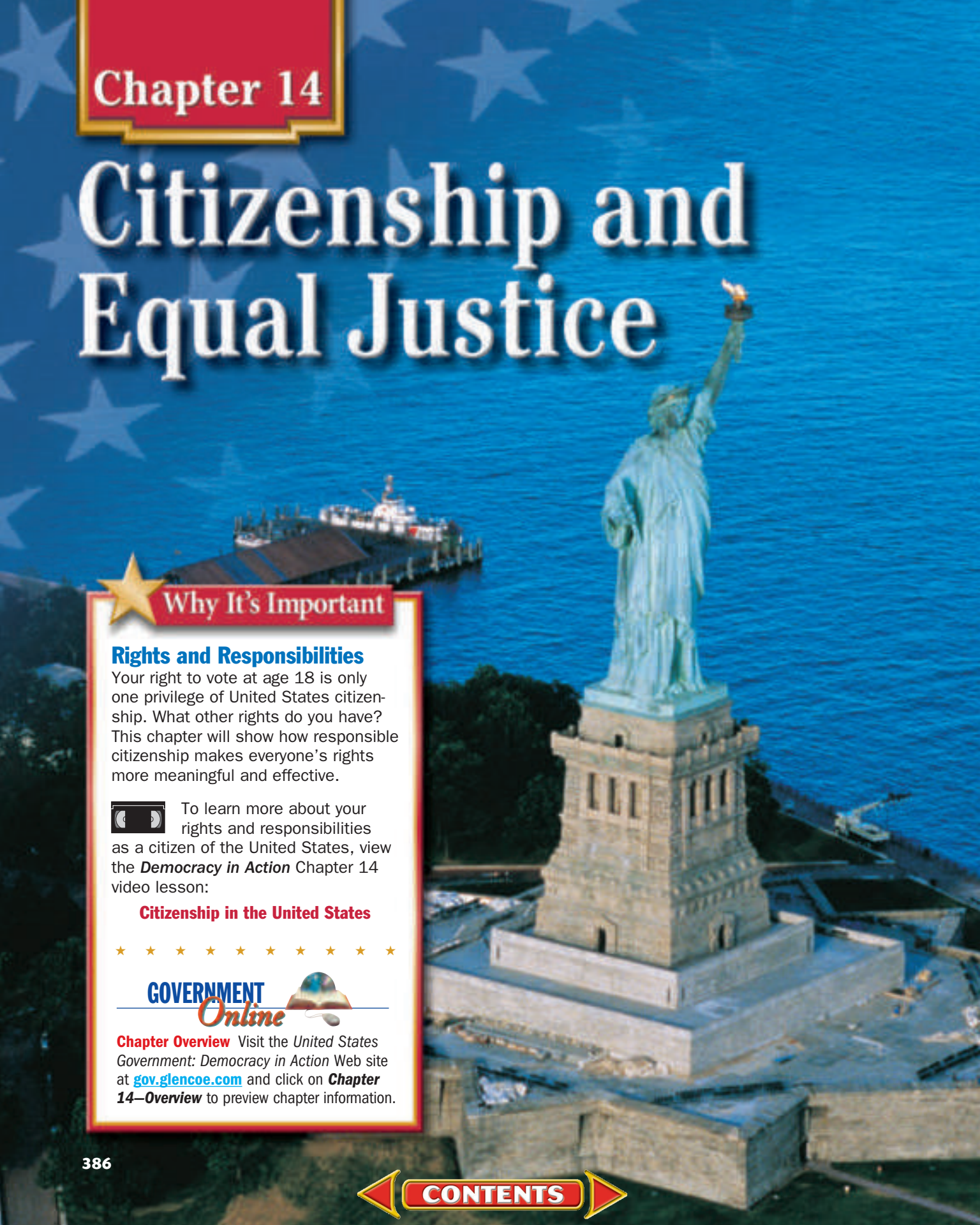
Chapter 14

Citizenship and Equal Justice



Why It's Important

Rights and Responsibilities

Your right to vote at age 18 is only one privilege of United States citizenship. What other rights do you have? This chapter will show how responsible citizenship makes everyone's rights more meaningful and effective.

To learn more about your rights and responsibilities as a citizen of the United States, view the ***Democracy in Action*** Chapter 14 video lesson:

Citizenship in the United States

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GOVERNMENT Online

Chapter Overview Visit the *United States Government: Democracy in Action* Web site at gov.glencoe.com and click on ***Chapter 14—Overview*** to preview chapter information.

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Section 1

A Nation of Immigrants

Reader's Guide

Key Terms

alien, resident alien, non-resident alien, enemy alien, illegal alien, amnesty, private law

Find Out

- How does the United States classify noncitizens?
- How has immigration policy in the United States changed over time?

Understanding Concepts

Cultural Pluralism How has immigration policy contributed to the diversity of cultures in the United States?

COVER STORY

Tactic Saves Refugees

OSWEGO, NEW YORK, JUNE 12, 1944

A government agency has found a way to save some European Jews from the Nazis. Overcoming opposition from within and outside the government, the War Refugee Board has convinced President Franklin Roosevelt to consider 1,000 Jewish refugees as prisoners of war. The Jews will be held for the remainder of World War II at an army base near Oswego. Despite their confinement, the tactic gets around immigration laws and allows the refugees into the United States. The government has come under increasing attack for its restrictions on immigration, as reports of Adolf Hitler's extermination of Europe's Jews have reached the United States.

Jewish refugees check in at Fort Ontario

◀ Statue of Liberty

Oscar Handlin, a well-known American historian, described what immigration has meant to America: "Once I thought to write a history of the immigrants in America. Then I discovered that the immigrants were American history."

Immigrants and Aliens

Throughout American history immigrants have often been referred to as aliens. An **alien** is a person who lives in a country where he or she is not a citizen. Aliens may not intend to become citizens, or they may be in a country only for a short time—conducting business or working for a foreign government, for instance. An immigrant, however, is a person who comes to a new country intending to live there permanently.

Classifying Aliens United States law classifies aliens into five different categories: (1) 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 naturalized citizens. Resident aliens may stay in the United States as long as they wish without becoming American citizens. (2) A **non-resident alien** is a person from a foreign country who expects to stay in the United States for a short, specified period of time. A Nigerian journalist who has come to report on a presidential election is an example of a non-resident alien. (3) An **enemy alien** is a citizen of a nation with which the United States is at war. Legally, enemy aliens living in the United States are entitled to the full protection of their lives and property. During wartime, however, the public's feelings often run high, and enemy aliens have sometimes been subjected to discriminatory practices. (4) **Refugees** are people fleeing to escape persecution or danger. In the early 1990s authorized refugee admissions averaged 121,000 per year. (5) An **illegal alien** is a person who

comes to the United States without a legal permit, such as a passport, visa, or entry permit. Most enter by illegally crossing United States borders, but many are foreigners who have stayed in the United States after their legal permits have expired. The U.S. Citizenship and Immigration Services estimates that between 2 and 3 million "illegals" were living in the United States during the mid-1990s.

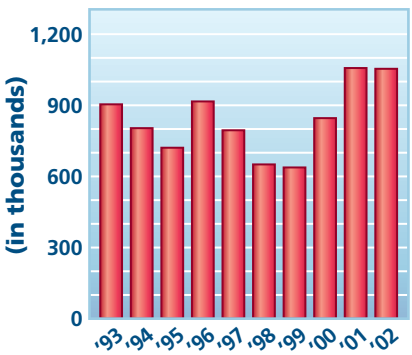
Aliens' Rights The protections that the Bill of Rights guarantees, such as freedom of speech and assembly, apply to aliens as well as citizens. In addition, the Supreme Court has repeatedly struck down state government attempts to limit the rights of aliens. In 1982, for example, the Supreme Court ruled that the state of Texas could not deny free public education to children of illegal aliens.

Aliens may own homes, attend public schools, carry on businesses, and use public facilities, just as citizens do. Similarly, aliens are expected to share in many of the responsibilities of American life. They are required to pay taxes, obey the law, and be loyal to the government. They cannot vote, however, and are usually exempt from military and jury duty. Unlike citizens, aliens are not guaranteed the right to travel freely in the United States. This restriction has been applied in times of war. All aliens, even those who have applied for United States citizenship, are required to notify the U.S. Citizenship and Immigration Services when they change their residence.

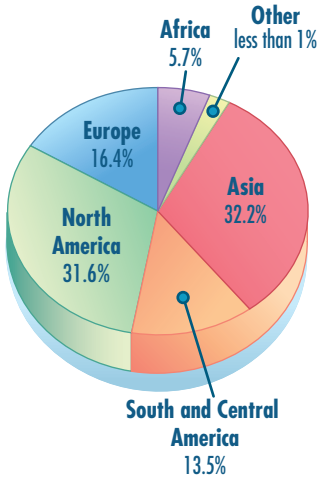
Immigrant's trunk

Immigration to the United States

Immigrants Admitted to the United States, 1993–2002



Immigration by Region, 2002



Top 10 States for Immigration, 2002

California	291,216
New York	114,827
Florida	90,819
Texas	88,365
New Jersey	57,721
Illinois	47,235
Massachusetts	31,615
Washington	25,704
Virginia	25,411
Maryland	23,751

Sources: U.S. Citizenship and Immigration Services, *2002 Yearbook of Immigration Statistics.*

Critical Thinking **In 2002 the total foreign-born population of the United States was approximately 32.5 million, or 11.5 percent of the total population.** ***Approximately how many immigrants from Asia were admitted to the United States in 2002?***

Immigration Policy

The Constitution clearly assigns Congress the power to control immigration policy. In the years before 1882, however, Congress rarely exercised this power. Since then United States immigration policy has gone through four distinct stages.

1882–1924: The Growth of Restrictions

In 1882 Congress passed the first major federal immigration law that barred entrance to people such as the mentally handicapped, convicts, and paupers. In that year Congress also passed the Chinese Exclusion Act, which restricted the admission of Chinese laborers. At the same time, the law prevented all foreign-born Chinese from acquiring citizenship. This provision 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 steadily in the next three decades. Many Americans feared that immigrants from Asia and southern and eastern Europe would take jobs away from United States citizens. The new immigrants' languages, appearance, customs, and religions were different from those of earlier immigrants from England, Ireland, and Germany. Despite the many restrictions, the number of immigrants soared, and between 1882 and 1924, about 25 million immigrants entered the United States.

1924–1965: National Origins Quotas

In 1924 Congress took a more drastic step toward restricting immigration. The Immigration Act of 1924, also known as the **Johnson Act,** lowered the number of immigrants allowed into the country to less than 165,000 per year—an 80 percent decrease from the years before World War I. It also favored immigrants from northern and western Europe. The national origins system gave countries such as England and Ireland high quotas, because many Americans were of English or Irish descent. The quotas assigned to countries such as Greece and Italy were low because there were fewer Greek or Italian Americans. During the next 40 years, immigration dropped sharply because relatively few people in countries with large quotas were interested in coming to the United States.

Regulating Immigration

Preferential Treatment The Immigration Reform Act of 1965 granted some immigrants, such as this doctor, high preference for entering the United States. ***Why do you think the current immigration laws give special preference to immigrants who have certain occupations?***

Immigration Reform Act of 1965

Congress passed the **Immigration Reform Act of 1965** abolishing the system of national origins quotas. The 1965 law set up two categories of immigrants: (1) those who could come from countries of the Eastern Hemisphere—Europe, Asia, and Africa; and (2) those who could come from Western Hemisphere countries—Canada, Mexico, and the nations of Central and South America. Congress fixed a ceiling of 120,000 total immigrants per year from Western Hemisphere countries and 170,000 per year from the rest of the world.

The Immigration Reform Act of 1965 established preference categories, giving highest preference to persons whose skills would be "especially advantageous to the United States." Next in preference were unmarried adult children of United States citizens; then husbands, wives, and unmarried children of permanent residents; and then professionals such as doctors, lawyers, and scientists. The lowest preference class included refugees from Communist countries or the Middle East and victims of natural disasters.

