

CURRICULUM

FOR

CONSTITUTIONAL LAW

GRADES 11-12

This curriculum is part of the Educational Program of Studies of the Rahway Public Schools.

ACKNOWLEDGMENTS

Stephanie Holobinko, Program Supervisor of Assessment and Social Studies

The Board acknowledges the following who contributed to the preparation of this curriculum.

Mr. Michael L. Clark

Dr. Tiffany A. Beer, Director of Curriculum and Instruction

Subject/Course Title:
Constitutional Law
Grades 11-12

Date of Board Adoption:
September 21, 2021

RAHWAY PUBLIC SCHOOLS CURRICULUM

Constitutional Law: Grades 11-12

PACING GUIDE

Unit	Title	Pacing
1	Introduction to Constitutional Law	10 weeks
2	Landmark Supreme Court Cases	16 weeks
3	The American Civil Rights Movement Case Law	4 weeks
4	Criminal Law	10 weeks

ACCOMMODATIONS

<p>504 Accommodations:</p> <ul style="list-style-type: none"> ● Provide scaffolded vocabulary and vocabulary lists. ● Provide extra visual and verbal cues and prompts. ● Provide adapted/alternate/excerpted versions of the text and/or modified supplementary materials. ● Provide links to audio files and utilize video clips. ● Provide graphic organizers and/or checklists. ● Provide modified rubrics. ● Provide a copy of teaching notes, especially any key terms, in advance. ● Allow additional time to complete assignments and/or assessments. ● Provide shorter writing assignments. ● Provide sentence starters. ● Utilize small group instruction. ● Utilize Think-Pair-Share structure. ● Check for understanding frequently. ● Have student restate information. ● Support auditory presentations with visuals. ● Weekly home-school communication tools (notebook, daily log, phone calls or email messages). ● Provide study sheets and teacher outlines prior to assessments. ● Quiet corner or room to calm down and relax when anxious. ● Reduction of distractions. ● Permit answers to be dictated. ● Hands-on activities. ● Use of manipulatives. ● Assign preferential seating. ● No penalty for spelling errors or sloppy handwriting. ● Follow a routine/schedule. ● Provide student with rest breaks. ● Use verbal and visual cues regarding directions and staying on task. ● Assist in maintaining agenda book. 	<p>IEP Accommodations:</p> <ul style="list-style-type: none"> ● Provide scaffolded vocabulary and vocabulary lists. ● Differentiate reading levels of texts (e.g., Newsela). ● Provide adapted/alternate/excerpted versions of the text and/or modified supplementary materials. ● Provide extra visual and verbal cues and prompts. ● Provide links to audio files and utilize video clips. ● Provide graphic organizers and/or checklists. ● Provide modified rubrics. ● Provide a copy of teaching notes, especially any key terms, in advance. ● Provide students with additional information to supplement notes. ● Modify questioning techniques and provide a reduced number of questions or items on tests. ● Allow additional time to complete assignments and/or assessments. ● Provide shorter writing assignments. ● Provide sentence starters. ● Utilize small group instruction. ● Utilize Think-Pair-Share structure. ● Check for understanding frequently. ● Have student restate information. ● Support auditory presentations with visuals. ● Provide study sheets and teacher outlines prior to assessments. ● Use of manipulatives. ● Have students work with partners or in groups for reading, presentations, assignments, and analyses. ● Assign appropriate roles in collaborative work. ● Assign preferential seating. ● Follow a routine/schedule.
<p>Gifted and Talented Accommodations:</p> <ul style="list-style-type: none"> ● Differentiate reading levels of texts (e.g., Newsela). ● Offer students additional texts with higher lexile levels. ● Provide more challenging and/or more supplemental readings and/or activities to deepen understanding. ● Allow for independent reading, research, and projects. ● Accelerate or compact the curriculum. ● Offer higher-level thinking questions for deeper analysis. ● Offer more rigorous materials/tasks/prompts. ● Increase number and complexity of sources. ● Assign group research and presentations to teach the class. ● Assign/allow for leadership roles during collaborative work and in other learning activities. 	<p>ELL Accommodations:</p> <ul style="list-style-type: none"> ● Provide extended time. ● Assign preferential seating. ● Assign peer buddy who the student can work with. ● Check for understanding frequently. ● Provide language feedback often (such as grammar errors, tenses, subject-verb agreements, etc...). ● Have student repeat directions. ● Make vocabulary words available during classwork and exams. ● Use study guides/checklists to organize information. ● Repeat directions. ● Increase one-on-one conferencing. ● Allow student to listen to an audio version of the text. ● Give directions in small, distinct steps. ● Allow copying from paper/book. ● Give student a copy of the class notes.

- Provide written and oral instructions.
- Differentiate reading levels of texts (e.g., Newsela).
- Shorten assignments.
- Read directions aloud to student.
- Give oral clues or prompts.
- Record or type assignments.
- Adapt worksheets/packets.
- Create alternate assignments.
- Have student enter written assignments in criterion, where they can use the planning maps to help get them started and receive feedback after it is submitted.
- Allow student to resubmit assignments.
- Use small group instruction.
- Simplify language.
- Provide scaffolded vocabulary and vocabulary lists.
- Demonstrate concepts possibly through the use of visuals.
- Use manipulatives.
- Emphasize critical information by highlighting it for the student.
- Use graphic organizers.
- Pre-teach or pre-view vocabulary.
- Provide student with a list of prompts or sentence starters that they can use when completing a written assignment.
- Provide audio versions of the textbooks.
- Highlight textbooks/study guides.
- Use supplementary materials.
- Give assistance in note taking
- Use adapted/modified textbooks.
- Allow use of computer/word processor.
- Allow student to answer orally, give extended time (time-and-a-half).
- Allow tests to be given in a separate location (with the ESL teacher).
- Allow additional time to complete assignments and/or assessments.
- Read question to student to clarify.
- Provide a definition or synonym for words on a test that do not impact the validity of the exam.
- Modify the format of assessments.
- Shorten test length or require only selected test items.
- Create alternative assessments.
- On an exam other than a spelling test, don't take points off for spelling errors.

UNIT OVERVIEW

Content Area: Social Studies

Unit Title: Introduction to Constitutional Law

Target Course/Grade Level: Constitutional Law, Grades 11-12

Unit Summary:

Introduction to Constitutional Law begins with the examination of philosophical questions of governance and law that influenced the founding and development of democracy in the United States. Centered around the U.S. Constitution and the nation's system of government, lessons will highlight how Enlightenment ideas influenced key principles of the document and fueled debate over its ratification. In considering the responsibilities of the judicial branch, students will explore the purpose and organization of the nation's federal court system headed by the Supreme Court of the United States.

Topics (3): Introduction to Jurisprudence, The U.S. Constitution, The Supreme Court of the United States

Approximate Length of Unit: 10 weeks (Q1)

LEARNING TARGETS

NJ Student Learning Standards:

6.1.12.CivicsPD.1.a: Use multiple sources to analyze the factors that led to an increase in the political rights and participation in government.

6.1.12.CivicsPR.2.a: Use primary sources to explain how judicial review made the Supreme Court an influential branch of government and construct an argument regarding the continuing impact of the Supreme Court today.

6.1.12.HistoryUP.2.c: Explain why American ideals put forth in the Constitution have been denied to different groups of people throughout time (i.e., due process, rule of law and individual rights).

6.1.12.CivicsPI.3.a: Analyze primary and secondary sources to determine the extent to which local and state issues, publications, and the rise of interest group and party politics impacted the development of democratic institutions and practices.

6.1.12.CivicsPR.10.a: Analyze how the Supreme Court has interpreted the Constitution to define and expand individual rights and use evidence to document the long-term impact of these decisions on the protection of civil and human rights.

Career Readiness, Life Literacies, and Key Skills:

9.4.12.CI.1: Demonstrate the ability to reflect, analyze, and use creative skills and ideas.

9.4.12.CT.2: Explain the potential benefits of collaborating to enhance critical thinking and problem solving.

9.4.12.IML.2: Evaluate digital sources for timeliness, accuracy, perspective, credibility of the source, and relevance of information, in media, data, or other resources.

9.4.12.IML.8: Evaluate media sources for point of view, bias, and motivations.

Interdisciplinary Connections and Standards:

Computer Science and Design Thinking

8.1.12.DA.5: Create data visualizations from large data sets to summarize, communicate, and support different interpretations of real-world phenomena.

8.2.12.ITH.1: Analyze a product to determine the impact that economic, political, social, and/or cultural factors have had on its design, including its design constraints.

Visual and Performing Arts

1.2.12prof.Cn11a: Demonstrate and explain how media artworks and ideas relate to various contexts, purposes, and values (e.g., social trends, power, equality, personal/cultural identity).

1.2.12acc.Cn11a: Examine and demonstrate in depth the relationships of media arts ideas and works to various contexts, purposes and values, such as markets, systems, propaganda, truth.

1.5.12prof.Cn11a: Describe how knowledge of culture, traditions and history may influence personal responses to art.

