

## SUPREME COURT ACTIVITY

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In this activity, students do a simulation of a [Supreme Court deliberation](#) that introduces them to the difficult role of the courts in balancing individual rights and public safety when national security is threatened. Using the assumption that nation's terror alert system has been at orange (the second highest level) for six months, students are asked to assume the role of Supreme Court justices and weigh the risks of eliminating rights to keep the nation safe when it seems the democracy hangs in the balance.

### About These Resources

- [Suggested procedures](#) provide a prototype that may be modified
- [Our Rights](#) is a ranking activity that asks which rights participants would be willing to give up.
- [Activities](#) stimulate critical thinking and consensus building.
- Use the [discussion questions](#) to promote civil discussion skills.
- A [Supreme Court Quiz](#) tests basic knowledge.

### How to Use These Resources

The teacher assigns all students to a Supreme Court group of nine. "Extra" students - those beyond the nine on each court - are designated by the teacher to be broadcast journalists. Each is assigned to a Supreme Court.

The student Supreme Court is asked to weigh the risks of eliminating rights to keep the nation safe during a national security alert. The journalists will report the decision of their Court to the rest of the class at the conclusion of the deliberations. Each Supreme Court selects its Chief Justice. He/she is "a first among equals" and facilitates the deliberations. Use the [suggested procedures](#) for further guidance on the activity.

Before the deliberations, all students work in their Supreme Court groups to find a magazine picture representing each of the first Ten Amendments to the Constitution. Groups may select more than one picture per Amendment.

1. Each picture is labeled according to the Amendment it represents. All groups exhibit their pictures in separate areas of the classroom where everyone can see them.
2. With the pictures as reference points, each Court deliberates how eliminating one of the [rights](#) will impact our lives. Use the [suggested procedures](#) to deliberate.
3. At the end of the deliberations, each Court removes the pictures of the [rights](#) they have eliminated from the Constitution. The journalist for each group reports which rights have been eliminated and which have survived. All the rights that have survived by any Court are displayed together and all the rights that have been discarded by any Court are grouped together where everyone can see and discuss them.
4. The teacher in the classroom, or the judge in the courtroom, facilitates a [discussion](#) about the impact of eliminating or preserving the rights selected by the courts.
5. Take a [quiz](#) on your knowledge of the Supreme Court.

## SUGGESTED PROCEDURES

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*Total Time: 50 minutes*

### **Introduction (5 minutes)**

Introduce yourself. Be sure to talk about what you were like in eighth grade. Explain why you decided to become a judge, lawyer, or court administrator. Tell about the obstacles you overcame. Many young people say they want to go into law to make money. Tell them about the real rewards of working in the justice system.

### **Warm-Up Questions and Courtroom Walk-Around (25 minutes)**

1. Ask students: "What is a right?"  
List responses on the board.
2. Walk around the room and ask students to show you their magazine picture of a right that is important to them and ask why they, personally, care about it. In between pictures:
3. Ask students where we find our rights.  
(U.S. Constitution)
4. Ask students what the first Ten Amendments to the U.S. Constitution are called.  
(Bill of Rights)
5. Then, hand out the list from the [Our Rights](#) handout.

### **Group Activity (20 minutes for group work; 5 minutes for journalists' reports.)**

1. Have the students get into their previous Supreme Court groups of nine. The student journalists stay with their Supreme Court and take notes to report their court's opinion to the entire class.
2. **Fictitious Situation:** A series of cases has come before you at the Supreme Court asking you, in essence, to decide five rights that the entire country must give up in order to protect the security of the country. If you don't decide, public fear and apathy will endanger all individual rights.
3. Using the *Our Rights* handout, each student first works individually and checks off the rights he/she are willing to give up for the public safety of the country.
4. Working together on the *Our Rights* handout, each Supreme Court comes to a consensus on which five rights the country will give up. They use their pictures to categorize which five rights they will keep and which five they will discard.
5. At the end of the 20-minute timed period, the journalists report on the decision of their court and present the pictures of which rights the country will retain and which ones will be omitted.
6. The teacher tallies which rights the country keeps and loses. The groups display the pictures of the rights that are maintained and the rights that have been surrendered.

### **Debriefing (10 minutes)**

1. Ask the students what they learned during the experience.
2. What was difficult about it?
3. Take one Amendment that was discarded and ask the students what the ramifications and unintended consequences would be of losing it.
4. Discuss/explain how the Supreme Court protects their rights. Use examples from [landmark cases involving students](#). Keep in mind that Mary Beth Tinker was 13 years old when the Supreme Court heard *Tinker v. Des Moines*.