Immigration Reform and Control Act of 1986

To stem the tide of illegal immigrants, Congress passed the **Immigration Reform and Control Act of 1986.** This law also provided a way for illegal immigrants to become permanent residents and citizens, as well as punishment for employers who hire illegal immigrants.

The major provisions of the act included: (1) Aliens who can show that they entered the United States before January 1, 1982, and have resided continuously in the country since then may apply for amnesty. **Amnesty** is a general pardon the government offers—in this case, to illegal aliens. They would first become lawful temporary residents, then after 18 months they would become permanent residents. (2) After 5 years of permanent residence in the United States, aliens may apply for United States citizenship. (3) Employers are forbidden to hire illegal aliens. Those who do are subject to penalties ranging from $250 to $2,000 for each illegal alien hired. For subsequent and consistent offenses, employers are subject to additional fines and even imprisonment. (4) Employers must ask applicants for documents such as passports or birth certificates to prove they are either citizens or aliens qualified to work in the United States.

The Immigration Act of 1990

By 1990, 85 percent of immigrants to the United States were coming from Asia and Latin America. In 1990 Congress passed a sweeping revision of the 1965 law. The new law was designed to once again take the countries of origin into account and to admit more highly skilled and educated immigrants.

The act established a limit on immigrants from any single country to no more than 7 percent of the annual visas. It also established a "Transition Diversity Program" designed to open immigration to nationals from countries adversely affected by the 1965 law. Europeans, especially Irish immigrants, would benefit from these "diversity visas."

The new law allowed immigration to climb from about 500,000 people to about 700,000 during each of the first 3 years. Then it leveled immigration to about 675,000 people per year. These totals did not include refugees or people who were fleeing persecution from unjust governments in their homelands.

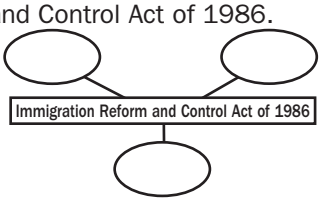
The Immigration Act of 1990 encouraged immigration of workers with "extraordinary abilities," providing 140,000 visas annually for people who had a guaranteed job when entering the United States.

In addition to the immigration quotas, the Immigration Act of 1990 established a category for special immigrants. Special immigrants fall into three groups—refugees displaced by war, close relatives of United States citizens, or those admitted through private laws passed by Congress. A **private law** is one that applies to a particular person. For example, a private law may allow a certain individual to enter the United States regardless of the numerical limits on immigration.

Section 1 Assessment

Checking for Understanding

1. **Main Idea** Use a graphic organizer like the one below to analyze the purposes of the Immigration Reform and Control Act of 1986.



2. **Define** alien, resident alien, non-resident alien, enemy alien, illegal alien, amnesty, private law.
3. **Identify** refugee.
4. What are the five categories of aliens according to United States law?

Critical Thinking

5. **Making Inferences** What changes in attitudes toward immigration does the Immigration Act of 1990 reflect?

Concepts IN ACTION

Cultural Pluralism Every community has a unique ethnic history. When did people of various ethnic and racial groups begin to come to your community? Research your community's immigration history at the local library. Draw a time line showing how your community grew and when each group began to arrive.

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Section 2

The Basis of Citizenship

Reader's Guide

Key Terms

naturalization, jus soli, jus sanguinis, collective naturalization, expatriation, denaturalization

Find Out

- What are the requirements for citizenship in the United States?
- What are the main responsibilities of American citizens?

Understanding Concepts

Constitutional Interpretations What questions about citizenship did the Fourteenth Amendment answer?

COVER STORY

Citizenship at Risk

TALLINN, ESTONIA, AUGUST 2, 1993

Aleksander Einseln, a retired U.S. Army colonel, may have lost a $50,000-a-year pension when he took command of the army of Estonia. And he risks an even greater loss. Citing a law that forbids Americans from serving in a foreign army, the U.S. government has suspended Einseln's military pension and is threatening to revoke his citizenship. Einseln, a combat veteran and dedicated anti-Communist, agreed to command Estonia's army without pay after that nation gained its independence from the Soviet Union. Although upset over the loss of his pension, Einseln's citizenship concerns him more. "I will fight to the end not to lose it," he vows.

Einseln with an Estonian soldier

Citizens are members of a political society—a nation. As such, citizens of the United States have certain rights, duties, and responsibilities. The Declaration of Independence addresses these rights and responsibilities:

> *"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. . . . That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. . . ."*
>
> —The Declaration of Independence

The United States government, then, draws its power from the people and exists to secure their fundamental rights and equality under the law. Duties of citizens include obeying the law, paying taxes, and being loyal to the American government and its basic principles. As participants in government, citizens have the responsibility to be informed, vote, respect the rights and property of others, and respect different opinions and ways of life. Concerned citizens must be willing to exercise both their rights and their responsibilities.

National Citizenship

Over the years the basis of citizenship has changed significantly in the United States. Today citizenship has both a national and state dimension. This was not always so, however.

The articles of the Constitution mention citizenship only as a qualification for holding office in the federal government. The Founders assumed that the states would decide who was or was not a citizen, and their citizens were also citizens of the United States. The exceptions were African Americans and immigrants who

became United States citizens through **naturalization,** the legal process by which a person is granted the rights and privileges of a citizen.

Landmark Cases

Dred Scott* v. *Sandford The basis of state citizenship was at stake in the controversial *Dred Scott* v. *Sandford* case in 1857. Dred Scott was an enslaved African American in Missouri, a slaveholding state. Scott had also lived with his slaveholder in Illinois—a free state—and the Wisconsin territory, where the Northwest Ordinance forbade slavery. Scott sued his slaveholder's widow for his freedom, claiming that his earlier residence in a free state and a free territory made him free. A state court ruled in Scott's favor, but the Missouri Supreme Court later reversed the decision, prompting Scott's lawyers to go to the United States Supreme Court.

The Court, led by Chief Justice Roger Taney, ruled that Scott could not bring a legal suit in a federal court. Taney reasoned that African Americans, whether enslaved or free, were not United States citizens at the time the Constitution was adopted. Therefore, they could not claim citizenship. Only descendants of people who were state citizens at that time, or immigrants who became citizens through naturalization, were United States citizens. The Court also stated that Congress could not forbid slavery in United States territories.

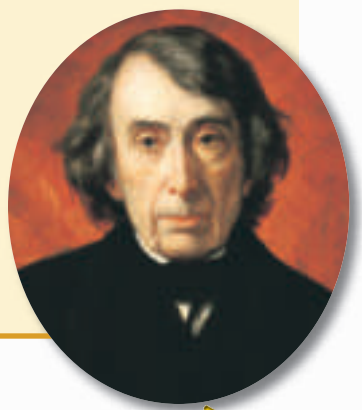
The Fourteenth Amendment The *Dred Scott* decision caused great outrage and protest in the North and added to the tensions that led to the Civil War. African American abolitionist Frederick Douglass hoped that the Court's decision would begin a "chain of events" that would produce a "complete overthrow of the whole slave system." In 1868, three years after the end of the war, the Fourteenth Amendment to the Constitution overruled the *Dred Scott* decision. The amendment clearly established what constitutes citizenship at both the national and state levels of government.

The Fourteenth Amendment was clear and forceful about the basis of citizenship:

> "*All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge [deprive] the privileges or immunities of citizens of the United States.*"
>
> —Fourteenth Amendment, 1868

Citizenship at Stake

Civil Rights Dred Scott created a nationwide storm of controversy with his lawsuit. Here Dred Scott appears with his wife and two daughters on the cover of an 1857 newspaper. ***In his ruling, what assumption did Taney make about the intentions of the Founders of the United States?***



Chief Justice Roger Taney

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The Fourteenth Amendment guaranteed that people of all races born in the United States and subject to its government are citizens, making state citizenship an automatic result of national citizenship.

Citizenship by Birth

The Fourteenth Amendment set forth two of the three basic sources of United States citizenship—birth on American soil and naturalization. The third source of citizenship is being born to a parent who is a United States citizen.

Citizenship by the "Law of the Soil" Like most other nations, the United States follows the principle of **jus soli** (YOOS SOH·LEE), a Latin phrase that means "law of the soil." Jus soli, in effect, grants citizenship to nearly all people born in the United States or in American territories. Birth in the United States is the most common basis of United States citizenship.

Not everyone born in the United States is automatically a citizen. People born in the United States who are not subject to the jurisdiction of the United States government are not granted citizenship. For example, children of foreign diplomats are not American citizens, even though they may have been born in the United States. Children born in this country to immigrant parents or to foreign parents merely passing through the country, however, are citizens of the United States.

Citizenship by Birth to an American Parent Another method of automatic citizenship is birth to an American parent or parents. This principle is called **jus sanguinis** (YOOS SAHN·gwuh·nuhs), which means the "law of blood."

The rules governing jus sanguinis can be very complicated. If an individual is born in a foreign country and both parents are United States citizens, the child is a citizen, provided one requirement is met. One of the parents must have been a legal resident of the United States or its possessions at some point in his or her life. If only one of the parents is an American citizen, however, that parent must have lived in the United States or an American possession for at least 5 years, 2 of which had to occur after the age of 14.

American Citizenship A child born to American parents automatically becomes a citizen of the United States. ***How does the law of jus sanguinis relate to children of Americans working abroad?***

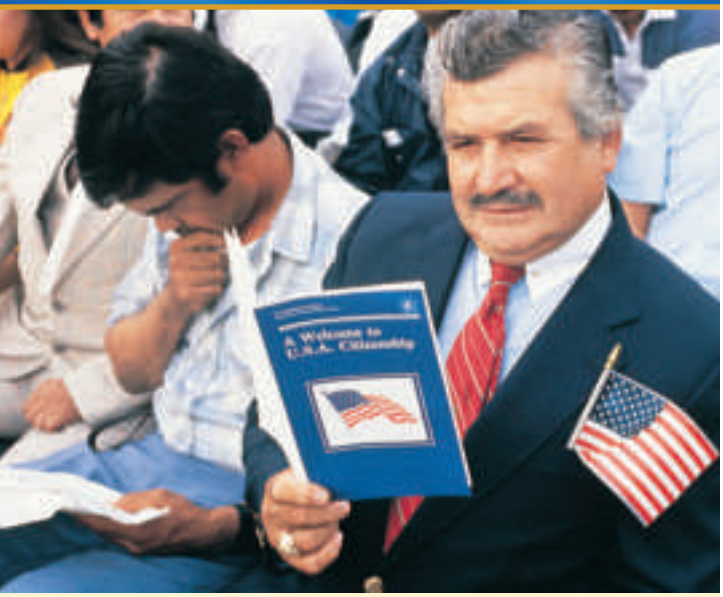
Citizenship by Naturalization

All immigrants who wish to become American citizens must go through naturalization. At the end of that process, they will have almost all the rights and privileges of a native-born citizen. The major exception is that a naturalized citizen is not eligible to serve as president or vice president of the United States.

Congress has defined specific qualifications and procedures for naturalization. These include a residency requirement that immigrants must satisfy before they can even apply to become citizens. The U.S. Citizenship and Immigration Services, a bureau of the Department of Homeland Security, administers most of the key steps of the naturalization process.

Qualifications for Citizenship Immigrants who want to become citizens must meet five requirements. (1) Applicants must have entered the United States legally. (2) They must be of good moral character. (3) They must declare their support of the principles of American government. (4) They must prove they can read, write, and speak English. (If applicants are more than 50 years old and have lived in the United States for 20 years, they are exempt from the English-language

Gaining Citizenship



Taking the Oath Immigrants must take an oath of allegiance to the United States when they become citizens. ***Why do you think there are so many steps to becoming a citizen of the United States?***

requirement.) (5) They must show some basic knowledge of American history and government. Draft evaders, military deserters, polygamists, anarchists, Communists, or followers of any other totalitarian system will be denied citizenship.

The Steps to Citizenship

An applicant requesting citizenship must be at least 18 years old, have lived in the United States as a lawfully admitted resident alien for 30 months out of the previous 5 years, and have lived in the state where the petition is filed for at least 3 months. If married to a United States citizen, he or she needs only 3 years of residency before filing.