1.5.12acc.Cn11a: Compare uses of art in a variety of societal, cultural and historical contexts and make connections to uses of art in contemporary and local contexts.

1.5.12adv.Cn11a: Assess the impact of an artist or a group of artists on the beliefs, values and behaviors of a society.

NJSLS Companion Standards: Reading and Writing Standards for History, Social Studies, Science, and Technical Subjects:

RH.11-12.1. Accurately cite strong and thorough textual evidence, (e.g., via discussion, written response, etc.), to support analysis of primary and secondary sources, connecting insights gained from specific details to develop an understanding of the text as a whole.

RH.11-12.2. Determine the theme, central ideas, information and/or perspective(s) presented in a primary or secondary source; provide an accurate summary of how key events, ideas and/or author's perspective(s) develop over the course of the text.

RH.11-12.3. Evaluate various perspectives for actions or events; determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.

RH.11-12.4. Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines faction in Federalist No. 10).

RH.11-12.5. Analyze in detail how a complex primary source is structured, including how key sentences, paragraphs, and larger portions of the text contribute to the whole.

RH.11-12.6. Evaluate authors' differing perspectives on the same historical event or issue by assessing the authors' claims, reasoning, and evidence.

RH.11-12.7. Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, qualitatively, as well as in words) in order to address a question or solve a problem.

RH.11-12.8. Evaluate an author’s claims, reasoning, and evidence by corroborating or challenging them with other sources.

RH.11-12.9. Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

RH.11-12.10. By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

WHST.11-12.1. Write arguments focused on discipline-specific content.

WHST.11-12.2. Write informative/explanatory texts, including the narration of historical events, scientific procedures/ experiments, or technical processes.

WHST.11-12.4. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

WHST.11-12.5. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.

WHST.11-12.6. Use technology, including the Internet, to produce, share, and update writing products in response to ongoing feedback, including new arguments or information.

WHST.11-12.7. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

WHST.11-12.8. Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the specific task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

WHST.11-12.10. Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

Unit Understandings:

Students will understand that...

- The establishment of laws creates an important dynamic between citizens and their government based on the protection of their natural rights.
- Enlightenment ideas on law and the purpose of government influenced how the United States structured and developed its system of government.
- The Bill of Rights was devised to protect individual rights during the formation of a stronger central government in the United States.
- The United States has a three-tiered federal court system to oversee criminal proceedings and handle appeals.

Unit Essential Questions:

Intro to Jurisprudence

- What is jurisprudence?
- What was the hypothetical suggestion of a state of nature intended to reveal?
- How did Enlightenment philosophers differ in their views of the state of nature and the need for government?

- According to John Locke, what are humans' three natural rights?
- Where does the power and legitimacy of a government derive from?
- What philosophical justifications inspired the American Revolution?

The U.S. Constitution

- In what ways did the new system of government under the Constitution fulfill the nation's need for a stronger central government while at the same time allaying its fears of a government having too much power?
- How did Roger Sherman's Great Compromise reconcile the interests of small states with the interest of more populous states?
- Under the Constitution, which powers were granted to the national government and to the state governments?
- What were the Antifederalists' major arguments against ratifying the Constitution?
- What purposes for the Constitution are established in the Preamble?
- Why did the framers include a method for amending the Constitution?

The Supreme Court

- What two types of jurisdiction does the Supreme Court hold?
- Why is the Supreme Court considered the "court of last resort"?
- What is judicial review?
- Why is judicial review, although not mentioned in the U.S. Constitution, an important activity of the Supreme Court?
- How do Supreme Court justices make their decision in a case?
- What is the difference between a petitioner and a respondent?
- What type of opinions will a Supreme Court justice author?

Knowledge and Skills:

Students will know...

Intro to Jurisprudence

- **Key Terms:** jurisprudence, the state of nature, social contract, consent of the governed
- **Key Figures:** Thomas Hobbes, John Locke, Jean Jacques Rousseau, Montesquieu, Voltaire
- Jurisprudence is the theoretical study of laws.
- The stature of nature is a hypothetical scenario offered to help frame how governments should be conceived and to understand the purpose of political authority.
- Thomas Hobbes concluded that the state of nature would be chaotic and war-like because self-interest would lead humans into conflict over the sharing of scarce materials.
- Hobbes argued in favor of a strong government that could impose order and demand obedience.
- John Locke believed that, as reasonable beings, humans had the natural ability to govern their own affairs and look after the welfare of society.
- Locke criticized absolute rulers and powerful governments, instead favoring the idea of self-government.
- Locke theorized that all people are born with three natural rights: life, liberty, and property; in his view, the purpose of government is to protect these rights.
- In exchange for protection of their natural rights, individuals agree to create and live under the rule of a government that will devise and enforce laws necessary to secure those rights.
- The main purpose of a government is to provide equal protection of citizens' natural rights.

- The power and legitimacy of a government comes from the consent of those it governs.
- Locke argued that if a government fails to protect the rights of the people, citizens have a right (if not an obligation) to overthrow that government.
- Locke's ideas on popular sovereignty and the right to revolution inspired leaders of the American Revolution and helped to form the basis of the new nation's constitution and system of government.

The U.S. Constitution

- **Key Terms:** federalism, separation of powers, checks and balances, ratification, Federalists, Antifederalists, amendment
Key Figures: Thomas Paine, Thomas Jefferson, James Madison, *The Federalist*, Alexander Hamilton, John Jay
- **Key Events:** Articles of Confederation, Shays's Rebellion, the Great Compromise, Bill of Rights, Ratification of the U.S. Constitution
- In a constitutional government, the powers of a government are limited by a set of laws and customs called a constitution.
- Constitutions establish how a government is organized, set forth the basic rights of responsibilities of citizens, and establish the responsibility of the government to protect those rights.
- When British soldiers used violence to quell unrest in the American colonies, many colonists believed that their natural rights were being infringed.
- Many of the rights and grievances listed in the Declaration of Independence reflect the ideas of John Locke and other Enlightenment thinkers.
- The Articles of Confederation attempted to create a system of distinct, self-governing states to limit the potential for tyranny but resulted in an overly weak and ineffective central government.
- The Constitution established a system of government that fulfilled the need for a stronger central government while protecting the influence and sovereignty of individual states and their citizens.
- Federalists insisted that the division of power and a system of checks and balances would protect individuals from the tyranny of a strong central government.
- Antifederalists doubted that a single central government could manage the affairs of a large country, feared there would be an abuse of power, and argued that the Constitution lacked a protection of individual rights.
- The Bill of Rights settled concerns over the power of the federal government by guaranteeing the protection of certain individual liberties.
- The Constitution is the "supreme law of the land."
- The Constitution is a living document that can be amended and includes an "elastic clause" to allow the authority of the government to expand to meet unforeseen circumstances.
- The framers realized that new situations could arise that would not be addressed by the Constitution, but did not want people to be able to change the governing law of the land on a whim.
- A constitutional amendment can be approved by Congress or proposed during a Constitutional Convention called for by two-thirds of state legislatures; amendments must be approved by three-fourths of the vote to be ratified.

The Supreme Court of the United States

- **Key Terms:** judicial review, petitioner, respondent, syllabus, opinion, concurrence, dissent, incorporation
- **Key Figures:** John Jay

- **Key Events:** Judiciary Act of 1789
- **Case Law:** *Madison v. Marbury*, *Barron v. Baltimore*
- Article III of the U.S. Constitution established the United States Supreme Court and gave Congress the authority to create and organize lower courts to create a federal judicial system.
- The Judiciary Act of 1789 set up a federal court system headed by the Supreme Court and allows state court decisions to be appealed to a federal court when constitution issues arise.
- The federal judicial system in the United States is comprised of three tiers: the Supreme Court, the Federal Appeals Courts, and Federal District Courts.
- Every state has at least one federal district court which serves as the primary trial court of the federal judicial system.
- Federal judges, including Supreme Court justices, can be impeached for improper behavior.
- There are two levels of appellate courts in the federal judicial system: Courts of Appeals (lower) and the Supreme Court (higher).
- The Supreme Court has two types of jurisdiction: original (oversee cases in which the United States is a party involved) or appellate (appeals from one state or federal courts).
- As the highest judiciary in the United States and highest level of appellate court, the Supreme Court acts as the “court of last resort”; its rulings are legally binding on all lower courts.
- *Marbury v. Madison* established judicial review, the Court’s power to declare laws unconstitutional.
- The Supreme Court receives thousands of petitions for review and typically decides less than ~2% of cases appealed to it with full opinions.
- By preparing a “discuss list” and holding collective consideration, Supreme Court justices have an active hand in deciding which cases to hear.
- In order to decide a case, justices are provided legal briefs (explanations from both parties in the case), amicus curiae briefs (explanation from parties outside of the case), and oral hearings (verbal explanations and questions/answers from both parties directly to the Court’s justices).
- Supreme Court justices are appointed by the president and confirmed by the U.S. Senate.
- There is no term limit for a Supreme Court justice and most typically serve until their retirement or death; the average tenure is over 15 years.
- The annual term of the Supreme Court is between early October and late June.
- A syllabus is a summary added to the Court’s opinion to help the reader better understand the case and its decision.
- The petitioner is the party filing the lawsuit against the second party.
- The respondent is the target of the lawsuit.
- If the chief justice is in the majority, he/she determines who will write the majority opinion (assign it to another member of the majority or write it by him/herself). If the chief justice is in the minority, the most senior justice aligned with the majority’s view will assign the opinion.
- Justices who support the majority’s view will author or join a concurrence if they wish to expand on the majority’s reasoning or agree with their decision but do so for a different reason.
- Justices who oppose the majority’s ruling will author or join a dissent.