*Moines.*

5. Open the floor to any questions the students may have.

## OUR RIGHTS

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### **Balancing Individual Rights and Public Safety**

*If eliminating any of these rights would protect public safety, which would you choose? Why?*

### **Some of Our Rights Under the Constitution**

\_\_\_\_\_ Right to freedom of speech

\_\_\_\_\_ Right to bear arms

\_\_\_\_\_ Right to an attorney

\_\_\_\_\_ Right to protection from cruel and unusual punishment

\_\_\_\_\_ Right to freedom of the press

\_\_\_\_\_ Right to a jury trial

\_\_\_\_\_ Right to freedom of religion

\_\_\_\_\_ Right to peaceably assemble

\_\_\_\_\_ Protection from self-incrimination (testifying against yourself in a criminal trial)

\_\_\_\_\_ Right to protection from unreasonable searches and seizures

## ACTIVITIES

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The following activities are designed to make students aware of the impact that the Supreme Court has on their lives why they should care about the workings of the Court, and the justices who are appointed to it. See the summaries of [Landmark Supreme Court Cases About Students](#).

### Activity #1

#### Student Justices: An Exercise in Impartiality

In preparation for this activity, teachers should direct students to do research on the list of [Landmark Supreme Court Cases About Students](#).

When justices decide a case, they are not free to let their personal opinions affect the outcome. Rather, justices must aside any personal biases and decide the case solely according to the law.

The students are organized into teams. Each team is assigned one case from the [Landmark Supreme Court Cases About Students](#). The students on each team review the case collectively, and then each student is asked to make a list of any biases that he/she may have about the case or any facts about their lives that may affect their decision-making process. The students also compile a list of facts that they deem relevant to the case, and facts that they deem irrelevant. In preparation for this event, teachers should have their students research these cases.

After completing these lists, the students talk about the case, their biases, and what they consider relevant facts in the case. The purpose of this exercise is to provide students with a means for recognizing their own biases, especially when the requirements of the law conflict with their personal feelings about the issues.

Finally, group members state how they would vote on their particular case if they were justices on the Supreme Court. The student justices provide and discuss the reasons for their votes, including their opinions on how the issues in the case could have an impact on students.

### Activity #2

#### Student Justices: An Exercise in Collegiality

All groups are assigned the same case from the [Landmark Supreme Court Cases About Students](#) page. The groups use the same procedures used for Activity #1, e.g., list their biases, determine the relevant points of the case, and decide how they would rule on the case if they were justices. After coming to a consensus, one member of each team is selected as a spokesperson. The spokesperson presents to the large group the team's biases, relevant points upon which members based their opinions, the group's decision, and their reasoning. The number of groups voting for each party in the case is recorded. The party receiving the most votes wins its case.

### Activity #3

#### Judicial Perspective

The host judge provides some background information about himself/herself and discusses the ways he/she deals with overcoming personal biases in order to follow the law. The judge then takes questions from the students.

### Activity #4

#### Student Journalists and Pundits: An Exercise in Civil Discourse

Students divide into groups. Each group re-enacts a news interview program during which a panel discusses an assigned case from the [Landmark Supreme Court Cases About Students](#) handout. Each group selects a moderator. The remaining members of the group divide relatively evenly into two sides, one for each party to the case. Members on each side take on a certain role and present their arguments from the perspective of their assumed role, e.g., a lawyer, legal scholar, and/or a legal commentator. The moderator asks thought-provoking questions that the panelists debate. At some point, students in the audience also may ask questions when recognized by the moderator.

## DISCUSSION QUESTIONS

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### **Constitutional Concepts: Crossfire Discussion**

These conversations among the students are called Crossfire Discussions or Crossfires because they stimulate debate. One of the learning objectives of this exercise is to give students more experience with civil discourse on controversial topics. The students do independent research on their topic in preparation for their Constitutional Crossfire Discussion. Students are organized into Crossfire Discussion groups according to their interest in the following topics:

1. The Importance of a Written Constitution
2. Separation of Powers
3. Federalism
4. Individual Rights

### **Rules of Civility**

During this exercise, Crossfire Discussion group members are to exercise civility toward each other. Students must be recognized by the student moderator before speaking. No one else is to speak to the group or to other individuals when another student has the floor. Participants are expected to 1) listen to the positions taken by others; 2) ask clarifying questions of others; and 3) build on, agree, or disagree with the previous speakers' comments. Students are not to make disparaging remarks about others. Although heated debate is to be expected (and, to an extent, encouraged), the conversation should not devolve into sarcastic or disrespectful remarks, inappropriate facial expressions, or personal comments of any kind. Positions should be supported by evidence, not emotion.

### **Guidelines for Making a Legal Argument**

Students are to base their arguments on their legal research. They should provide a legally sound reason for their arguments and not simply assert their personal feelings. To make a legally sound argument, students should connect their statements to appropriate Constitutional provisions, court cases, and/or laws. Participants may bolster their positions by comparing and contrasting the facts of two or more cases. If no specific legal authority can be cited, then students are encouraged to put forth their own opinions, but they should base their position on logic and provide other relevant supporting materials. In short, arguments should be grounded in logic, not emotion.