The key step in the naturalization process is an investigation and preliminary hearing in which the individual is asked questions about his or her moral character. Two witnesses are also asked about the prospective citizen's character and integrity. In addition, applicants may be asked to demonstrate their grasp of the English language and questioned about American government and history. Typical questions include: "What is the highest court in the land?" "How many states are there in the United States?" Sometimes applicants are asked to identify certain American presidents.

If an applicant makes it through this step—and most do—he or she will be asked to attend a final hearing. This hearing is usually held in a federal district court and is normally only a formality. Here the judge administers the United States oath of allegiance. The oath requires individuals to renounce loyalty to their former governments, to obey and defend the Constitution and laws of the United States, and to bear arms on behalf of the United States when required by law. The judge then issues a certificate of naturalization that declares the individual a United States citizen. New citizens receive a letter from the president, a short history of the Pledge of Allegiance, and a booklet containing important documents in American history.

Exceptions While naturalization procedures are similar for most people, some exceptions exist. One is **collective naturalization,** a process by which members of a whole group of people, living in the same geographic area, become American citizens through an act of Congress. These individuals do not have to go through the naturalization process.

Congress has used collective naturalization five times. In 1803 people living in the territory gained through the Louisiana Purchase were granted American citizenship. Similarly, when Florida was purchased in 1819, and when the Republic of Texas was admitted to the Union in 1845, people living in these territories received United States citizenship. Likewise, Congress granted citizenship to all people living in Hawaii in 1900 and to the residents of Puerto Rico in 1917.

Other exceptions have occurred. For more than a century, most Native Americans were excluded from citizenship—even after their land was annexed by the United States. A few groups became citizens

GOVERNMENT Online

Student Web Activity Visit the *United States Government: Democracy in Action* Web site at gov.glencoe.com and click on ***Chapter 14–Student Web Activities*** for an activity about the basis of citizenship.

through treaties with the federal government, but in 1868 Congress decided that the citizenship guarantees of the Fourteenth Amendment would not apply to Native Americans. Later Congress offered citizenship to individual Native Americans who gave up their traditional culture. Not until 1924 did Congress make all Native Americans citizens of the United States. On the other hand, citizenship requirements also have been waived under special circumstances. In 1981 a federal judge exempted a 99-year-old Russian immigrant from naturalization requirements because he wanted "to die free as a citizen of this great country."

Losing Citizenship

Only the federal government can both grant citizenship and take it away. State governments can deny a convicted criminal some of the privileges of citizenship, such as voting, but have no power to deny citizenship itself. Americans can lose their citizenship in any of three ways: through expatriation, by being convicted of certain crimes, or through denaturalization.

Expatriation The simplest way to lose citizenship is through **expatriation,** or giving up one's citizenship by leaving one's native country to live in a foreign country. Expatriation may be voluntary or involuntary. For example, a person who becomes a naturalized citizen of another country automatically loses his or her American citizenship. Involuntary expatriation would occur in the case of a child whose parents become citizens of another country.

Punishment for a Crime A person may lose citizenship when convicted of certain federal crimes that involve extreme disloyalty. These crimes include treason, participation in a rebellion, and attempts to overthrow the government through violent means.

We the People
Making a Difference

Irena Sliskovic

Sarajevo road sign

Irena Sliskovic came to the United States in 1995 to escape a war that was tearing her country apart. She was one of 83 Bosnian Muslim students who participated in a program that promised high school students a chance to finish their education in the United States—safely away from the war in Bosnia.

Irena, who was living in Sarajevo, Bosnia-Herzegovina, during the war, lost many friends to the violence that became a part of her everyday life. She and her family were afraid to leave their home for fear of being killed by snipers. When Irena was just 10 months away from her high school graduation, she heard about the American program. Eighty American families offered to open their homes to Bosnian students and help them enroll in schools. Irena applied for the program and was accepted because of her strong academic abilities. She remembers thinking, "I'm going far away to peace and freedom."

Getting to the United States was no easy task. Irena had to sneak out of Sarajevo at night. Shelling near the main road delayed the trip, and she was stopped just 5 minutes from the border and ordered to return to Sarajevo. She escaped, however, and finally crossed the border to Croatia. A few weeks later she flew to the United States.

Irena moved in with a host family in Florence, Kentucky. She attended a nearby high school and graduated a year later. In 1995 the Dayton peace accord helped bring peace to Bosnia—at least temporarily. After high school Irena continued to live in the United States. She attended a college in Kentucky and studied business and computer science.

Responsible Citizens

Growth of Democracy Immigrants must learn about American laws to become naturalized citizens. ***Why must citizens know about American laws?***

These immigrants have completed all the naturalization steps to become new citizens.

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

The Responsibilities of Citizens

The ability to exercise one's rights depends on an awareness of those rights. A constitutional democracy, therefore, requires knowledgeable and active citizens.

Knowing About Rights and Laws Responsible citizens need to know about the laws that govern society and to be aware of their basic legal rights. Respect for the law is crucial in modern society, but this respect depends on knowledge of the law.

In addition to schools, a number of organizations help citizens learn more about their rights, laws, and government: legal aid societies, consumer protection groups, and tenants' rights organizations. Moreover, many states now require that government regulations be written in everyday language so that people can understand them.

Citizenship Involves Participation The American ideal of citizenship has always stressed each citizen's responsibility to participate in political life. Through participation, citizens help govern society and themselves and are able to fashion policies in the public interest. Through participation, individuals can put aside personal concerns and learn about one another's political goals and needs. In short, participation teaches about the essentials of democracy—majority rule, individual rights, and the rule of law.

Voting The most common way a citizen participates in political life is by voting. By casting their ballots, citizens help choose leaders and help direct the course of government. Voting therefore affirms a basic principle of American political life that was inscribed in the Declaration of Independence—"the consent of the governed."

Voting is also an important way to express faith in one's political system. When a person casts a vote, he or she is joining other citizens in a common effort at self-government. Voting enables Americans to share responsibility for how their society is governed.

Many people do not vote because they believe they have little effect on political outcomes. Others do not vote because they have little interest in any form of political life.

Voter Participation Counts There have been many close elections over the years at all levels of government. Many seats in the House of Representatives in the 1996 election were decided by very close races. In Pennsylvania Republican Jon D. Fox won by a mere 84-vote margin of victory. Some races were not decided until all absentee votes were tabulated.

Ways of Participating as a Citizen Campaigning for a candidate, distributing leaflets for a political party, and working at the polls on Election Day are all important forms of participation. People can exercise the rights and privileges of citizenship in other ways as well. For example, they can support the efforts of a special interest group to influence legislation or discuss issues with a legislator or another person in government. Writing letters to the editor of a newspaper or newsmagazine, or exercising the right to dissent in a legal and orderly manner, are other ways citizens can participate. Exercising these rights is the only way of ensuring their strength and vitality.

Students may become involved by communicating their concerns to their representatives.

Urging Americans to vote

Section 2 Assessment

Checking for Understanding

1. **Main Idea** Use a graphic organizer like the one below to describe the conditions of American citizenship.

Sources in 14th Amendment	Responsibilities

2. **Define** naturalization, jus soli, jus sanguinis, collective naturalization, expatriation, denaturalization.
3. **Identify** *Dred Scott* v. *Sandford.*
4. What are the five requirements for becoming a naturalized citizen?
5. In what three ways may American citizenship be lost?

Critical Thinking

6. **Synthesizing Information** Why does the United States require citizenship applicants to speak English and have knowledge of the American government?

Concepts IN ACTION

Constitutional Interpretations The Fourteenth Amendment extends the "privileges and immunities" of each state to all American citizens. Make a chart that lists the privileges that you believe your state should provide out-of-state persons and the privileges that should extend only to residents of your state.

Section 3

The Rights of the Accused

Reader's Guide

Key Terms

exclusionary rule, counsel, self-incrimination, double jeopardy

Find Out

- What constitutes unreasonable searches and seizures by the police?
- In the 1960s, how did the Supreme Court rule on the right to counsel and self-incrimination cases?

Understanding Concepts

Civil Rights How have Supreme Court rulings both expanded and refined the rights of the accused as described in the Constitution?

COVER STORY

Seale Bound and Gagged

CHICAGO, ILLINOIS, OCTOBER 29, 1969

Bobby Seale

Political radical Bobby Seale, charged with conspiracy to incite a riot at last year's Democratic National Convention, had to be restrained during his trial today. Seale's loud outbursts regarding his constitutional rights have repeatedly disrupted court proceedings. Today, federal marshals twice had to wrestle Seale back into his seat. The trial was recessed while marshals tied a gag around Seale's mouth and shackled him to his chair. When Seale's now-muffled shouts continued, Judge Julius Hoffman ordered the gag replaced with strips of tape. While courtroom chains are not uncommon, gagging a defendant is extremely rare.

A major challenge for democratic political systems is dealing with crime and criminals. A crime is an act against a law of the state. It may also harm an individual or a person's property. On the one hand, society must protect itself against criminals. At the same time, individual rights must be preserved. Justice in a democracy means protecting the innocent from government police power as well as punishing the guilty.

To deal with these challenges, the Founders built into the Constitution and the Bill of Rights a system of justice designed to guard the rights of the accused as well as the rights of society. Laws were to be strictly interpreted, trial procedures fair and impartial, and punishments reasonable. Later, the Fourteenth Amendment[1] protected the rights of the accused in the same section in which it defined national citizenship.

Searches and Seizures

The police need evidence to accuse people of committing crimes, but getting evidence often requires searching people or their homes, cars, or offices. To protect the innocent, the **Fourth Amendment** guarantees "the right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." What constitutes unreasonable searches and seizures? No precise definition has been made, so the courts have dealt with Fourth Amendment issues on a case-by-case basis.

Today the police must state under oath that they have probable cause to suspect someone of committing a crime to justify a search. Generally they must obtain a warrant from a court official before searching for evidence or making an arrest. The warrant must describe the place to be searched and the person or things to be seized.

See the following footnoted materials in the ***Reference Handbook:***

1. *The Constitution*, pages 774–799.

Before 1980, 23 states had search laws that permitted police to enter a home without a warrant if they had probable cause to believe that the occupant had committed a **felony,** or major crime. In *Payton* v. *New York*[1] (1980) the Supreme Court ruled that, except in a life-threatening emergency, the Fourth Amendment forbids searching a home without a warrant. In *Florida* v. *J.L.*[2] (2000), the Court strengthened Fourth Amendment protections even further by ruling that an anonymous tip that a person is carrying a gun does not give police the right to stop and frisk that person.

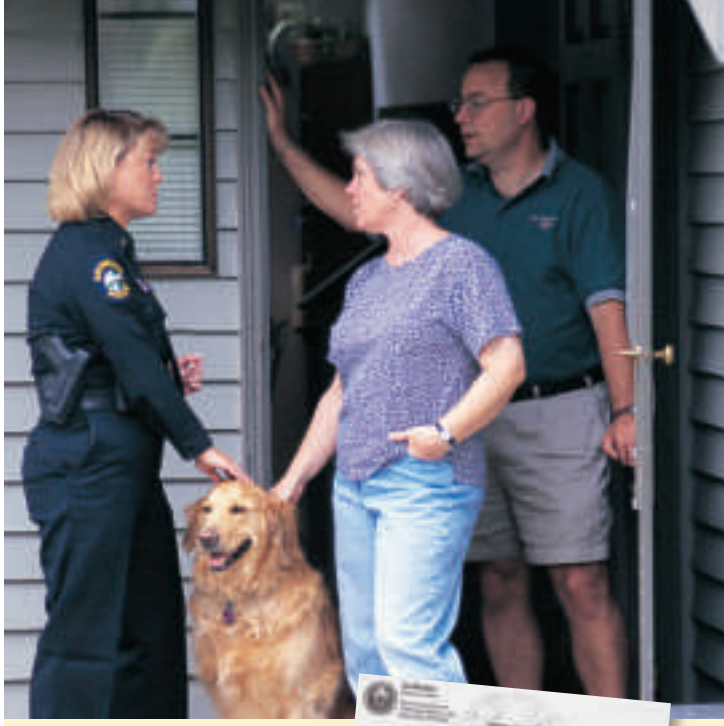
Special Situations The police do not need a warrant to search and arrest a person they see breaking the law. This power extends to even minor infractions for which the penalty is only a small fine. In *Whren* v. *United States*[3] (1996), for example, the Court held that the police could seize drugs found in a suspect's vehicle when they stopped him for a traffic violation. In *Atwater* v. *City of Lago Vista*[4] (2001), the Court found that the Fourth Amendment protection against unreasonable seizures did not prevent the police from arresting a Texas woman who was driving her children in a vehicle in which none of the occupants were wearing seatbelts.