Students will be able to...

Intro to Jurisprudence

- Identify the purpose of laws.
- Debate whether behavior is guided by rules or consequences.
- Using key terms, trace the development of Enlightenment ideas on the purpose and responsibilities of government (ie: state of nature, social contract, consent of the governed, right to revolution).

- Describe the relationship and obligations that exist between a government and those it governs.
- Compare and contrast Thomas Hobbes and John Locke’s views on which government best meets the needs of its citizenry.
- List John Locke’s three natural rights.
- Explain how Enlightenment ideas came to influence how early democratic governments were established and devised.

The U.S. Constitution

- Highlight events and domestic conflicts which exposed weaknesses of the Articles of Confederation.
- Identify key conflicts and compromises of the Constitution Convention.
- Using the text of the Preamble of the U.S. Constitution, explain the purpose(s) of the Constitution.
- Examine arguments of Federalists and Antifederalists to debate ratification of the U.S. Constitution.
- Explain the purpose of the Bill of Rights.
- Describe how the Constitution is a “living document”.

The Supreme Court of the United States

- Create a visual representation of the United States federal judicial system.
- Explain why the Supreme Court is considered the “court of last resort”.
- Define judicial review.
- Identify the key components of a Court opinion.

EVIDENCE OF LEARNING

Assessment:

What evidence will be collected and deemed acceptable to show that students truly “understand”?

- Student Presentations
- Summative Topic Assessments
- End of Unit Assessment

Learning Activities:

What differentiated learning experiences and instruction will enable all students to achieve the desired results?

- Research assignments
- Socratic seminars
- Class debates
- Role-playing
- Scenario-based learning

RESOURCES

Teacher Resources:

- **Tables:**
 - [Weaknesses of the Articles of Confederation](#)
 - [Key Conflicts in the Constitutional Convention](#)
 - [Examples of Ideas in *The Federalist*](#)
 - [The Bill of Rights](#)
- **Visuals:**
 - [The Checks and Balances of the Federal System](#)
 - [How a Bill Becomes a Law](#)
- **Documents:**
 - [Federalist vs. Antifederalist](#)
 - [Annotated U.S. Constitution](#) (PDF)
- **External Resources:**
 - [Intro to Jurisprudence](#)
 - [Intro to the Constitution](#)
 - [Supreme Court FAQ](#)

Equipment Needed:

- Computer and Internet Access
- Projector
- Screen/Smartboard

UNIT OVERVIEW

Content Area: Social Studies

Unit Title: Landmark Supreme Court Cases

Target Course/Grade Level: Constitutional Law, Grades 11-12

Unit Summary:

With an initial focus on the Free Speech clause of the First Amendment, Unit 2 (Landmark Supreme Court Cases) will examine notable Supreme Court decisions to study the development of Court doctrine related to the protection of individual civil liberties in the United States. As the course moves toward the intersection of constitutional and criminal law, the unit shifts focus to the rights of the accused. In doing so, students will identify the rights of individuals involved in criminal investigations and proceedings to highlight the Bill of Rights' intended purpose to secure the protection of an individual's rights from government infringement.

Topics (4): Free Speech, Civil Liberties, Rights of the Accused, Misc. Case Law

Approximate Length of Unit: 16 weeks (Q2, Q3)

LEARNING TARGETS

NJ Student Learning Standards:

6.1.12.CivicsPI.2.a: Prepare and articulate a point of view about the importance of individual rights, separation of powers, and governmental structure in New Jersey's 1776 constitution and the United States Constitution.

6.1.12.CivicsPD.2.a: Compare and contrast the arguments of Federalists and Anti-Federalists during the ratification debates and assess their continuing relevance.

6.1.12.HistoryCC.2.b: Assess the importance of the intellectual origins of the Foundational Documents and assess their importance on the spread of democracy around the world (i.e., Declaration of Independence, the Constitution, and Bill of Rights).

6.1.12.HistoryUP.2.c: Explain why American ideals put forth in the Constitution have been denied to different groups of people throughout time (i.e., due process, rule of law and individual rights).

6.1.12.CivicsPI.3.a: Analyze primary and secondary sources to determine the extent to which local and state issues, publications, and the rise of interest group and party politics impacted the development of democratic institutions and practices.

6.1.12.CivicsPR.10.a: Analyze how the Supreme Court has interpreted the Constitution to define and expand individual rights and use evidence to document the long-term impact of these decisions on the protection of civil and human rights.

6.1.12.CivicsDP.11.a: Use a variety of sources to determine if American policies towards the Japanese during WWII were a denial of civil rights.

6.1.12.CivicsDP.13.a: Analyze the effectiveness of national legislation, policies, and Supreme Court decisions in promoting civil liberties and equal opportunities (i.e., the Civil Rights Act, the Voting Rights Act, the Equal Rights Amendment, Title VII, Title IX, Affirmative Action, Brown v. Board of Education, and Roe v. Wade).

6.1.12.CivicsPI.14.a: Draw from multiple perspectives to evaluate the effectiveness and fairness of the processes by which local, state, and national officials are elected.

6.1.12.HistoryCC.14.b: Determine how the 9/11 attacks contributed to the debate over national security and civil liberties.

Career Readiness, Life Literacies, and Key Skills:

9.4.12.CI.1: Demonstrate the ability to reflect, analyze, and use creative skills and ideas.

9.4.12.CT.2: Explain the potential benefits of collaborating to enhance critical thinking and problem solving.

9.4.12.IML.2: Evaluate digital sources for timeliness, accuracy, perspective, credibility of the source, and relevance of information, in media, data, or other resources.

9.4.12.IML.8: Evaluate media sources for point of view, bias, and motivations.

Interdisciplinary Connections and Standards:

Computer Science and Design Thinking

8.1.12.DA.5: Create data visualizations from large data sets to summarize, communicate, and support different interpretations of real-world phenomena.

8.2.12.ITH.1: Analyze a product to determine the impact that economic, political, social, and/or cultural factors have had on its design, including its design constraints.

Visual and Performing Arts

1.2.12prof.Cn11a: Demonstrate and explain how media artworks and ideas relate to various contexts, purposes, and values (e.g., social trends, power, equality, personal/cultural identity).

1.2.12acc.Cn11a: Examine and demonstrate in depth the relationships of media arts ideas and works to various contexts, purposes and values, such as markets, systems, propaganda, truth.

1.5.12prof.Cn11a: Describe how knowledge of culture, traditions and history may influence personal responses to art.

1.5.12acc.Cn11a: Compare uses of art in a variety of societal, cultural and historical contexts and make connections to uses of art in contemporary and local contexts.

1.5.12adv.Cn11a: Assess the impact of an artist or a group of artists on the beliefs, values and behaviors of a society.

NJSLS Companion Standards: Reading and Writing Standards for History, Social Studies, Science, and Technical Subjects:

RH.11-12.1. Accurately cite strong and thorough textual evidence, (e.g., via discussion, written response, etc.), to support analysis of primary and secondary sources, connecting insights gained from specific details to develop an understanding of the text as a whole.

RH.11-12.2. Determine the theme, central ideas, information and/or perspective(s) presented in a primary or secondary source; provide an accurate summary of how key events, ideas and/or author's perspective(s) develop over the course of the text.

RH.11-12.3. Evaluate various perspectives for actions or events; determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.

RH.11-12.4. Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines faction in Federalist No. 10).

RH.11-12.5. Analyze in detail how a complex primary source is structured, including how key sentences, paragraphs, and larger portions of the text contribute to the whole.

RH.11-12.6. Evaluate authors' differing perspectives on the same historical event or issue by assessing the authors' claims, reasoning, and evidence.

RH.11-12.7. Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, qualitatively, as well as in words) in order to address a question or solve a problem.

RH.11-12.8. Evaluate an author's claims, reasoning, and evidence by corroborating or challenging them with other sources.

RH.11-12.9. Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

RH.11-12.10. By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

WHST.11-12.1. Write arguments focused on discipline-specific content.

WHST.11-12.2. Write informative/explanatory texts, including the narration of historical events, scientific procedures/ experiments, or technical processes.

WHST.11-12.4. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

WHST.11-12.5. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.

WHST.11-12.6. Use technology, including the Internet, to produce, share, and update writing products in response to ongoing feedback, including new arguments or information.

WHST.11-12.7. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

WHST.11-12.8. Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the specific task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

WHST.11-12.10. Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

Unit Understandings:

Students will understand that...

Free Speech

- The free speech clause of the First Amendment guarantees an individual's right to free speech.
- The expression of ideas and speech acts are a cognizable extension of the free speech clause.
- One of the fundamental purposes for enumerating the right to free speech within the Bill of Rights is to allow for the open discourse of speech critical of the government.
- Throughout its history, the Supreme Court has been tasked with weighing the value of free speech against the need for limits on certain forms of speech and expression.
- In identifying limits of free speech and expression, justices must consider the cultural, social, and political implications of speech against the importance of protecting individual liberties in a democratic society.

Civil Liberties

- The First Amendment includes clauses which protect an individual's right to freely exercise their religious beliefs and prevent the state from establishing or favoring one religion over another.
- The Free Exercise and Establishment clause have historical roots in the development of colonial settlements and governments.
- The Court has established several unprotected exceptions to the First Amendment's religious clauses and cases are often framed with the intention of separating church and state.
- The Second Amendment secures an individual's right to bear arms.
- Controversy over the intended purpose of the Second Amendment highlights various methods of constitutional interpretation.
- The Supreme Court may limit certain individual civil liberties if those limits are narrowly tailored to a state's compelling interest to protect national security or public safety.

Rights of the Accused

- Guaranteeing the rights of the accused ensures that a state's judicial system is fundamentally rooted in fairness.
- In a criminal proceeding, the burden of proof belongs to the accuser (not the accused).
- The Fourth Amendment protects individuals from unreasonable search and seizures.
- Protections against searches and seizures are rooted in John Locke's idea that property is a natural right.
- The right to remain silent protects an individual from self-incrimination.
- Once accused by the government and facing trial, individuals retain certain individual rights to ensure that they can face the accusation and provide an adequate defense.
- To prevent retribution and ensure the dignity of the guilty, the Eighth Amendment prohibits disproportionate financial or capital punishment.

Misc. Case Law

- Supreme Court rulings include those involvings controversial social issues to ensure constitutional protections against excessive government restriction.
- As a co-equal branch of government, the judiciary has also ruled on matters involving "checks" on executive actions.

Unit Essential Questions:

Free Speech

- What view has the United States Supreme Court taken on the question of whether political contributions constitute speech?
- What forms of speech and expression has the Supreme Court ruled fall outside of First Amendment protections?
- What circumstances must be considered in deciding the constitutionality of speech?
- In what ways are private parties afforded greater deference in determining the constitutionality of certain forms of speech and expression?

Civil Liberties

- How does the United States balance its compelling interests against an individual's right to freely exercise their religious or deeply-held beliefs?
- Why is the Court's interpretation of the Second Amendment a contentious legal issue?
- What views have been offered regarding the framers' intentions when drafting the Second Amendment?

Rights of the Accused

- Why are individuals accused of a crime offered significant constitutional protection?
- What specific protections during criminal investigations and proceedings are enumerated in the Bill of Rights?
- What exceptions has the Court identified to constitutional protections secured in the 4th, 5th, 6th, 7th, and 8th Amendments?
- How has the Court's interpretation of "cruel and unusual punishment" changed over time?

Misc. Case Law

- Why might the Supreme Court hear cases involving controversial social issues (ex: abortion and same-sex marriage)?
- How can public opinion and media coverage influence or hinder the responsibilities of the Court?
- How does the judiciary act as a "check" to legislative and executive actions?
- In what ways and for what reasons has the Court undermined the civil liberties of social minorities?

Knowledge and Skills:

Students will know...

Free Speech

- **Key terms:** Brandenburg Test, content based/content neutral regulation, overbreadth, actual malice, the O'Brien Test, clear and present danger, marketplace of ideas
- **Case law:**
 - **Campaign Finance:** *Buckley v. Valeo* (1976), *Citizens United v. F.E.C.* (2010), *McCutcheon v. F.E.C.* (2014)
 - **"Fighting Words":** *Chaplinsky v. New Hampshire* (1925), *Brandenburg v. Ohio* (1960), *R.A.V. v. City of St. Paul* (1992)

- **Free Speech in Schools:** *Tinker v. Des Moines* (1967), *Bethel School District v. Fraser* (1986), *Hazelwood v. Kuhlmeier* (1988)
 - **Libel:** *New York Times v. Sullivan* (1964), *Curtis Publishing Co. v. Butts* (1967), *New York Times Co. v. United States* (1971), *Hustler Magazine, Inc. v. Falwell* (1988)
 - **Obscenity:** *Roth v. United States* (1957), *Memoirs v. Massachusetts* (1966), *Miller v. California* (1971)
 - **Political Expression:** *United States v. O'Brien* (1968), *Cohen v. California* (1971), *Texas v. Johnson* (1989)
 - **Political Speech:** *Schenck v. United States* (1919), *Abrams v. United States* (1925), *Gitlow v. New York* (1925), *Dennis v. United States* (1951)
 - **Misc. Cases:** *Boy Scouts of America v. Dale* (2000), *Snyder v. Phelps* (2011) (LGBTQ/D)
- In separate cases, the Court has established that campaign contributions and expenditures are a form of constitutionally protected free speech, generally equating money to speech.
 - Speech that incites others to act illegally or cause imminent harm are not protected by the First Amendment if there is a likelihood that the action will occur and it is the speaker's intent to incite that action.
 - A state may use its police powers to outlaw speech and expression in the interests of maintaining public order and morality.
 - Laws that restrict speech based on their subject (content-based proscriptions) are unconstitutional.
 - According to the overbreadth doctrine, banning speech on the grounds that it involves certain controversial or culturally sensitive subjects (ex: race, religion, gender) may also ban otherwise protected speech.
 - First Amendment protections generally extend to students in public schools but notable exceptions exist if the speech or expression interferes with the operation of the school or is part of a school-sponsored activity.
 - Libel is written; slander is spoken.
 - Public officials have more protections against libel and slander because factually incorrect and harmful statements about these officials may influence how public policies and stances are viewed or disseminated.
 - For factually incorrect information to be considered libelous or defamatory, the speaker must have intended harm, been "reckless" in their "disregard for its falsity," or the information must be "recklessly gathered and unchecked."
 - The free speech clause protects parodies and satirical depictions of celebrities and public figures even if they cause distress to the subject of that speech.
 - Even if speech (ie: printed material) appeals to "prurient interests" or is "patently offensive," it is not obscene if it has some literary, artistic, political, or artistic value and is therefore constitutionally protected.
 - In order to restrict speech, the state must have a compelling interest and that restriction can not be based on the content (topic) involved.
 - Because certain political speech and expression contributes to the "marketplace of ideas," expressing an idea can *not* be outlawed because those ideas are expressed vulgarly.
 - Flag burning is a constitutionally protected act because it has a specific political meaning and does not target an individual.
 - Citizens are afforded fewer First Amendment protections during times of war because certain speech and expression may threaten national security and the nation's ability to defend itself.
 - Advocating for the overthrow of a government is constitutionally problematic if it may result in imminent lawless action.
 - Private organizations may restrict membership and limit association in order to align with its defined mission and objectives so long as those objectives are not illegal (ie: BSA prohibiting homosexual members). (LGBTQ/D)

- Speech addressing public matters and policy in a public setting are protected under the First Amendment even if the speech inflicts emotional distress and is deeply harmful to members of the public (ie: picketing military funerals by the Westboro Baptist Church).

Civil Liberties:

- **Key terms:** separation of church and state, deific decree
- **Case law:**
 - **Establishment Clause:** *Everson v. Board of Education* (1947), *McCollum v. Board of Education* (1948), *Engel v. Vitale* (1962), *Abington School District v. Schempp* (1963), *Lemon v. Kurtzman* (1971), *Edwards v. Aguillard* (1987), *Lee v. Weisman* (1992), *Kitzmiller v. Dover Area School District* (2003), *McCreary v. ACLU of Kentucky* (2005), *Van Orden v. Perry* (2005)
 - **Free Exercise Clause:** *Reynolds v. United States* (1878), *Cantwell v. Connecticut* (1940), *Minersville v. Gobitis* (1940), *West Virginia State Board of Education v. Barnette* (1940), *Sherbert v. Verner* (1963), *Employment Division v. Smith* (1990)
 - **Second Amendment:** *United States v. Cruikshank* (1786), *Presser v. Illinois* (1886), *United States v. Miller* (1939), *Heller v. United States* (2010), *McDonald v. Chicago* (2010)
- In reviewing cases involving religious liberties, the Court examines whether or not government actions and policies impose an undue burden on individuals practicing or expressing their faith.
- In several rulings, the Supreme Court has settled the issues of prayer and Bible readings in public schools.
- *Cruikshank* is a result of legal challenges following the Colfax Massacre in 1873.
- The Supreme Court refused to incorporate the First and Second Amendments in *Cruikshank*.
- *Presser* limited the power of the federal government to control firearms and deferred the legality of militias to the states.
- The Court's ruling in *Miller* held that only weapons that have a "reasonable relationship to the preservation or efficiency of a well regulated militia" are free from government regulation.
- The unanimous majority opinion in *Miller* narrowed a textual reading of the Second Amendment and reaffirmed that the framers' intention in enumerating the right to bear arms was to preserve a well regulated militia.
- *Heller* protects an individual's right to possess firearms unconnected to service in a militia and to use those fire-arms for self defense.
- The Court's opinions in *Heller* feature an extensive historical debate on the development and intention of the Second Amendment, its prefatory clause, and any contingency on the existence of militias.
- *McDonald* reaffirmed the majority's opinion in *Heller* by holding that the right to bear arms is part of the "national tradition" and "fundamental to historical visions of liberty."
- By incorporating the Second Amendment in *McDonald*, the Court overturned *Presser* and *Cruikshank*.

Rights of the Accused

- **Key terms:** exclusionary rule, warrant, reasonable expectation to privacy, automobile/motor vehicle exception, Miranda Rights, Mirandized, criminal procedure, Due Process Clause, Takings Clause, capital punishment, cruel and unusual punishment, moratorium
- **Case law:**
 - **4th Amendment:** *Mapp v. Ohio* (1961), *Katz. United States* (1967), *California v. Acevedo* (1991), *Illinois v. Wardlow* (2000)
 - **5th Amendment:** *Miranda v. Arizona* (1966), *Salinas v. Texas* (2013), *Berghuis v. Thompson* (2010)
 - **6th Amendment:** *Powell v. Alabama* (1932), *Gideon v. Wainwright* (1963), *Escobedo v. Illinois* (1964)
 - **8th Amendment:** *Furman v. Georgia* (1972), *Gregg v. Georgia* (1976), *Payne v. Tennessee* (1991), *Graham v. Florida* (2010) and *Miller v. Alabama* (2012)
- The Fourth Amendment protects citizens from unreasonable search and seizures.
- The inclusion of the Fourth Amendment in the Bill of Rights is an extension of John Locke's belief that property is a natural right of humans.
- The government may have an interest in the property of a private individual if it is used to commit or facilitate a crime.
- Evidence obtained by an unconstitutional search and seizure is inadmissible in court.
- It is unconstitutional to conduct a warrantless search and seizure anywhere that a person may have a "reasonable expectation to privacy".
- Because contraband can be quickly moved in a car, police may perform a warrantless search of a specific container within an automobile if they have probable cause to believe it contains contraband or evidence of a crime (ex: liquor bottles, clear bags with drugs or drug paraphernalia).
- Sudden and unprovoked flight from police in a high crime area is "sufficiently suspicious" to justify a stop and warrantless search of an individual.
- The Fifth Amendment protects suspects from being compelled to incriminate themselves, a right made famous by the phrase "you have the right to remain silent".
- Individuals accused of crimes must be made aware of their right to remain silent and to seek counsel, or waive the right in a "knowing, voluntary, or intelligent" manner; if not, any statements made in custody are not admissible as evidence in a criminal trial.
- If a suspect has been Mirandized and wishes to exercise their Fifth Amendment protection against self-incrimination, they must explicitly and "unambiguously" claim that protection during the detention or interrogation process.
- Voluntarily and knowingly responding to police during an interrogation after remaining silent is considered a waiver of that right if the suspect was Mirandized and understood their right to silence.
- The Sixth Amendment ensures that individuals accused of a crime have reasonable time and opportunity to secure and consult legal counsel to provide a defense.
- The state must appoint attorneys to criminal defendants who cannot afford their own legal counsel.
- Because the period between arrest and indictment is a critical period in criminal proceedings, individuals accused of a crime have a Sixth Amendment right to seek counsel as soon as they are in the custody of law enforcement.

- The Eighth Amendment protects criminal suspects from excessive bail and fines, and any punishment deemed “cruel and unusual”.
- The most compelling and controversial argument involving Eighth Amendment protections is the death penalty.
- During the 1970s, the United States Supreme Court mandated a temporary moratorium on the death penalty because it had been imposed inconsistently and too arbitrarily.
- After a four year moratorium, the Supreme Court permitted capital punishment if state laws clearly and objectively defined which defendants would be eligible for the death penalty and allowed juries to exercise discretion in sentencing a defendant to death.
- Juries may consider victim impact statements from a murder victim’s family members when sentencing defendants to capital punishment.

Miscellaneous Case Law

- **Key terms:** viability, abortion, same-sex marriage, executive privilege, internment, right to die
- **Case law:**
 - **14th Amendment:** *Roe v. Wade* (1973)
 - **Equal Marriage Rights:** *Obergefell v. Hodges* (2015)(LGBTQ/D)
 - **Executive Privilege:** *United States v. Nixon* (1974), *Trump v. Mazars USA LLP* (2020), *Trump v. Vance* (2020)(LGBTQ/D)
 - **Forced Sterilization:** *Buck v. Bell* (1927), *Skinner v. Oklahoma* (1942)
 - **Japanese-American Internment:** *Korematsu v. United States* (1944), *Endo v. United States* (1944) (AAPI)
 - **Right to Die:** *Cruzan v. Director, Missouri Department of Health* (1990)
- In 1973, the Supreme Court ruled that a woman's constitutional right to privacy includes a mother’s medical decision to terminate a pregnancy without excessive government restriction.
- The Supreme Court mandated states’ recognition of same-sex marriage on the grounds that marriage is central to a person’s dignity and autonomy and therefore demands strong protection under the Equal Protection clause. (LGBTQ/D)
- During the Watergate Scandal, the Supreme Court was tasked with ruling whether or not the President of the United States may use executive privilege to shield himself from producing evidence in a criminal investigation while in office.
- The Supreme Court ruled that while a president enjoys executive privilege while in office, this immunity from criminal prosecution did not extend to all circumstances, especially those involving allegations of serious wrongdoing.
- In 2020, attorneys representing President Trump extended the justifiable issue in *Nixon* to argue that complying with state criminal subpoenas for his personal financial records would impair his ability to perform his constitutionally mandated duties as president.
- In *Vance*, the Court rejected Trump’s claim of executive privilege and held that sitting presidents, like any private citizen, must comply with criminal subpoenas.
- In *Mazars* and *Deutsche Bank*, the Court wrestled with more specific concerns over the federal government’s separation of powers and ruled that Congressional subpoenas of the president must: serve a valid legislative purpose that could withstand evaluation from a court, be “no broader than reasonably necessary,” and not unduly burden a president so that Congressional investigations could not be “overzealous” or politically-motivated.
- The Court’s ruling in *Buck v. Bell*, one that has since been widely criticized, upheld the constitutionality of the compulsory sterilization of individuals adjudged to be “feeble-minded.” (LGBTQ/D)
- The Court's ruling in *Skinner* prohibited punitive sterilization (ex: a habitual criminal) but failed to overturn its ruling in *Buck*, allowing states to codify compulsory sterilization of the mentally disabled or mentally ill.(LGBTQ/D)

- The Court's decisions in *Korematsu* and *Endo* permitted an unethical and improper extension of the president's war powers and raised lasting questions of discrimination based on the national origins of the petitioners. (AAPI)
- The Court's rulings in *Korematsu* and *Endo* have since been harshly repudiated and were formally overturned in 2018. (AAPI)
- The Court's ruling in *Cruzan* heightened evidentiary requirements to allow family members of incapacitated individuals to make life-ending medical decisions on their behalf (ie: terminate life support).

Students will be able to...

Free Speech

- Define free speech.
- Identify time, place, and manner restrictions on otherwise protected forms of free speech.
- Summarize the phrase "marketplace of ideas" and its significance to the protection of certain forms of speech and expression.
- Cites examples of speech and expression that are *not* protected under the free speech clause of the First Amendment.
- Assess whether or not the phrase "speech is money" effectively characterizes the Court's rulings related to campaign finance.
- Defend or support legal justifications for a private organization's ability to restrict membership or association to LGBT individuals (ex: Boy Scouts of America, religious/faith-based organizations, Chick-Fil-A). (LGBTQ/D)
- Articulate a message of criticism/support to the petitioner/respondent in *Snyder v. Phelps* which clearly demonstrates your understanding of the constitutional issue at hand.
- Create an original definition for "fighting words".
- Investigate the historical context of *Brandenburg v. Ohio* to determine whether race-based speech intended to incite or inflict harm falls outside of constitutional protection.
- Define the overbreadth doctrine.
- List issues or topics inappropriate for discussion in public schools and, using case law, assess the constitutionality of speech related to those topics.
- Explain the difference between libel and slander.
- Debate the constitutionality of parody and satire intended to inflict emotional distress and/or damage to celebrities and examples (eg: tabloids, South Park, memes).
- Describe the Court's difficulty in defining obscenity and provide an original definition for what one would consider obscene.

Civil Liberties

- Debate whether or not religious beliefs are an acceptable criminal defense.
- Investigate competing views regarding the tax-exempt status of religious organizations and churches.
- Using state and national case law, explain religious and conscientious objections to standing for or reciting the Pledge of Allegiance.
- Trace the development of court doctrine related to prayer and Bible readings in public schools.
- Summarize the role and impact of religious studies in public schools.
- Examine support and opposition to public displays of religious monuments and displays (ex: the Ten Commandments, Satanist monuments, religious holiday displays).
- Debate the framers' intention of the Second Amendment.
- Using historical sources, investigate the changing role of state militias in American history.
- Weight an individual's right to bear arms for self-defense and sport against a state's compelling interest in ensuring public health and order.

Rights of the Accused

- List constitutional protections afforded to Americans under the 4th, 5th, 6th, and 8th Amendments.
- Provide an example of the exclusionary rule.
- Identify various exceptions to the unconstitutionality of warrantless searches based on case law.
- Explain why motor vehicles are excluded from Fourth Amendment protections.
- Use Fourth Amendment case law to criticize or support “stop and frisk” policies.
- Develop literature or visual materials to explain when and how to exercise one’s Fifth Amendment right to remain silent.
- Complete a mock interrogation to demonstrate ways in which the right to remain silent may be invoked.
- Research the role of a defense attorney and their protecting the Sixth Amendment rights of the accused.
- Debate whether or not the death penalty constitutes cruel and unusual punishment.
- Investigate different methods of capital punishment used through American history.
- Using case law provided, identify ethical and legal inconsistencies with the application of capital punishment.

Misc. Case Law

- Use medical literature, scientific consensus, and related case law to take an informed personal stance on whether a woman's constitutional right to privacy includes a mother’s medical decision to terminate a pregnancy.
- Summarize the basis for the Supreme Court’s support for same-sex marriage.(LGBTQ/D)
- Identify the justiciable issue in cases related to Presidents Nixon and Trump’s claims of executive privilege.
- Discuss the merits of justifications offered by the executive and judiciary to intern Japanese-Americans during World War II. (AAPI)
- Investigate the intersection of individual liberty and medical decision-making for the incapacitated, the disabled, or habitual criminals (ie: Terri Schiavo, *Cruzan*, *Buck*, *Skinner*)(LGBTQ/D)
- Weigh a state’s compelling interest to maintain public health against an individual’s autonomy in outlawing or allowing end-of-life measures (ie: Dr. Kavorkian, active vs. passive euthanaisa, palliative care)

EVIDENCE OF LEARNING

Assessment:

What evidence will be collected and deemed acceptable to show that students truly “understand”?

- Student Case Presentations
- Summative Topic Assessments
- End of Unit Assessment

Learning Activities:

What differentiated learning experiences and instruction will enable all students to achieve the desired results?

- Research assignments
- Socratic seminars
- Class debates
- Role-playing
- Scenario-based learning
- Case Q&A

<i>RESOURCES</i>

Teacher Resources:

- [Glossary of Legal Terms](#)
- [Justia.com](#)
- [Online Companion](#)
- [Oyez.org](#)

Equipment Needed:

- Computer and Internet Access
- Projector
- Screen/Smartboard

UNIT OVERVIEW

Content Area: Social Studies

Unit Title: The American Civil Rights Movement Case Law

Target Course/Grade Level: Constitutional Law, Grades 11-12

Unit Summary:

In Unit 3 (Case Law of the American Civil Rights Movement), students will review notable Supreme Court decisions to trace legislative and judicial efforts to ensure full legal protection of formerly enslaved peoples in the United States, their descendants, and racial minorities today. Beginning with judicial challenges to the practice of slavery, students will explore social and legislative obstacles freedmen and black Americans faced after the Civil War in realizing their civil liberties. The unit then investigates the Civil Rights Movement and case law related to the fierce public battle over racial integration during the 1950s and 1960s.

Topics (2): Slavery and the U.S. Civil War, Segregation and Integration

Approximate Length of Unit: 4 weeks (Q3)

LEARNING TARGETS

NJ Student Learning Standards:

6.1.12.HistoryUP.2.c: Explain why American ideals put forth in the Constitution have been denied to different groups of people throughout time (i.e., due process, rule of law and individual rights) .

6.1.12.CivicsPI.3.a: Analyze primary and secondary sources to determine the extent to which local and state issues, publications, and the rise of interest group and party politics impacted the development of democratic institutions and practices.

6.1.12. CivicsDP.3.c: Examine the origins of the antislavery movement and the impact of particular events, such as the Amistad decision, on the movement.

6.1.12.CivicsPR.4.a: Draw from multiple sources to explain the ways in which prevailing attitudes, socioeconomic factors, and government actions (i.e., the Fugitive Slave Act and Dred Scott Decision) in the North and South (i.e., Secession) led to the Civil War.

6.1.12.CivicsDP.4.a: Compare and contrast historians' interpretations of the impact of the 13th, 14th, and 15th Amendments on African American's ability to participate in influencing governmental policies.

6.1.12.CivicsDP.5.a: Analyze the effectiveness of governmental policies and of actions by groups and individuals to address discrimination against new immigrants, Native Americans, and African Americans.

6.1.12.CivicsDP.6.b: Relate the creation of African American advocacy organizations (i.e., the National Association for the Advancement of Colored People) to United States Supreme Court

decisions (i.e., Plessy v. Ferguson) and state and local governmental policies.

6.1.12.CivicsPR.10.a: Analyze how the Supreme Court has interpreted the Constitution to define and expand individual rights and use evidence to document the long-term impact of these decisions on the protection of civil and human rights.

6.1.12.CivicsDP.13.a: Analyze the effectiveness of national legislation, policies, and Supreme Court decisions in promoting civil liberties and equal opportunities (i.e., the Civil Rights Act, the Voting Rights Act, the Equal Rights Amendment, Title VII, Title IX, Affirmative Action, Brown v. Board of Education, and Roe v. Wade).

Career Readiness, Life Literacies, and Key Skills:

9.4.12.CI.1: Demonstrate the ability to reflect, analyze, and use creative skills and ideas.

9.4.12.CT.2: Explain the potential benefits of collaborating to enhance critical thinking and problem solving.

9.4.12.IML.2: Evaluate digital sources for timeliness, accuracy, perspective, credibility of the source, and relevance of information, in media, data, or other resources.

9.4.12.IML.8: Evaluate media sources for point of view, bias, and motivations.

Interdisciplinary Connections and Standards:

Computer Science and Design Thinking

8.1.12.DA.5: Create data visualizations from large data sets to summarize, communicate, and support different interpretations of real-world phenomena.

8.2.12.ITH.1: Analyze a product to determine the impact that economic, political, social, and/or cultural factors have had on its design, including its design constraints.

Visual and Performing Arts

1.2.12prof.Cn11a: Demonstrate and explain how media artworks and ideas relate to various contexts, purposes, and values (e.g., social trends, power, equality, personal/cultural identity).

1.2.12acc.Cn11a: Examine and demonstrate in depth the relationships of media arts ideas and works to various contexts, purposes and values, such as markets, systems, propaganda, truth.

1.5.12prof.Cn11a: Describe how knowledge of culture, traditions and history may influence personal responses to art.

1.5.12acc.Cn11a: Compare uses of art in a variety of societal, cultural and historical contexts and make connections to uses of art in contemporary and local contexts.

1.5.12adv.Cn11a: Assess the impact of an artist or a group of artists on the beliefs, values and behaviors of a society.

NJSLS Companion Standards: Reading and Writing Standards for History, Social Studies, Science, and Technical Subjects:

RH.11-12.1. Accurately cite strong and thorough textual evidence, (e.g., via discussion, written response, etc.), to support analysis of primary and secondary sources, connecting insights gained from specific details to develop an understanding of the text as a whole.

RH.11-12.2. Determine the theme, central ideas, information and/or perspective(s) presented in a primary or secondary source; provide an accurate summary of how key events, ideas and/or author's perspective(s) develop over the course of the text.

RH.11-12.3. Evaluate various perspectives for actions or events; determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.

RH.11-12.4. Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines faction in Federalist No. 10).

RH.11-12.5. Analyze in detail how a complex primary source is structured, including how key sentences, paragraphs, and larger portions of the text contribute to the whole.

RH.11-12.6. Evaluate authors' differing perspectives on the same historical event or issue by assessing the authors' claims, reasoning, and evidence.

RH.11-12.7. Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, qualitatively, as well as in words) in order to address a question or solve a problem.

RH.11-12.8. Evaluate an author's claims, reasoning, and evidence by corroborating or challenging them with other sources.

RH.11-12.9. Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

RH.11-12.10. By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

WHST.11-12.1. Write arguments focused on discipline-specific content.

WHST.11-12.2. Write informative/explanatory texts, including the narration of historical events, scientific procedures/ experiments, or technical processes.

WHST.11-12.4. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

WHST.11-12.5. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.

WHST.11-12.6. Use technology, including the Internet, to produce, share, and update writing products in response to ongoing feedback, including new arguments or information.

WHST.11-12.7. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

WHST.11-12.8. Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the specific task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

WHST.11-12.10. Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

Unit Understandings:

Students will understand that...

Slavery and the U.S. Civil War

- During the 19th century, sectional tensions over the issues of states' rights and slavery brought the United States to the brink of civil war.
- Failed attempts to compromise over the expansion of slavery and notable incidents of violence highlighted the inevitability of war to settle the issue of slavery.
- Executive orders, federal legislation, and a Union victory in the Civil War secured the legal emancipation of slaves in the United States.

Segregation and Integration

- Opposition to the legal and social equality of black Americans led to violence and racial discrimination after the Civil War. (AAH)
- In the decades following the Civil War, the Supreme Court was tasked with reviewing the constitutionality of state policies which allowed or enforced racial discrimination. (AAH)
- Still today, policies addressing or maintaining racial inequity fall are brought to the attention of the Court. (AAH)

Unit Essential Questions:

Slavery and the U.S. Civil War

- How did Congressional action attempt to address the issue of slavery during the 1800s? (AAH)
- What justifications were offered by proslavery advocates to defend the institution of slavery? (AAH)
- How did the Supreme Court's decision in *United States v. Amistad* encourage antislavery activists? (AAH)
- Why did the Supreme Court rule against Dred Scott? (AAH)
- What is the significance of the *Dred Scott* decision? (AAH)
- What events highlighted the inevitability of war in settling the issue of slavery when legislative and judicial means failed to? (AAH)

Segregation and Integration

- Why did some southern states create black codes in the 1860s? (AAH)
- How did Jim Crow laws codify disparate actions on the basis of race? (AAH)
- What were the goals of the Ku Klux Klan (KKK)? (AAH)
- What Congressional actions attempted to limit the activities of the KKK? (AAH)
- How did southern whites regain political power during Reconstruction? (AAH)
- In what ways did state policies enforce or allow racial discrimination? (AAH)
- Why did many Southern officials and legislative bodies reject the Court's ruling in *Brown*? (AAH)
- What matters of racial inequity and discrimination are not judicial or legislative in nature, but cultural? (AAH)
- What is the intended purpose of affirmative action? (AAH)

Knowledge and Skills:

Students will know...

Slavery and the U.S. Civil War

- **Key terms:** secession, popular sovereignty, standing, Emancipation Proclamation, 13th Amendment(AAH)
- **Case law:** *The United States v. La Amistad* (1841), *Dred Scott v. Sandford* (1857)(AAH)
The Court's finding in *Amistad* effectively equated the international slave trade to kidnapping and illegal trafficking of free Africans.(AAH)
- The Court's major holding in *Amistad* is based on Spanish law which forbid the slave trade and the importation of slaves into dominions of Spain.(AAH)
- During the 1800s, political compromises attempted but failed to placate growing sectional tensions over the issue of slavery.(AAH)
- The Supreme Court's decision in *Dred Scott v. Sanford* ruled the Missouri Compromise was unconstitutional and prevented Congress from forbidding slavery in any part of the territories.(AAH)
- By finding that Dred Scott lacked standing to sue in federal court, the Supreme Court codified that slaves were property, not people, and did not have the rights of American citizens.(AAH)
- Lincoln's victory in the Election of 1860 convinced southerners that they had lost their political voice in the national government. (AAH)
- The secession of southern states caused the North and the South to take up arms in a civil war.(AAH)
- By issuing the Emancipation Proclamation, President Lincoln made slavery the focus of the war.(AAH)
- The Ku Klux Klan used terror and violence to restore white supremacy in Southern society by limiting African Americans' ability and willingness to exercise their newfound political rights and freedom.(AAH)
- Federal legislation prohibiting the actions of the Klan enforced the 14th and 15th Amendments in the Reconstruction South.(AAH)

Segregation and Integration

- **Key terms:** freedmen, 14th Amendment, 15th Amendment, black codes, Ku Klux Klan (KKK), Enforcement Acts, "separate but equal," de jure segregation, de facto segregation, state action, integration, civil rights, anti-miscegenation, affirmative action, disparate impact(AAH)
- **Case law:** *Civil Rights Cases* (1883), *Plessy v. Ferguson* (1896), *Shelley v. Kraemer* (1948) *Brown v. Board of Education* (1954), *Heart of Alabama Motel v. United States* (1964), *Loving v. Virginia* (1967), *Regents of University of California v. Bakke* (1978), *Grutter v. Bollinger* (2003), *Ricci v. DeStefano* (2009)(AAH)
- *Civil Rights Cases* articulated the state action doctrine, finding that if an action is taken by a private entity, it cannot be attacked on constitutional grounds because the 14th amendment applies only to the government (not private individuals, businesses, or organizations). (AAH)
- While intending to protect private individuals from overreach and government interference, *Civil Rights Cases* continued the legal basis for segregation and racial discrimination.(AAH)
- *Plessy v. Ferguson* established the "separate but equal" doctrine.(AAH)
- The majority opinion in *Plessy* held that racial segregation did not imply inferiority of African Americans but was instead a public policy matter that fell within the scope of a state's powers.(AAH)

- Justice Harlan's lone dissent in *Plessy* argued that the constitution was color blind and that all citizens should have equal access to the rights and privileges they are entitled to.(AAH)
- *Brown v. BOE* reversed the "separate but equal" doctrine and held that racial segregation in public education violated the Equal Protection Clause of the Fourteenth Amendment.(AAH)
- The decision in *Brown* created national controversy over claims of judicial activism and whether or not the ruling unduly limited a state's ability to establish and enforce public policy through legislation.(AAH)
- Many state officials, including governors and state legislatures, publicly and forcefully rejected the Court's decision in *Brown* and refused to integrate public schools with "all deliberate speed."(AAH)
- *Heart of Alabama Hotel v. United States* furthered the federal government's power to enforce prohibitions against racial discrimination in public accommodations by finding its Commerce Clause powers allowed the government to ban discriminatory actions by businesses involved in interstate commerce (ex: motels).(AAH)
- In a unanimous decision in *Loving v. Virginia*, the Court found that anti-miscegenation statutes were unconstitutional.(AAH)
- Affirmative action policies were established to expand inclusion of disfavored and underrepresented groups (ex: gender, race, sexuality, national origin) in education and employment.(AAH)
- In *Regents v. Bakke*, the Supreme Court upheld the constitutionality of affirmative action programs in college admissions but found the use of racial quota systems in public universities violated the Equal Protection Clause.(AAH)
- A narrow majority in *Grutter v. Bollinger* upheld the use of an applicant's race as a factor in the college admission process.(AAH)
- *Grutter v. Bollinger* maintained the Court's rejection of racial quota systems but agreed that state policies promoting racial diversity serve a compelling state interest.(AAH)

Students will be able to...

- Assess the effectiveness of political compromises to address the issues of states' rights and slavery (ie: Wilmot Proviso, Missouri Compromise, Compromise of 1850).(AAH)
- Examine the contemporary legality of justifications offered by proslavery advocates. (AAH)
- Explain how the Court's ruling in *Amistad* encouraged antislavery activists.(AAH)
- Describe the concept of standing and explains its significance in *Dred Scott*.(AAH)
- Identify incidents of violence in the 1850s which highlighted the inevitability of war (ex: Bleeding Kansas, Caning of Charles Sumner, John Brown's Raid).(AAH)
- Provide examples of disparate actions legalized by Jim Crow laws.(AAH)
- Research how the use of violence and terror (ie: assassination of John W. Stephens, Colfax massacre) limited and harmed black Americans during Reconstruction.(AAH)
- Using historical examples of racial segregation, discuss the merits of arguments suggesting the separation of races should be considered a matter of public policy free from judicial challenges.
- Identify notable challenges to desegregation with all deliberate speed (ex: Ruby Bridges, Little Rock Nine, James Meredith, Stand in the Schoolhouse Door).(AAH)
- Using data and statistics tracking public opinion, trace the shifting cultural acceptance of interracial marriage in the United States over the last century.(AAH)
- Debate the effectiveness and fairness of affirmative action policies.(AAH)

EVIDENCE OF LEARNING

Assessment:

What evidence will be collected and deemed acceptable to show that students truly “understand”?

- Student Case Presentations
- Summative Topic Assessments
- End of Unit Assessment

Learning Activities:

What differentiated learning experiences and instruction will enable all students to achieve the desired results?

- Research assignments
- Socratic seminars
- Class debates
- Role-playing
- Scenario-based learning
- Case Q&A

RESOURCES

Teacher Resources:

- [Free and Slave States and Territories, 1820-1854](#)
- [The Compromise of 1850](#)
- [Presidential Election of 1860](#)
- [Caning of Charles Sumner Political Cartoon](#)
- [Historic Decisions of the Supreme Court: Dred Scott v Sandford](#) (PDF)
- [The Emancipation Proclamation](#)
- [Major Reconstruction Legislation, 1865-1870](#)
- [Online Companion: Civil Rights Cases](#)
- [Civil Rights Setbacks in the Supreme Court](#)
- [Violence Against African Americans](#)

Equipment Needed:

- Computer and Internet Access
- Projector
- Screen/Smartboard

UNIT OVERVIEW

Content Area: Social Studies

Unit Title: Criminal Law

Target Course/Grade Level: Constitutional Law, Grades 11-12

Unit Summary:

To advance students' career interests and strengthen their understanding of how constitutional law is developed, Unit 4 (Criminal Law) explores criminal trial proceedings from start to finish. Particular emphasis is given to how this process ensures that the constitutional rights of the accused are protected and a fair trial is held. This unit also includes a study of the duties of trial participants, including judges and attorneys, and the role of law enforcement in a criminal investigation.

Topics (3): Criminal Law, The Pretrial Process, The Trial Process

Approximate Length of Unit: 10 weeks (Q4)

LEARNING TARGETS

NJ Student Learning Standards:

6.1.12.CivicsPD.1.a: Use multiple sources to analyze the factors that led to an increase in the political rights and participation in government

6.1.12.CivicsPR.2.a: Use primary sources to explain how judicial review made the Supreme Court an influential branch of government and construct an argument regarding the continuing impact of the Supreme Court today.

6.1.12.CivicsPR.10.a: Analyze how the Supreme Court has interpreted the Constitution to define and expand individual rights and use evidence to document the long-term impact of these decisions on the protection of civil and human rights.

6.1.12.HistoryCC.2.b: Assess the importance of the intellectual origins of the Foundational Documents and assess their importance on the spread of democracy around the world (i.e., Declaration of Independence, the Constitution, and Bill of Rights).

6.1.12.HistoryUP.2.c: Explain why American ideals put forth in the Constitution have been denied to different groups of people throughout time (i.e., due process, rule of law and individual rights).

6.1.12.CivicsPI.3.a: Analyze primary and secondary sources to determine the extent to which local and state issues, publications, and the rise of interest group and party politics impacted the development of democratic institutions and practices.

6.1.12.HistoryCC.3.a: Evaluate the role of religion, music, literature, and media in shaping contemporary American culture over different time periods.

Career Readiness, Life Literacies, and Key Skills:

9.4.12.CI.1: Demonstrate the ability to reflect, analyze, and use creative skills and ideas.

9.4.12.CT.2: Explain the potential benefits of collaborating to enhance critical thinking and problem solving.

9.4.12.IML.2: Evaluate digital sources for timeliness, accuracy, perspective, credibility of the source, and relevance of information, in media, data, or other resources.

9.4.12.IML.8: Evaluate media sources for point of view, bias, and motivations.

Interdisciplinary Connections and Standards:

Computer Science and Design Thinking

8.1.12.DA.5: Create data visualizations from large data sets to summarize, communicate, and support different interpretations of real-world phenomena.

8.2.12.ITH.1: Analyze a product to determine the impact that economic, political, social, and/or cultural factors have had on its design, including its design constraints.

Visual and Performing Arts

1.2.12prof.Cn11a: Demonstrate and explain how media artworks and ideas relate to various contexts, purposes, and values (e.g., social trends, power, equality, personal/cultural identity).

1.2.12acc.Cn11a: Examine and demonstrate in depth the relationships of media arts ideas and works to various contexts, purposes and values, such as markets, systems, propaganda, truth.

1.5.12prof.Cn11a: Describe how knowledge of culture, traditions and history may influence personal responses to art.

1.5.12acc.Cn11a: Compare uses of art in a variety of societal, cultural and historical contexts and make connections to uses of art in contemporary and local contexts.

1.5.12adv.Cn11a: Assess the impact of an artist or a group of artists on the beliefs, values and behaviors of a society.

NJSLS Companion Standards: Reading and Writing Standards for History, Social Studies, Science, and Technical Subjects:

RH.11-12.1. Accurately cite strong and thorough textual evidence, (e.g., via discussion, written response, etc.), to support analysis of primary and secondary sources, connecting insights gained from specific details to develop an understanding of the text as a whole.

RH.11-12.2. Determine the theme, central ideas, information and/or perspective(s) presented in a primary or secondary source; provide an accurate summary of how key events, ideas and/or author's perspective(s) develop over the course of the text.

RH.11-12.3. Evaluate various perspectives for actions or events; determine which explanation best accords with textual evidence, acknowledging where the text leaves matters uncertain.

RH.11-12.4. Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines faction in Federalist No. 10).

RH.11-12.5. Analyze in detail how a complex primary source is structured, including how key sentences, paragraphs, and larger portions of the text contribute to the whole.

RH.11-12.6. Evaluate authors' differing perspectives on the same historical event or issue by assessing the authors' claims, reasoning, and evidence.

RH.11-12.7. Integrate and evaluate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, qualitatively, as well as in words) in order to address a question or solve a problem.

RH.11-12.8. Evaluate an author's claims, reasoning, and evidence by corroborating or challenging them with other sources.

RH.11-12.9. Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

RH.11-12.10. By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

WHST.11-12.1. Write arguments focused on discipline-specific content.

WHST.11-12.2. Write informative/explanatory texts, including the narration of historical events, scientific procedures/ experiments, or technical processes.

WHST.11-12.4. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

WHST.11-12.5. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.

WHST.11-12.6. Use technology, including the Internet, to produce, share, and update writing products in response to ongoing feedback, including new arguments or information.

WHST.11-12.7. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

WHST.11-12.8. Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the specific task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

WHST.11-12.10. Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

Unit Understandings:

Students will understand that...

Criminal Law

- Generally, crimes require the concurrence of action and intention.
- To encompass the various reasons why crime is committed, criminal law considers four categorizations of intent.
- A crime can be committed even if an action is not attempted or completed.
- Crimes are classified by the seriousness of the action and the victim.

The Pretrial Process

- Most criminal matters are settled in the pretrial process.
- A defendant's constitutional protections are most often challenged and exercised during the pretrial process.
- Because individuals are entitled to a trial by a jury of their peers, the jury selection process is an essential component of the American judicial system

The Trial Process

- The trial process relies on the dutiful actions of all participants.
- Trials must follow set procedures to ensure a fair trial.

Unit Essential Questions:

Criminal Law

- What basic concepts are studied in the field of criminology?
- The nature of criminal punishment depends on what two elements?
- What fundamental assumption does criminal law make about how and why crimes are committed?
- In what way can a lack of physical action result in a crime?
- What are the four categorizations of intent?
- How does a prosecutor establish general and specific intent?
- Why are concurrence and causation official prerequisites for a crime?
- What are inchoate crimes?
- How are crimes classified?
- What is the difference between a felony and a misdemeanor?
- What are statutes of limitations?

The Pretrial Process

- When does the pretrial process begin?
- What must police do before arresting an individual accused of a crime?
- What determines what amount a suspect's bail is set at?
- What is the purpose of a preliminary hearing and arraignment?
- What is a plea?
- What pleas can a defendant enter?
- Why might a defendant offer a no contest plea?
- What purpose do plea bargains serve in criminal proceedings?
- What is an attorney's objective during *voir dire*?

The Trial Process

- Why are bailiffs an essential trial participant?
- In what circumstances may a victim not be a trial participant?
- Why can't prosecutors conceal evidence that may damage their own case?
- What are the three types of witnesses?
- In what circumstances can a defendant be called to serve as a witness?
- How many jury members are there in most criminal cases?
- What challenges complicate a defense attorney's work?
- What are the two main types of evidence?
- What is the point of closing arguments in a trial?
- What happens if a jury can not come to a unanimous decision?
- What right does a defendant possess if they are found guilty?

Knowledge and Skills:

Students will know...

Criminal Law

- **Key terms:** criminology, *actus reus*, crimes of omission, Good Samaritan Laws, *mens rea*, general intent, specific intent, transferred intent, constructive intent, concurrence, causation, inchoate offense, criminal liability, complicity, accessory, accomplice, principal, felony, misdemeanor, violation, exclusionary rule, statute of limitations
- Criminology studies the nature and development of criminal law, the causes of crimes, and the control of crime.
- Crime and deviant behaviors are caused by a number of biological, psychological, and social factors.
- The nature of punishment depends on two elements: crime actions (what was done) and intentions (why it was done).
- Criminal law assumes that crimes are committed voluntarily but not all crimes are committed by choice.
- *Actus reus* (“guilty act”) refers to the actions of an individual who commits a crime.
- *Actus reus* is not restricted to physical actions and also considers verbal actions such as threats and conspiracies.
- Inaction (a lack of physical action) may also be an element of crime if an individual has a legal duty to act but fails to (ex: babysitters, lifeguards, teachers). These are called crimes of omission.
- Good Samaritan laws protect individuals from criminal liability when they attempt to act during a crisis and cause injury or damage.
- *Actus reus* also applies to individuals who knowingly possess an illegal object or are aware of its location (ex: drugs, weapons, trafficked persons)
- *Mens rea* (“guilty mind”) refers to the intent or purpose of a crime.
- Intent is classified into four categories: general intent, specific intent, transferred intent, and constructive content.
- General and specific intent are the two most common categorizations of intent.
- General intent is the lowest threshold of intent as the prosecution must only prove that the individual meant to do an act prohibited by law.
- Specific intent is established when the perpetrator of a crime had a specific desire to not only commit the act, but an intent to achieve a specific aim.
- Prosecutors rely heavily on evidence and confessions to establish specific intent.
- Transferred intent occurs when a perpetrator harms a third party who was not directly involved in the situation. