

SS.7.C.2.5 Distinguish how the Constitution safeguards and limits individual rights.

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including , but not limited to: *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

NGSSS assessed in Chapter 15 Assessment



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DBQ DOCUMENT-BASED QUESTIONS

Directions: Analyze the excerpt and answer the questions that follow.

The Supreme Court’s decision in the *Miranda* case clarified the rights of those accused of crimes.

“The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing [waiving] it.”

—Supreme Court decision, *Miranda v. Arizona* (1966)

SS.7.C.3.12

- 7 Identifying the Main Idea** According to the Court, the consequences of waiving, or giving up, the right to be silent must be understood in order to
- A. stop talking.
 - B. confess.
 - C. appear in court.
 - D. fully use the right.

SS.7.C.3.12

- 8 Identifying** If an individual waives his or her right to silence,
- F. he or she will go to jail without bail.
 - G. the court will appoint a lawyer.
 - H. anything he or she says can be used in court.
 - I. he or she must confess to the crime.

SHORT RESPONSE

“If any one steal cattle . . . , if it belong to a god or to the court, the thief shall pay thirtyfold therefor; if they belonged to a freed man of the king he shall pay tenfold; if the thief has nothing with which to pay he shall be put to death.”

—Code of Hammurabi, c. 1760 B.C.

SS.7.C.3.10

- 9** In the Code, why is more than one fine set for stealing livestock?

SS.7.C.2.5, SS.7.C.3.10

- 10** Explain how this section of the Code of Hammurabi violates the individual rights we enjoy under the U.S. Constitution.

EXTENDED RESPONSE

SS.7.C.3.10

- 11 Expository Writing** You have learned about many kinds of laws in the United States. Write a paragraph about the legal system. Briefly describe criminal, civil, constitutional, and military laws.

Need Extra Help?

If You’ve Missed Question	1	2	3	4	5	6	7	8	9	10	11
Review Lesson	1	1	2	2	2	2	2	2	1	1	1, 2