The police do not need a warrant to search garbage placed outside a home for pickup. In *California* v. *Greenwood*[5] (1998), the Court upheld a warrantless search of garbage, explaining that people do not have a reasonable expectation of privacy in refuse placed outside the home in an area of public inspection.

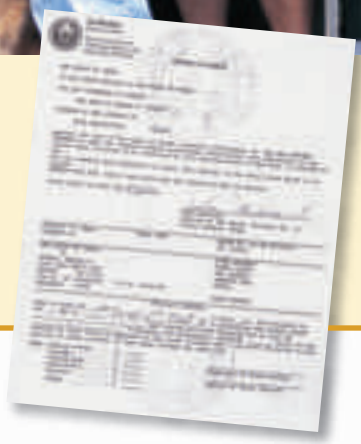
Since the 1980s, the Court has considered certain kinds of drug tests as searches that do not require a warrant. Even without direct evidence that one or more workers uses drugs, such tests are lawful if they serve to protect public safety.

The Exclusionary Rule In *Weeks* v. *United States*[6] (1914) the Court established the **exclusionary rule**—any illegally obtained evidence cannot be used in a federal court. The *Weeks* decision did not apply to state courts until *Mapp* v. *Ohio*[7] (1961) extended the protection to state courts.

Relaxing the Exclusionary Rule Some people have criticized the exclusionary rule. They ask whether criminals should go free simply because the police made a mistake in collecting evidence. In *United States* v. *Leon*[8] (1984) the Court ruled that as long as the police act in good faith when they request a warrant, the evidence they collect may be used in court even if the warrant is defective. In the *Leon* case, for example, a judge had made a mistake by issuing a warrant based on probable cause that later was found to be invalid.



Enforcing Laws Police officers conduct a search to investigate the property of persons suspected of committing a crime. ***In what circumstances is a search warrant not required?***



An official search warrant

See the following footnoted materials in the ***Reference Handbook:***
1. *Payton* v. *New York* case summary, page 763.
2. *Florida* v. *J.L.* case summary, page 758.
3. *Whren* v. *United States* case summary, page 768.
4. *Atwater* v. *City of Lago Vista* case summary, page 754.
5. *California* v. *Greenwood* case summary, page 756.
6. *Weeks* v. *United States* case summary, page 767.
7. *Mapp* v. *Ohio* case summary, page 761.
8. *United States* v. *Leon* case summary, page 766.

That same year the Court also approved an "inevitable discovery" exception to the exclusionary rule. In *Nix* v. *Williams*[1] (1984) the Court held that evidence obtained in violation of a defendant's rights can be used at trial. The prosecutor, however, must show that the evidence would have eventually been discovered by legal means. The *Nix* case involved a murderer whom police had tricked into leading them to the hidden body of his victim.

Landmark Cases

California* v. *Acevedo In October 1987 police officers observed Charles Steven Acevedo leaving a suspected drug house. He carried a paper bag the size of a package of drugs they knew had been mailed from Hawaii. When Acevedo drove off, the police stopped his car, opened the trunk, and found a pound of marijuana. When the defense moved to suppress the evidence, the trial court denied the motion. Acevedo pleaded guilty but appealed the court's refusal to exclude the marijuana as evidence.

The Supreme Court overruled an earlier decision (*Arkansas* v. *Sanders*, 1979) that had imposed a warrant requirement to search containers or packages found in a lawfully stopped vehicle. The Court established a new precedent to be used in automobile searches. The police are free to "search an automobile and the containers within it where they have probable cause to believe contraband or evidence is contained."

Fourth Amendment in High Schools

Fourth Amendment protections may be limited inside high schools. In the case of *New Jersey* v. *T.L.O.*[2] (1985) the Supreme Court ruled that school officials do not need warrants or probable cause to search students or their property. All that is needed are reasonable grounds to believe a search will uncover evidence that a student has broken school rules.

The New Jersey case arose when an assistant principal searched the purse of a student he suspected had been smoking tobacco in a restroom. The search turned up not only cigarettes but marijuana. The student was suspended from school and prosecuted by juvenile authorities. The Court would probably have ruled in favor of the student if a police officer had conducted the search, but the justices did not place the same restraints on public school officials.

In 1995 the Court further limited Fourth Amendment protections in high schools. In *Vernonia School District 47J* v. *Acton*[3] (1995) the Court upheld mandatory suspicionless drug tests for all students participating in interscholastic athletics.

Wiretapping and Electronic Eavesdropping

One observer has said that in Washington, D.C., many important people assume or at least joke that their telephones are tapped. The Supreme Court considers

Limits of the Fourth Amendment

Constitutional Searches School administration officials search school lockers for illegal materials. ***In your opinion, how does the Supreme Court ruling in the case of* New Jersey *v.* T.L.O. *apply to the search of school lockers?***

See the following footnoted materials in the ***Reference Handbook:***

1. *Nix* v. *Williams* case summary, page 763.
2. *New Jersey* v. *T.L.O.* case summary, page 762.
3. *Vernonia School District 47J* v. *Acton* case summary, page 767.

wiretapping, eavesdropping, and other means of electronic surveillance to be search and seizure.

The Court first dealt with wiretapping in *Olmstead* v. *United States*[1] (1928). Federal agents had tapped individuals' telephones for four months to obtain the evidence necessary to convict them of bootlegging. The Court upheld the conviction, ruling that wiretapping did not violate the Fourth Amendment. The Court said no warrant was needed to wiretap because the agents had not actually entered anyone's home.

The use of wiretaps, such as this one used to bug the Democratic National Committee headquarters in the Watergate office in 1972, is prohibited without a warrant.

This precedent stood for almost 40 years. Then in 1967, in *Katz* v. *United States,*[2] the Court overruled the *Olmstead* decision. Charles Katz, a Los Angeles gambler, was using a public phone booth to place bets across state lines. Without a warrant, the FBI put a microphone outside the booth to gather evidence that was later used to convict Katz. In reversing Katz's conviction, the Court held that the Fourth Amendment "protects people—and not simply 'areas'" against unreasonable searches and seizures. The ruling extended Fourth Amendment protections by prohibiting wiretapping without a warrant.

Congress and Wiretaps In 1968 Congress passed the Omnibus Crime Control and Safe Streets Act. This law required federal, state, and local authorities to obtain a court order for most wiretaps. Then in 1978 Congress passed the Foreign Intelligence Surveillance Act, requiring a court order even for wiretapping and bugging in national security cases. These two laws virtually prohibit the government from using all electronic surveillance without a warrant.

Guarantee of Counsel

The **Sixth Amendment** guarantees a defendant the right "to have the assistance of counsel for his defense." Generally the federal courts provided **counsel,** or an attorney, in federal cases. For years, however, people could be tried in state courts without having a lawyer. As a result, defendants who could pay hired the best lawyers to defend them and stood a better chance of acquittal. People who could not pay had no lawyer and were often convicted because they did not understand the law.

Early Rulings on Right to Counsel The Supreme Court first dealt with the right to counsel in state courts in *Powell* v. *Alabama*[3] (1932). Nine African American youths were convicted of assaulting two white girls in Alabama. The Court reversed the conviction, ruling that the state had to provide a lawyer in cases involving the death penalty.

Ten years later, in *Betts* v. *Brady*[4] (1942), the Court held that states did not have to provide a lawyer in cases not involving the death penalty. The Court said appointment of counsel was "not a fundamental right, essential to a fair trial" for state defendants unless "special circumstances" such as illiteracy or mental incompetence required that the accused have a lawyer in order to get a fair trial.

For the next 20 years, under the *Betts* rule, the Supreme Court struggled to determine when the circumstances in a case were special enough to require a lawyer. Then in 1963 Clarence Earl Gideon, a penniless drifter from Florida, won a landmark case that ended the *Betts* rule.

Landmark Cases

Gideon* v. *Wainwright Gideon was charged with breaking into a pool hall with the intent to commit a crime—a felony. Because he was too poor to hire a lawyer, Gideon requested a court-appointed attorney. The request was denied by the court. Gideon was convicted and sentenced to a five-year jail term.

See the following footnoted materials in the ***Reference Handbook:***
1. *Olmstead* v. *United States* case summary, page 763.
2. *Katz* v. *United States* case summary, page 760.
3. *Powell* v. *Alabama* case summary, page 763.
4. *Betts* v. *Brady* case summary, page 755.

While in jail, Gideon studied law books. He appealed his own case to the Supreme Court with a handwritten petition. "The question is very simple," wrote Gideon. "I requested the [Florida] court to appoint me an attorney and the court refused." In 1963, in a unanimous verdict, the Court overruled *Betts* v. *Brady*. Justice Black wrote:

> *"Those guarantees of the Bill of Rights which are fundamental safeguards of liberty immune from federal abridgment are equally protected against state invasion by the Due Process Clause of the Fourteenth Amendment. . . . Reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him."*
>
> —Justice Hugo Black, 1963

Results of the *Gideon* Decision Gideon was released, retried with a lawyer assisting him, and acquitted. Hundreds of other Florida prisoners and thousands more in other states who had been convicted without counsel were also set free. The Court has since extended the *Gideon* decision by ruling that whenever a jail sentence of 6 months or more is a possible punishment—even for misdemeanors and petty offenses—the accused has a right to a lawyer at public expense from the time of arrest through the appeals process.

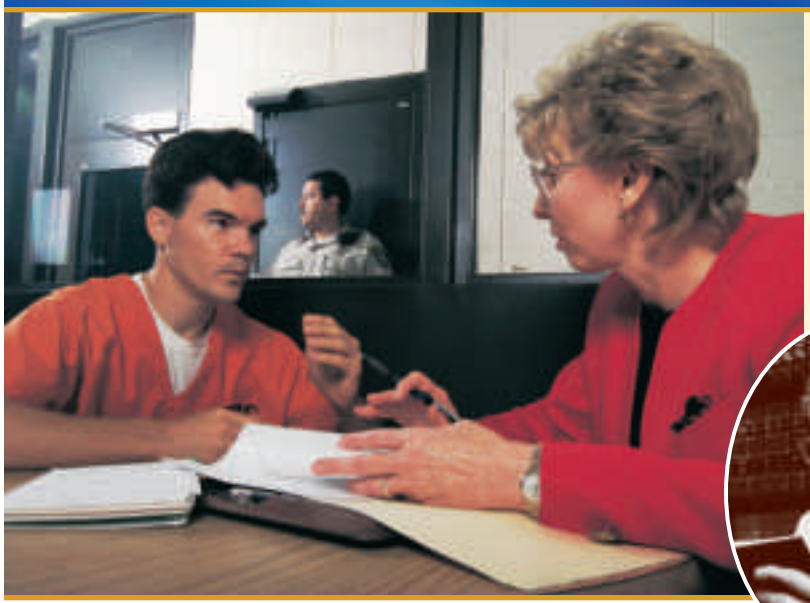
Self-incrimination

The **Fifth Amendment** says that no one "shall be compelled in any criminal case to be a witness against himself." 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. This protection rests on a basic legal principle: the government bears the burden of proof. Defendants are not obliged to help the government prove they committed a crime or to testify at their own trial.

The Fifth Amendment also protects defendants against confessions extorted by force or violence. Giving people the "third degree" is unconstitutional because this pressure forces defendants, in effect, to testify against themselves. The same rule applies to state courts through the due process clause of the Fourteenth Amendment.

In the mid-1960s the Supreme Court, under Chief Justice Earl Warren, handed down two decisions that expanded protection against self-incrimination and forced confessions. The cases were *Escobedo* v. *Illinois* (1964) and *Miranda* v. *Arizona* (1966).

Sixth Amendment Guarantees



Constitutional Interpretations The Supreme Court ruled that it is the duty of the court to provide counsel for those accused of a crime. Here a lawyer consults with a client in jail. ***How did the ruling in the Betts case differ from that in the Gideon case?***

Clarence Gideon

The Power of Judicial Review

Landmark Decisions In 1966 the Court threw out the felony conviction of Ernesto Miranda, who had confessed while in police custody. ***Analyze the impact of the* Miranda *decision on police policies and procedures across the nation.***

Escobedo* v. *Illinois In 1960 Manuel Valtierra, Danny Escobedo's brother-in-law, was shot and killed in Chicago. The police picked up Escobedo and questioned him at length. Escobedo repeatedly asked to see his lawyer, but his requests were denied. No one during the course of the interrogation advised Escobedo of his constitutional rights. After a long night at police headquarters, Escobedo made some incriminating statements to the police. At his trial, the prosecution used these statements to convict Escobedo of murder.

In 1964 the Court reversed Escobedo's conviction, ruling that Escobedo's Fifth Amendment right to remain silent and his Sixth Amendment right to an attorney had been violated. The Court reasoned that the presence of Escobedo's lawyer could have helped him avoid self-incrimination. A confession or other incriminating statements an accused person makes when he or she is denied access to a lawyer may not be used in a trial. This is another version of the exclusionary rule.

Miranda* v. *Arizona Two years later, the Court established strict rules for protecting suspects during police interrogations. In March 1963, Ernesto Miranda had been arrested and convicted for the rape and kidnapping of an 18-year-old woman. The victim selected Miranda from a police lineup, and the police questioned him for two hours. During questioning, Miranda was not told that he could remain silent or have a lawyer. Miranda confessed, signed a statement admitting and describing the crime, was convicted, and then appealed.

In *Miranda* v. *Arizona* (1966) the Supreme Court reversed the conviction. The Court ruled that the Fifth Amendment's protection against self-incrimination requires that suspects be clearly informed of their rights before police question them. Unless they are so informed, their statements may not be used in court. The Court set strict guidelines for police questioning of suspects. These guidelines are now known as the *Miranda* rules. The Court said:

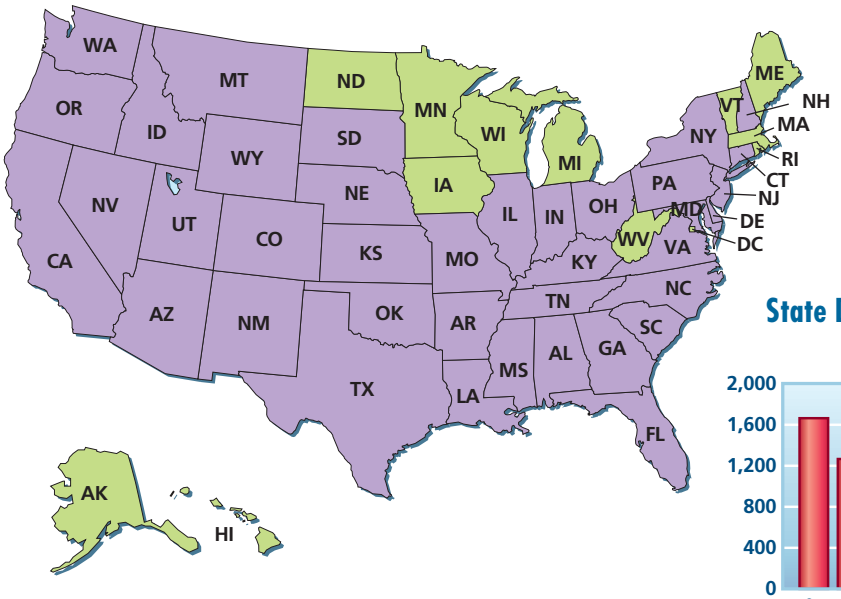
> "*Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed.*"
>
> —Chief Justice Earl Warren, 1966

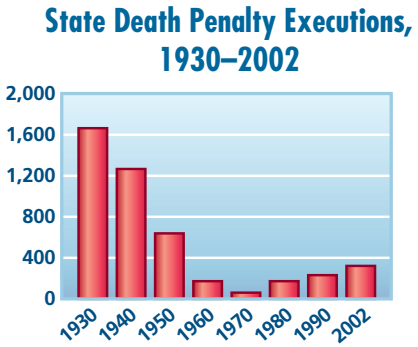
Since 1966 the Court has qualified the *Miranda* and *Escobedo* rules. For example, in *Oregon* v. *Elstad*[1] (1985) the Court held that if suspects confess before they are informed of their rights, the prosecutor may later use those confessions as evidence. In the 1988 case of *Braswell* v. *United States*,[2] the Court narrowed the protection from self-incrimination in cases involving business crime by ruling that employees in charge of corporate records can be forced to turn over evidence even if it is incriminating.

In 1991 the Court narrowed protection from self-incrimination even further when it ruled that coerced confessions are sometimes permitted. In

See the following footnoted materials in the ***Reference Handbook:***
1. *Oregon* v. *Elstad* case summary, page 763.
2. *Braswell* v. *United States* case summary, page 755.

Capital Punishment in the United States





Sources: U.S. Department of Justice; Death Penalty Information Center, 2002.

Critical Thinking **The Supreme Court has ruled capital punishment legal, as long as cases are considered on an individual basis.** ***What principle of the Constitution permits states to allow or not allow the death penalty?***

the case of *Arizona* v. *Fulminante*,[1] Oreste Fulminante, who was in prison for illegal possession of a firearm, confessed to a fellow inmate that he had murdered his stepdaughter. The inmate had promised Fulminante protection from other prisoners in exchange for the confession. After the inmate told the authorities about the confession, Fulminante was tried and convicted. Upon appeal the Supreme Court ruled that a forced confession did not void a conviction if other independently obtained evidence sustained a guilty verdict.

In 2000, however, the Court reaffirmed that the *Miranda* rules are deeply rooted in the Constitution and that Congress cannot reverse the requirement to inform arrested persons of their rights. Writing for a seven-to-two majority in *Dickerson* v. *United States*,[2] Chief Justice William Rehnquist stated, "*Miranda* has become embedded in routine police practice to the point where warnings have become part of our national culture."

Double Jeopardy

The Fifth Amendment states in part that no person shall be "twice put in jeopardy of life and limb." **Double jeopardy** means a person may not be tried twice for the same crime, thus protecting people from continual harassment. In *United States* v. *Halper*,[3] (1989) the Supreme Court ruled that a civil penalty could not be imposed after a criminal penalty for the same act. However, the Court ruled in *Hudson* v. *United States*[4] (1997) that people who have paid civil fines for regulatory wrongdoing may also face criminal charges. Also, if a criminal act violates both state and federal law, the case may be tried at both levels.

See the following footnoted materials in the ***Reference Handbook:***
1. *Arizona* v. *Fulminante* case summary, page 754.
2. *Dickerson* v. *United States* case summary, page 757.
3. *United States* v. *Halper* case summary, page 766.
4. *Hudson* v. *United States* case summary, page 759.

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In addition, a single act may involve more than one crime. Stealing a car and then selling it involves theft and the sale of stolen goods. A person may be tried separately for each offense. When a trial jury fails to agree on a verdict, the accused may have to undergo a second trial. Double jeopardy does not apply when the defendant wins an appeal of a case in a higher court.

Cruel and Unusual Punishment

The **Eighth Amendment** forbids "cruel and unusual punishments," the only constitutional provision specifically limiting penalties in criminal cases. The Supreme Court has rarely used this provision. In *Rhodes* v. *Chapman*[1] (1981), for example, the Court ruled that putting two prisoners in a cell built for one is not cruel and unusual punishment.

There is a controversy, however, over how this protection relates to the death penalty. During the 1970s the Supreme Court handed down several decisions on the constitutionality of the death penalty. In *Furman* v. *Georgia*[2] (1972) the Court ruled that capital punishment as then administered was not constitutional. The Court found the death penalty was being imposed in apparently arbitrary ways for a wide variety of crimes and mainly on African Americans and poor people.

The *Furman* decision, however, stopped short of flatly outlawing the death penalty. Instead, it warned the states that the death penalty needed clarification. Thirty-five states responded with new death penalty laws. These laws took one of two approaches. North Carolina and some other states made the death penalty mandatory for certain crimes. In this way, they hoped to eliminate arbitrary decisions. In *Woodson* v. *North Carolina*[3] (1976), however, the Court ruled mandatory death penalties unconstitutional. The Court held that such laws failed to take into consideration the specifics of a crime and any possible mitigating circumstances.

Georgia and several other states took a different approach. They established new procedures for trials and appeals designed to reduce arbitrary decisions and racial prejudice in imposing the death penalty. In *Gregg* v. *Georgia*[4] (1976) the Court upheld the Georgia law. In the *Gregg* case, the Court ruled that under adequate guidelines the death penalty does not constitute cruel and unusual punishment. The Court stated: "Capital punishment is an expression of society's moral outrage. . . . It is an extreme sanction, suitable to the most extreme of crimes."

See the following footnoted materials in the ***Reference Handbook:***
1. *Rhodes* v. *Chapman* case summary, page 764.
2. *Furman* v. *Georgia* case summary, page 758.
3. *Woodson* v. *North Carolina* case summary, page 768.
4. *Gregg* v. *Georgia* case summary, page 759.

Section 3 Assessment

Checking for Understanding

1. **Main Idea** Use a graphic organizer like the one below to analyze the significance of the *Gideon, Escobedo,* and *Miranda* cases.

Gideon	*Escobedo*	*Miranda*

2. **Define** exclusionary rule, counsel, self-incrimination, double jeopardy.
3. **Identify** Fourth Amendment, Sixth Amendment, Fifth Amendment, Eighth Amendment.
4. What procedure must police follow in making a lawful search?

Critical Thinking

5. **Identifying Alternatives** What decisions does the accused person have to make at the time he or she hears the *Miranda* rules?

Concepts IN ACTION

Civil Rights Would you be willing to undergo routine random drug testing or locker searches in your school? Note that the Fourth Amendment right to privacy is at issue here. Create a slogan explaining your position and use it to create a one-page advertisement promoting your position.

Section 4

Equal Protection of the Law

Reader's Guide

Key Terms

rational basis test, suspect classification, fundamental right, discrimination, Jim Crow laws, separate but equal doctrine, civil rights movement

Find Out

- What is the constitutional meaning of "equal protection"?
- How has the Court applied the Fourteenth Amendment's equal protection clause to the issue of discrimination?

Understanding Concepts

Constitutional Interpretations Why do Supreme Court decisions in discrimination cases rest largely on the Fifth and Fourteenth Amendments?

COVER STORY

Pizza Refusal Illegal?

KANSAS CITY, MISSOURI, JANUARY 1997

Is this discrimination in pizza delivery? Paseo Academy, a city magnet school, planned a big midday pizza party for honor-roll students. Pizza Hut refused delivery of a $450 pizza order explaining that the area was unsafe—one of its "trade area restrictions" based on crime statistics. A local chain, Westport Pizza, filled the order. Principal Dorothy Shepherd later learned that Pizza Hut had a $170,000 contract to deliver pizzas to 21 Kansas City schools, including Paseo. A school board committee recommended canceling the contract.

The politics of pizza

Many forms of discrimination are illegal. The Declaration of Independence affirmed an ideal of American democracy when it stated "all men are created equal." This statement does not mean that everyone is born with the same characteristics or will remain equal. Rather, the democratic ideal of equality means all people are entitled to equal rights and treatment before the law.

Meaning of Equal Protection

The Fourteenth Amendment forbids any state to "deny to any person within its jurisdiction the equal protection of the law." The Supreme Court has ruled that the Fifth Amendment's due process clause also provides equal protection.

Generally the equal protection clause means that state and local governments cannot draw unreasonable distinctions among different groups of people. The key word is *unreasonable.* In practice, all governments must classify or draw distinctions among categories of people. For example, when a state taxes cigarettes, it taxes smokers but not nonsmokers.

When a citizen challenges a law because it violates the equal protection clause, the issue is not whether a classification can be made. The issue is whether or not the classification is reasonable. Over the years the Supreme Court has developed guidelines for considering when a state law or action might violate the equal protection clause.

The Rational Basis Test The **rational basis test** provides that the Court will uphold a state law when the state can show a good reason to justify the classification. This test asks if the classification is "reasonably related" to an acceptable goal of government. A law prohibiting people with red hair from driving would fail the test because there is no relationship

Triumph of Civil Rights
President Johnson offers the pen used to sign the Civil Rights Act of 1964 to NAACP's Roy Wilkins, as Attorney General Robert F. Kennedy (above right) looks on. ***Senator Everett McKinley Dirksen supported the civil rights bill saying, "No army can withstand the strength of an idea whose time has come." What do you think he meant?***

between the color of a person's hair and driving safely. In *Wisconsin* v. *Mitchell*[1] (1993), however, the Supreme Court upheld a state law that imposes longer prison sentences for people who commit "hate crimes," or crimes motivated by prejudice. Unless special circumstances exist, the Supreme Court puts the burden of proving a law unreasonable on the people challenging the law. Special circumstances arise when the Court decides that a state law involves a "suspect classification" or a "fundamental right."

Suspect Classifications When a classification is made on the basis of race or national origin, it is a **suspect classification** and "subject to strict judicial scrutiny." A law that requires African Americans but not whites to ride in the back of a bus would be a suspect classification.

When a law involves a suspect classification, the Court reverses the normal presumption of constitutionality. It is no longer enough for the state to show that the law is a reasonable way to handle a public problem. The state must show the Court that there is "some compelling public interest" to justify the law and its classifications.

See the following footnoted materials in the ***Reference Handbook:***
1. *Wisconsin* v. *Mitchell* case summary, page 768.

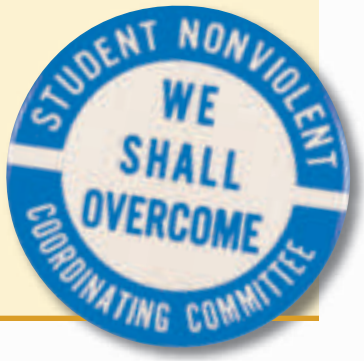
Fundamental Rights The third test the Court uses is that of **fundamental rights,** or rights that go to the heart of the American system or are indispensable in a just system. The Court gives a state law dealing with fundamental rights especially close scrutiny. The Court, for example, has ruled that the right to travel freely between the states, the right to vote, and First Amendment rights are fundamental. State laws that violate these fundamental rights are unconstitutional.

Proving Intent to Discriminate

Laws that classify people unreasonably are said to discriminate. **Discrimination** exists when individuals are treated unfairly solely because of their race, gender, ethnic group, age, physical disability, or religion. Such discrimination is illegal, but it may be difficult to prove.

What if a law does not classify people directly, but the effect of the law is to classify people? For example, suppose a law requires that job applicants at the police department take a test. Suppose members of one group usually score better on this test than members of another group. Can discrimination be proven simply by showing that the law has a different impact on people of different races, genders, or national origins?

Protest Strategy Civil rights activists carry out a sit-in in Charlotte, North Carolina, in the early 1960s. They continued their silent protest at the counter, even after the waitresses refused to serve them and left. ***What do you think civil rights activists hoped to accomplish through sit-ins?***



A button expressing a motto of civil rights activists

Showing Intent to Discriminate

In *Washington* v. *Davis*[1] (1976) the Supreme Court ruled that to prove a state guilty of discrimination, one must prove that an intent to discriminate motivated the state's action. The case arose when two African Americans challenged the District of Columbia police department's requirement that all recruits pass a verbal ability test. They said the requirement was unconstitutional because more African Americans than whites failed the test.

The Court said that this result did not mean the test was unconstitutional. The crucial issue was that the test was not designed to discriminate. As the Court said in a later case, "The Fourteenth Amendment guarantees equal laws, not equal results."

Impact of the *Washington* Decision

Since the *Washington* case, the Court has applied the principle of intent to discriminate to other areas. In one Illinois city, a zoning ordinance permitted only single-family homes, prohibiting low-cost housing projects. The Court ruled the ordinance constitutional, even though it effectively kept minorities from moving into the city. The reason for the decision was that the Court found no intent to discriminate against minorities.

The Struggle for Equal Rights

The Fourteenth Amendment, guaranteeing equal protection, was ratified in 1868, shortly after the Civil War. Yet for almost a century 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, about half the states had adopted **Jim Crow laws.** These laws, most often in Southern states, required racial segregation in such places as schools, public transportation, and hotels.

Landmark Cases

Plessy* v. *Ferguson The Supreme Court justified Jim Crow laws in *Plessy* v. *Ferguson* (1896). The Court said the Fourteenth Amendment allowed separate facilities for different races as long as those facilities were equal. Justice Harlan dissented:

See the following footnoted materials in the ***Reference Handbook:***
1. *Washington* v. *Davis* case summary, page 767.

CONTENTS

> *I deny that any legislative body or judicial tribunal may have regard to the race of citizens when the civil rights of those citizens are involved. . . . Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.*
>
> —Justice John Marshall Harlan, 1896

Nevertheless, for the next 50 years the **separate but equal doctrine** was used to justify segregation in the United States. In the late 1930s and the 1940s the Supreme Court began to chip away at the doctrine in a series of decisions that have had far-reaching implications. The most important decision came in 1954 in a case involving an African American student in Topeka, Kansas.

Brown v. *Board of Education of Topeka*

In the 1950s Topeka's schools were racially segregated. Linda Carol Brown, an eight-year-old African American student, was denied admission to an all-white school near her home and was required to attend a distant all-black school. With the help of the National Association for the Advancement of Colored People (NAACP), Linda's family sued the Topeka Board of Education. The NAACP successfully argued that segregated schools could never be equal. Therefore, such schools were unconstitutional. In 1954 the Court ruled on this case and similar cases filed in Virginia, Delaware, and South Carolina. In a unanimous decision in *Brown* v. *Board of Education of Topeka,* the Court overruled the separate but equal doctrine. This decision marked the beginning of a long, difficult battle to desegregate the public schools.

Selected Major Civil Rights Legislation

Year	Act	Major Provisions
1875	Civil Rights Act	Bans discrimination in places of public accommodation (declared unconstitutional in 1883)
1957	Civil Rights Act	Makes it a federal crime to prevent a person from voting in a federal election
1963	Equal Pay Act	Bans wage discrimination based on race, sex, color, religion, or national origin
1964	Civil Rights Act	Bans discrimination in places of public accommodation, federally funded programs, and private employment; authorizes Justice Department to bring school integration suits
1965	Voting Rights Act	Allows federal registrars to register voters and ensure that those registered can exercise their right to vote without qualifications
1967	Age Discrimination Act	Bans discrimination in employment based on age
1968	Civil Rights Act, Title VIII	Bans racial discrimination in sale or rental of housing
1972	Higher Education Act, Title IX	Forbids discrimination based on sex by universities and colleges receiving federal aid
1974	Housing and Community Development Act	Bans housing discrimination based on sex
1990	Americans with Disabilities Act	Bans discrimination in employment, transportation, public accommodations, and telecommunications against persons with physical or mental disabilities

Critical Thinking **The Fourteenth Amendment, ratified in 1868, was passed to protect the rights of formerly enslaved persons. However, it was not until 1964 that racial segregation in places of public accommodation was made illegal.** ***What civil rights act eliminated voting qualifications such as passing a literacy test?***

TIME For the Record

The Warren Legacy Earl Warren served as California governor before being appointed Chief Justice of the United States in 1953. To send a strong message to the nation, he forged a consensus among fellow justices in *Brown* v. *Board of Education*. More than any court, the Warren Court championed the rights of individual citizens.

The *Brown* decision established a precedent for the Court which guided many other legal rulings. Even though the Court had clearly ruled against segregation, housing patterns in many areas created segregated school districts that were largely either African American or white. The Court's remedy to this situation came in the case of *Swann* v. *Charlotte-Mecklenburg Board of Education* (1971). Again unanimously, the Court declared that children should be bused to schools outside their neighborhoods to combat these housing patterns and ensure integrated schools.

The Civil Rights Movement After the *Brown* decision, many African Americans and whites worked together to end segregation through the **civil rights movement.** Throughout the United States, but mostly in the South, African Americans deliberately and peacefully broke laws supporting racial segregation. Some held "sit-ins" at restaurant lunch counters that served only whites. When arrested for breaking segregation laws, they were almost always found guilty. They could then appeal, challenging the constitutionality of the laws.

The most important leader of the civil rights movement was Dr. Martin Luther King, Jr. A Baptist minister, King led nonviolent protest marches and demonstrations against segregation. He understood the importance of using the courts to win equal rights and sought to stir the nation's conscience.

New Civil Rights Laws Influenced by the civil rights movement, Congress began to pass civil rights laws. The Civil Rights Act of 1964 and other laws sought to ensure voting rights and equal job opportunities. President Lyndon Johnson said, "Passage of this bill and of the 1965 civil rights law . . . profoundly altered the politics of civil rights and the political position of Southern blacks."

Section 4 Assessment

Checking for Understanding

1. **Main Idea** Use the graphic organizer below to analyze why the Supreme Court overturned the separate but equal doctrine and what effects followed that decision.

Cause	Effect/Cause	Effect
	Brown v. *Board of Education*	

2. **Define** rational basis test, suspect classification, fundamental right, discrimination, Jim Crow laws, separate but equal doctrine, civil rights movement.
3. **Identify** racial discrimination, segregation.
4. List three guidelines or tests the Supreme Court uses in its judgment of cases involving equal protection under the law.

Critical Thinking

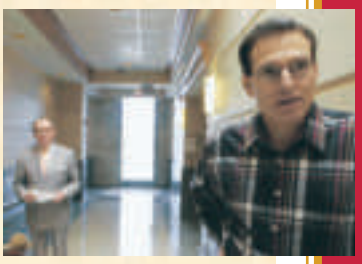
5. **Checking Consistency** Was Chief Justice Earl Warren's opinion in *Brown* v. *Board of Education of Topeka* consistent with Justice Harlan's dissenting opinion in *Plessy* v. *Ferguson?* Explain your answer.

Concepts IN ACTION

Constitutional Interpretations Find information about the Civil Rights Act of 1964, Voting Rights Act of 1965, Equal Employment Opportunities Act of 1972, Education Amendment of 1972, Voting Rights Act of 1975, and Americans with Disabilities Act of 1990. Prepare an informational brochure that describes these acts.

Supreme Court Cases to Debate

Apprendi v. *New Jersey*, 2000



The Fourteenth Amendment requires that an accused person receive due process when tried for breaking a state law. How does this affect the enforcement of hate crime laws, which require harsher punishments for crimes motivated by prejudice? The Court faced this issue in the case of Apprendi *v.* New Jersey.

Background of the Case

On December 22, 1994, Charles Apprendi fired several gunshots into an African American family's home in Vineland, New Jersey. Apprendi confessed to the shooting and stated that he did not want the family in the neighborhood "because they are black in color." Later Apprendi took back his statement.

Apprendi was accused of four different shootings and of unlawful possession of weapons. During the plea agreement stage, the state reserved the right to request a harsher sentence for the December 22 shooting on the grounds that it was committed because the victims were members of a minority group. At the evidence hearing, the judge ruled that Apprendi's December 22 shooting was motivated by racial prejudice and sentenced Apprendi to 12 years, which exceeded the usual 10-year maximum for such an offense. Apprendi claimed that the extended sentence violated his rights under the Fourteenth Amendment and argued that the amendment's due process clause requires that bias in a hate crime be proved to a jury beyond a reasonable doubt.

Apprendi's appeal eventually reached the New Jersey Supreme Court, which upheld the decisions of the lower courts. The case was taken before the United States Supreme Court in March 2000.

The Constitutional Issue

During the 1990s, many Americans became increasingly alarmed over violent crimes whose victims were singled out as members of a certain group. State legislatures responded by passing hate crime laws to protect minorities. These laws provide for extended sentences when a court determines that a convicted person committed his or her crime because of prejudice.

Hate crime laws were passed with good intentions. However, establishing that prejudice is a criminal's main motive proved difficult in most cases. The judge in the *Apprendi* case made his decision based on the "preponderance of evidence." Because judges, not juries, often choose a sentence from a range of punishments prescribed for a certain crime, it seems to be a reasonable way to proceed in determining whether or not a crime is a hate crime.

On the other hand, the crime for which the jury convicted Apprendi was not designated a hate crime in the indictment. The jury did not decide beyond a reasonable doubt that he was motivated by prejudice. Apprendi's case raised the issue of whether a judge has the power under the Constitution to make decisions that greatly increase a sentence.

Debating the Case

Questions to Consider

1. Which amendment specifies trial by jury as part of the due process of law?
2. How might a Supreme Court decision in Charles Apprendi's favor affect other cases in which extended sentences have been handed down?

You Be the Judge

Does the deterrent posed by hate crime laws justify the use of the "preponderance of evidence" standard rather than the "proof beyond a reasonable doubt" standard? Is a defendant denied his or her rights if a judge, not a jury, decides on an extended sentence?

Section 5

Challenges for Civil Liberties

Reader's Guide

Key Terms

affirmative action, security classification system, transcript

Find Out

- What are the issues involved when the Supreme Court deals with affirmative action cases?
- How does the reasonableness standard apply in cases of sex discrimination?

Understanding Concepts

Public Policy How has government addressed the joint responsibilities of citizens' right to know and right to privacy?

COVER STORY

Senators Act to Protect Privacy

WASHINGTON D.C., JULY 11, 2001

Browsing the Internet

The Senate Commerce Committee hardly questioned whether an Internet privacy bill was necessary today, instead focusing on what shape that bill should take. Chairman Fritz Hollings of South Carolina and former chairman John McCain of Arizona both vowed to reintroduce privacy bills they had submitted separately last year. Their proposals differed on whether companies should be required to get permission before sharing customer data—known as "opt-in"—or whether they should be free to exploit the data unless customers ask them not to—known as "opt-out." North Carolina Senator John Edwards took the occasion to unveil a bill that would limit the commercial uses of location information from cell phones and other mobile devices.

Changing ideas, social conditions, and technology will always create new issues for civil liberties. Key issues today involve affirmative action, discrimination against women, the right to know about government actions, privacy, and the fight against terrorism.

Affirmative Action

In the 1960s a new approach to dealing with discrimination developed through affirmative action programs. **Affirmative action** refers to government policies that directly or indirectly give a preference to minorities, women, or the physically challenged in order to make up for past discrimination caused by society as a whole. Affirmative action is used in hiring and promotions, government contracts, admission to schools and training programs, and many other areas. Most affirmative action programs are required by federal government regulations or court decisions. Other programs are voluntary efforts.

Use in Education One of the most important applications of affirmative action has been in higher education. In 1978 the Supreme Court ruled that colleges and universities could take race into account when admitting students, as long as they did not use a strict quota system that set aside a certain number of slots to minority candidates (*Regents of the University of California* v. *Bakke*[1]). Since then, many institutions of higher learning have adjusted their admissions policies to guarantee diversity on their campuses.

In the mid-1990s, however, opponents of affirmative action began organizing to end such programs. In 1995 the University of California's Board of Regents voted to end the university's use of race in its admissions policy. The push to

See the following footnoted materials in the ***Reference Handbook:***

1. *Regents of the University of California* v. *Bakke* case summary, page 764.

CONTENTS

Equality vs. Freedom Allan Bakke (right) received his degree in 1982, after the Supreme Court ordered the medical school of the University of California to admit him in 1978. Diane Joyce (left) gained a promotion from laborer to road dispatcher by invoking a government affirmative action policy. ***Do you think that fairness in education, hiring, and promotion can be accomplished through affirmative action?***

end affirmative action at the university was led by Ward Connerly, an African American board member and business owner who strongly believed that affirmative action treats people unequally. Connerly then led the campaign for Proposition 209—an amendment to California's constitution that banned the state from giving preferential treatment on the basis of race, gender, ethnicity, or national origin. After Californians voted in favor of Proposition 209 in 1996, citizens in other states stepped up their efforts to ban affirmative action programs.

Twenty-five years after the *Bakke* ruling, affirmative action faced another challenge that went to the Supreme Court. In *Grutter* v. *Bollinger*[1], 2003), the Court upheld an admissions policy at the University of Michigan that gave preference to minorities who applied to its law school. The Court noted that the Michigan law school program treated race as a "plus factor" to be taken into account along with other characteristics of applicants such as special talents, extracurricular activities, and their hometown.

In presenting its decision in *Grutter*, the Court endorsed the idea that universities have a special mission in American society that justifies some consideration of race in admissions. Universities, the Court reasoned, must be open to all races in order to provide diverse, well-trained graduates for the military, business, and many other American institutions.

At the same time, the Court has made it clear that not all forms of affirmative action in college admissions are acceptable. In the same year as the *Grutter* case, the Court heard another case involving the University of Michigan, this time dealing with undergraduate admissions. In *Gratz* v. *Bollinger*[2], the Court struck down an affirmative action program that used a point system to automatically give extra points to minority applicants.

Other Uses The Supreme Court's attitude towards affirmative action in areas outside higher education has been less clear. In *Johnson* v. *Transportation Agency, Santa Clara County, California*[3] (1987), for example, the Court upheld a plan by the transportation department to move women into high-ranking positions, thus supporting affirmative action in promotions. In *Richmond* v. *J.A. Croson Co.*[4] (1989), however, the Court said that a plan

See the following footnoted materials in the ***Reference Handbook:***
1. *Grutter* v. *Bollinger* case summary, page 759.
2. *Gratz* v. *Bollinger* case summary, page 759.
3. *Johnson* v. *Transportation Agency, Santa Clara County, California* case summary, page 760.
4. *Richmond* v. *J.A. Croson Co.* case summary, page 764.

Participating IN GOVERNMENT

Filing a Civil Rights Complaint

Making a civil rights complaint

If persons believe they have been treated unfairly because of gender, race, color, national origin, religion, or disability, they can make a formal complaint that their civil rights have been violated.

The complaint must be in writing, be signed and dated, and include your name, address, and phone number. It must include the name and address of the person or establishment that is the subject of the complaint. The complaint must describe the act and the type of discrimination (gender, race, and so on). It must include the date and place the act occurred and the names, addresses, and phone numbers of any witnesses. No other documents are necessary.

Generally, a complaint must be filed with the appropriate agency within 180 days of the discrimination it alleges. Discrimination in employment, education, housing, credit, and public services are handled by various state or federal government agencies. The Complaints Referral Office of the U.S. Commission on Civil Rights in Washington, D.C., gives advice on where to file a complaint.

Activity

1. Investigate the state or federal agencies that handle various civil rights complaints. Use the telephone directory to list which agencies are concerned with the following areas: employment, housing, credit, education, public facilities.
2. Create an imaginary civil rights complaint following the guidelines above. Include the name and address of the agency where you would file your complaint.

setting aside 30 percent of city contracts for minority companies was unconstitutional. In 1995, in *Adarand Constructors, Inc.* v. *Peña*[1], the Court addressed affirmative action in federal programs. It overturned earlier decisions supporting affirmative action when it held that federal programs classifying people by race are unconstitutional, even when the purpose is to expand opportunities for minorities.

An Ongoing Debate The policy of affirmative action has caused much disagreement. Its supporters argue that minorities and women have been so handicapped by past discrimination that they suffer from disadvantages not shared by white males. Supporters also argue that increasing the number of minorities and women in desirable jobs is such an important social goal that it should be taken into account when judging a person's qualifications for a job, school application, or promotion. Therefore, supporters claim, simply stopping discrimination is not enough; government has the responsibility to actively promote equality for minorities.

Opponents claim that any discrimination based on race or gender is wrong, even to correct past injustices. They argue that merit should be the only basis for making decisions on jobs, promotions, and school admissions. Some opponents have used the term **reverse discrimination** to describe situations where qualified individuals lose out to others chosen because of their race, ethnicity, or gender. The nation's heated debate over affirmative action continues to the present.

Discrimination Against Women

Women finally won the right to vote with the Nineteenth Amendment in 1920. In recent decades new challenges to discrimination against women have been raised in such areas as employment, housing, and credit policies.

See the following footnoted materials in the ***Reference Handbook:***

1. *Adarand Constructors, Inc.* v. *Peña* case summary, page 754.

The Supreme Court's Position Prior to the 1970s, the Supreme Court generally ruled that laws discriminating against women did not violate the equal protection clause of the Fourteenth Amendment. In theory, many of these laws were designed to protect women from night work, overtime work, heavy lifting, and "bad elements" in society. In practice, they often discriminated against women. In the 1950s, for example, the Court upheld an Ohio law forbidding any woman other than the wife or daughter of a tavern owner to work in a bar.

Landmark Cases

Reed* v. *Reed In 1971 the Supreme Court for the first time held that a state law was 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:

> "*To give a mandatory preference to members of either sex over members of the other . . . is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause.*"
>
> —Chief Justice Warren Burger, 1971

Reasonableness Standard The *Reed* decision created a new standard for judging constitutionality in gender discrimination cases. The Supreme Court said any law that classifies people on the basis of gender "must be reasonable, not arbitrary, and must rest on some ground of difference." That difference must serve "important governmental objectives" and be substantially related to those objectives.

In addition, in 1977 the Court said that treating women differently from men (or vice versa) is unconstitutional when based on no more than "old notions" about women and "the role-typing society has long imposed on women."

Substantial Interest Standard Since the *Reed* decision, federal courts have allowed some distinctions based on gender, while they have invalidated others. All of the following prohibited actions result from Supreme Court decisions that bar distinctions based on gender: (1) States cannot set different ages at which men and women become legal adults. (2) States cannot set different ages at which men and women are allowed to purchase alcohol. (3) States cannot exclude women from juries. (4) Employers cannot require women to take a pregnancy leave from work. (5) Girls cannot be kept off Little League baseball teams. (6) Private clubs and community service groups cannot exclude women from membership. (7) Employers must pay women monthly retirement benefits equal to those paid to men. (8) States cannot bar women from state-supported military colleges.

The following permitted actions are based on Supreme Court decisions that allow differences based on gender: (1) All-boy and all-girl public schools are allowed as long as enrollment is voluntary and quality is equal. (2) A state can give widows a property tax exemption not given to widowers. (3) A state may prohibit women from working in all-male prisons. (4) Hospitals may bar fathers from the delivery room.

The Fight for the Right to Vote

Social Reform A member of the Congressional Union, founded by suffragist Alice Paul, demands suffrage from President Woodrow Wilson in 1919. ***Why do you think the right to vote was so important to women?***

The National Woman Suffrage Publishing Company endorses women's right to vote.

CONTENTS

Reasonable Distinctions

Women in the Armed Forces Although many women have enlisted in the armed forces, the Supreme Court ruled in 1981 that Congress could exclude women from the draft. ***Why would the Court allow Congress to exclude women from the draft?***

Congressional Action Congress has passed many laws protecting women from discrimination. The Civil Rights Act of 1964, for example, banned job discrimination based on gender. In 1972 the Equal Employment Opportunity Act strengthened earlier laws by prohibiting gender discrimination in activities ranging from hiring and firing to promotion, pay, and working conditions.

In 1976 Congress acted to give women equal opportunities in education and school sports. When amending the Omnibus Education Act of 1972, Congress required all schools to give boys and girls an equal chance to participate in sports programs. Schools, however, may maintain separate teams for boys and girls, especially in contact sports.

In 1991 the Civil Rights and Women's Equity in Employment Act required employers to justify any gender distinctions in hiring to job performance and "business necessity."

Citizens' Right to Know

The right of citizens and the press to know what their government is doing is an essential part of democracy. Citizens cannot make intelligent judgments about the government's actions unless they have adequate information. Government officials, however, are often reluctant to share information about their decisions and policies.

The national government's **security classification system,** operating since 1917, provides that information on government activities related to national security and foreign policy may be kept secret. Millions of government documents are classified as secret each year and made unavailable to the public.

The Freedom of Information Act In 1966 Congress passed the Freedom of Information Act requiring federal agencies to provide citizens access to public records on request. Exemptions are permitted for national defense materials, confidential personnel and financial data, and law enforcement files. People can sue the government for disclosure if they are denied access to materials.

The Sunshine Act Before 1976 many government meetings and hearings were held in secret. Such closed sessions made it difficult for the press, citizens' groups, lobbyists, and the public to keep an eye on governmental decisions. In the Sunshine Act of 1976, Congress helped correct that situation by requiring that many meetings be open to the public.

The law applies to about 50 federal agencies, boards, and commissions. Meetings these agencies hold must be open to the public, and at least one week's advance notice must be given. Some closed meetings are allowed, but in that case a **transcript,** or summary record, of the meeting must be made available. People may sue to force public disclosure of the proceedings of a meeting, if necessary.

Citizens' Right to Privacy

The Constitution does not mention a specific right to privacy. In 1965, however, in the case of *Griswold* v. *Connecticut,* the Supreme

Court ruled that personal privacy is one of the rights protected by the Constitution. The Court said that specific guarantees in the First, Third, Fourth, and Fifth Amendments created an area of privacy that is protected by the Ninth Amendment and is applied to the states by the due process clause of the Fourteenth Amendment.

In decisions since *Griswold,* such as *Roe* v. *Wade*[1] (1973), *Reno* v. *Condon*[2] (2000), and *Lawrence* v. *Texas* (2003), the Court has recognized the right to privacy in personal matters such as child rearing, abortion, and personal relations within the confines of the home. The Court has also held that the right to personal privacy is limited when the state has a "compelling need" to protect society.

Internet Issues Widespread use of the Internet is creating many new challenges to the right to privacy. One concern is online surveillance by the government. The FBI, for example, has developed a powerful new wiretapping technology known as "Carnivore." The system can readily intercept the full content of e-mail flowing through the Internet or target particular words or phrases in messages sent by anyone on a network.

Online privacy is also being threatened by the ability of Web sites and hackers to gather information about people as they "surf" the Web. Marketers, for instance, can create a personal profile that may include your age, income, recent purchases, music preferences, and political party affiliation. More and more, such personal information is being collected in "data warehouses" where it is for sale to businesses, current or potential employers, or nearly anyone else willing to pay for it.

Terrorism and the USA Patriot Act War or other national emergencies create tension in a democracy between the need to maintain individual rights and the need to implement strong measures to protect the nation's security. The USA Patriot Act, passed quickly by Congress in response to the September 11, 2001, terrorist attacks, has greatly increased the federal government's power to detain, investigate, and prosecute people suspected of terrorism. The law allows federal agencies to monitor Internet messages, to tap phones with approval only from a secret foreign intelligence court, and to seize a person's library and other private records without showing "probable cause" as normally required in criminal investigations. The law also broadens the scope of who could be considered a terrorist, allows the FBI to share evidence collected in criminal probes, and gives the attorney general sweeping new powers to detain and deport people.

See the following footnoted materials in the ***Reference Handbook:***
1. *Roe* v. *Wade* case summary, page 764.
2. *Reno* v. *Condon* case summary, page 764.

GOVERNMENT *and You*

Privacy and Information Control

What legal recourse does a person have who is the subject of unwelcome publicity that does not involve physical injury or trespass? One of the difficulties that the law has in providing a right to privacy is that it often conflicts with the First Amendment rights of free speech and press. The Supreme Court has not generally supported the right to privacy for public figures. Private citizens have sometimes been successful in recovering damages for invasion of privacy when the press prints false statements about them. Another difficulty in the issue of information control is the failure of the law to keep pace with the electronic revolution that enables a host of data collectors to access and record personal information.

Celebrities sometimes face unwelcome publicity.

Participating IN GOVERNMENT ACTIVITY

Who Knows What? Invite a businessperson, police officer, or government official to class to share information on this topic. Discuss the limits that should apply to protect private citizens.

Privacy and Credit Cards

Personal Privacy Information on this customer may be dispatched through credit card use to various companies. ***In what circumstances might the collection of information about citizens conflict with the individual's right to privacy?***

Debate Over the Act The American people strongly supported the Patriot Act at the time of its passage. Later on, however, concerns arose over whether the Act poses a threat to civil liberties. Many legal experts have noted that provisions in the law could lead to changes in some of the most basic principles of the American legal system, such as the right to a jury trial, the privacy of attorney-client communications, and protections against preventive detention. By 2004 more than 140 cities and towns across the country had passed resolutions critical of the Patriot Act. During congressional hearings on the law, one House member told Attorney General John Ashcroft, "No prosecutor in modern history has been granted the power you now hold." Ashcroft has strongly defended the Patriot Act, declaring, "Our actions are firmly rooted in the Constitution, secure in historical and judicial precedent and consistent with the laws passed by Congress."

In 2002 a portion of the Patriot Act survived a court challenge when a special federal appeals court overturned attempts to limit new surveillance tactics being used under the law. The attorney general called the decision "a victory for liberty, safety and the security of Americans." There will be more challenges, however, as civil liberties groups and others continue to question whether actions taken under the law are constitutional.

Section 5 Assessment

Checking for Understanding

1. **Main Idea** Use a graphic organizer like the one below to list arguments for and against affirmative action programs.

For	Against

2. **Define** affirmative action, security classification system, transcript.
3. **Identify** reverse discrimination.
4. How does the Supreme Court apply the reasonableness standard in judging discrimination against women?
5. What is the key provision of the Freedom of Information Act?

Critical Thinking

6. **Checking Consistency** Review the lists of decisions barring distinctions based on gender and decisions allowing differences based on gender described on pages 415 and 416. Are there any decisions from the second list that you believe to be inconsistent with the first list? Explain.

Concepts IN ACTION

Public Policy Find out about the Equal Credit Opportunity Act (1974). Find out the origins, the main purpose, and the basic provisions of both the Fair Credit Reporting Act and the Equal Credit Opportunity Act. Analyze and present your information in a chart.

Skills

Study and Writing

Outlining

Outlining may be used as a starting point for a writer. The writer begins with the rough shape of the material and gradually fills in the details in a logical manner. You may also use outlining as a method of note taking and organizing information you read.

Learning the Skill

There are two types of outlines—formal and informal. An informal outline is similar to taking notes. You write only words and phrases needed to remember ideas. Under the main ideas, jot down related but less important details. This kind of outline is useful for reviewing material before an exam.

A formal outline has a standard format. Main heads are labeled with Roman numerals, subheads with capital letters, and details with Arabic numerals. Each level should have at least two entries and should be indented from the level above. All entries use the same grammatical form, whether phrases or complete sentences.

When outlining written material, first read the material to identify the main ideas. Then identify the subheads. Place details supporting or explaining subheads under the appropriate head.

1920s passenger liner ▼

Practicing the Skill

Study this partial outline; then answer the questions that follow.

I. Immigrants and aliens
  A. Classifying aliens
    1. Resident alien
    2. Non-resident alien
    3. Refugee
    4. Illegal alien
  B. Rights of aliens
    1. Bill of Rights guarantees
    2. Cannot vote, travel freely

II. Immigration policy
  A. Growth of restrictions
    1. First federal immigration law, 1882
    2. Immigration restrictions
  B. National origins quotas
    1. Immigration Act of 1924
    2. Immigrants from northern and western Europe favored

1. Is this a formal or informal outline?
2. What are the two main topics in this outline?
3. If you were to add two facts about the Immigration Act of 1924, where would you place them?

Application Activity

Following the guidelines above, prepare an outline for Section 2 of Chapter 14.

GO TO

The **Glencoe Skillbuilder Interactive Workbook, Level 2** provides instruction and practice in key social studies skills.

Assessment and Activities

GOVERNMENT Online

Self-Check Quiz Visit the *United States Government: Democracy in Action* Web site at gov.glencoe.com and click on ***Chapter 14—Self-Check Quizzes*** to prepare for the chapter test.

Reviewing Key Terms

Match the following terms with the descriptions below.

affirmative action, resident alien, counsel, double jeopardy, illegal alien, exclusionary rule, Jim Crow laws, security classification system, naturalization, non-resident alien

1. a person may not be retried for the same crime
2. the process of gaining citizenship
3. person from a foreign country who expects to stay in the United States for a short, specified period of time
4. person from a foreign country who establishes permanent residence in the United States
5. person who comes to the United States without legal permits
6. an attorney
7. keeps illegally obtained evidence out of court
8. laws that discriminated against African Americans
9. policy giving preference to minorities
10. how government documents are kept secret

Recalling Facts

1. How did the Constitution address the issue of citizenship?
2. What is the difference between an immigrant and an alien?
3. What are the three basic sources of United States citizenship?
4. What items must be included in a legal search warrant?
5. List the three *Miranda* rules.

Chapter Summary

Citizenship

- A person who is born on American soil, born to a parent who is a United States citizen, or naturalized is a U.S. citizen.
- A person can lose citizenship through expatriation, by being convicted of certain crimes, or through denaturalization.
- Responsibilities of citizens include knowing about rights and laws, participating in political life, and voting.

Equal Protection of the Law

- The Supreme Court uses three tests—rational basis, suspect classifications, and fundamental rights—to determine violations of equal protection.
- *Brown* v. *Board of Education of Topeka* (1954) overruled the separate-but-equal doctrine.
- Civil-rights movements throughout the 1960s and 1970s sought to end segregation and discrimination.

Rights of the Accused

- Fourth Amendment protects people from unreasonable searches and seizures.
- Fifth Amendment protects people from self-incrimination and from double jeopardy (being tried twice for the same crime).
- Sixth Amendment guarantees the right to legal counsel.
- Eighth Amendment prohibits cruel and unusual punishment.

Challenges for Civil Liberties

- Affirmative action debate over whether minorities should be compensated for past injustices continues.
- Efforts to stop discrimination against women in employment, housing, and credit policies continue.
- Citizens' right to know sometimes clashes with government's need for security.
- Citizens' right to privacy sometimes clashes with state's need to protect society.

CONTENTS

Understanding Concepts

1. **Constitutional Interpretations** How did the Fourteenth Amendment expand citizenship in the United States?
2. **Civil Rights** Why did the Court rule that wiretapping without a warrant was an illegal search and thus a violation of the Fourth Amendment?

Critical Thinking

1. **Describe** the circumstances in which collecting information about citizens and consumers conflicts with the individual's right to privacy.
2. **Making Generalizations** How did the *Escobedo* and *Miranda* cases extend protection against self-incrimination and forced confessions?
3. **Predicting Consequences** Use a graphic organizer like the one below to show what might happen if there were no formal procedures for becoming an American citizen.

Cause	Effect
No naturalization →	

Analyzing Primary Sources

Jane Addams was a prominent social reformer and advocate for woman suffrage. In a 1906 newspaper editorial, Addams discussed her arguments for giving women the vote. Read the excerpt and answer the questions that follow.

"Logically, [the] electorate should be made up of those who . . . in the past have at least attempted to care for children, to clean houses, to prepare foods, to isolate the family from oral dangers, those who have traditionally taken care of that side of life which inevitably becomes the subject of municipal consideration and control as soon as the population is congested. . . . These problems must be solved, if they are solved at all, not from the military point of view, not even from the industrial point of view, but from a third . . . the human welfare point of view."

1. What is the basis of Jane Addams' argument for giving women the vote?
2. Can you see any problems with granting women the vote based on these reasons? Why do you suppose, using the reasons listed above, that it took so long for women to get the right to vote?

Interpreting Political Cartoons Activity

1. Who are the people grouped on the left of the cartoon?
2. What is the meaning of the comment made by the person on the right?
3. How is "illegal immigrants" being defined by the cartoonist?

Participating in Local Government

Find out about or visit one of the citizenship classes offered to immigrants in your community. Find out what material is covered in courses designed to prepare immigrants for becoming United States citizens. What obstacles do immigrants have to overcome to be successful in these classes? Who sponsors and pays for these classes? Share your findings with the class in a brief oral presentation.