### **Constitution Day: Crossfire Discussion Questions**

#### **The Importance of a Written Constitution**

- Is the U.S. Constitution a living document that adapts to the times or does it mean today exactly what it meant when it was written? Explain and give examples.
- If the Constitution needs to be changed, how should that be done – through court decisions, or by amendments?
- The U.S. Constitution is the oldest national Constitution still in use. Since 1787, many other nations have written constitutions, only to see them fail. What are some of the strengths of the U.S. Constitution that has allowed it to survive the test of time?
- The U.S. Constitution is considered a milestone in the protection of individual rights. However, it was by no means perfect when it was written. What was lacking in the Constitution when it was written in 1787? Does it lack anything now? If so, what changes do you think are needed?

#### **Separation of Powers**

- Why is it important to not concentrate too much power in one branch of government? Give examples of what might happen if there were too much power in the Executive Branch. The Legislative Branch. The Judicial Branch. Give examples of when it might be necessary for one branch to exercise more power than another branch.
- In a parliamentary system, like England's, the executive and legislative powers are often closely interconnected. In a presidential system, like the United States', these powers are separated. What are some of the pros and cons of each system?
- Some have suggested that having a closer working relationship between the branches of government would end

"gridlock" and lead to a more efficient government. Others have argued that the separation of powers was specifically created to "slow down" the pace of government to ensure cool deliberation and not emotional reactions.

- What is your opinion?
- Does the separation of powers result in reasonable deliberation, or excessive delay?

### **Federalism**

- The framers of the Constitution wanted to create a government that was neither too strong nor too weak. Reflecting upon modern-day government, do you think that the framers succeeded? Explain and give examples.
- The United States is a very different nation today than it was when the Constitution was written in 1787. In an age when technology allows us to be in constant contact, why is it still necessary for people in the U.S. to have state government and a national government?
- Is federalism still relevant? Explain and give examples.
- Although the Constitution created a federal government of limited powers, the Supreme Court has ruled that the government has certain "implicit" powers that are necessary for it to function properly. Do you agree with such an interpretation of the Constitution?
- Looking at Article I, Section 8 of the Constitution (the explicit powers of the federal government), what, if any, are some "implicit" powers that you think the federal government needs in order to be effective?
- What "implicit" powers should the national government have to wage the War on Terrorism?
- Are there areas which you believe the federal government should be more powerful?
  - Should health care be a national or state responsibility?
  - Should education be a national or state responsibility?
  - Should border security be in the hands of the state or the federal government?

### **Individual Rights**

- It has been more than 200 years since the American Revolution was fought in response to the British government infringing upon individual rights. Even today, Americans are very protective of their rights. Why do you think that this is so?
- Some have argued that the rights protected in the First Amendment to the Constitution are the most important because they are listed first. What right contained in the Bill of Rights is most important to you? Please explain why.
- Although all branches of government have played important roles in protecting individual rights, the Courts have often taken a leading role in this regard, e.g., *Brown v. Board of Education* helped to end segregation.
  - What do you see as the proper role of the Courts in protecting individual rights?
  - When, if ever, should there be restraints on the role of the Courts in regard to individual rights?
  - Should the Courts protect individual rights even if that means risking public safety to interfere with the military's efforts to combat terrorism?
  - What is the proper balance between individual liberties and public safety?

## SUPREME COURT QUIZ

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A quiz adapted from the *Washington Post's* KidsPost October 3, 2005.

- 1. The Supreme Court opens with the announcement "Oyez! Oyez! Oyez!"  
What does it mean?**
  - A. Hear ye! Hear ye! Hear ye!
  - B. Come to order. The Court is in session.
  - C. Both A and B.
  - D. The court does not open with this outdated announcement. A chime rings.
- 2. What job qualifications does the Constitution require of Supreme Court nominees?**
  - A. They must be a U.S. citizen.
  - B. They must be a lawyer.
  - C. None.
  - D. They must already be a judge.
- 3. The Constitution says that justices may serve:**
  - A. For life.
  - B. As long as they maintain good behavior.
  - C. Until they are voted out of office.
  - D. Until the President asks them to resign.
- 4. Before walking into the courtroom to hear a case, what do the justices do as a group?**
  - A. Shake hands.
  - B. Pray.
  - C. Wish each other well.
  - D. Touch the frame of a portrait of the first chief justice John Jay.
- 5. Out of the more than 7,000 cases the Court is asked to hear each term, how many is it able to hear?**
  - A. About 1,000.
  - B. About 700.
  - C. About 100.
  - D. About one a week.
- 6. What do the justices, primarily, do with their time when they are not on the bench?**
  - A. Write opinions.
  - B. Write laws.
  - C. Appoint other judges.
  - D. Find out how the President wants them to rule on cases.
- 7. An independent judiciary means that:**
  - A. Judges are not influenced by opinion polls or protest marches.
  - B. Judges are not influenced by media reports.
  - C. Judges do not ask the President or members of Congress how the Court should decide cases.
  - D. All of the above.

### Answers

1-C, 2-C, 3-B, 4-A, 5-C, 6-A, 7-D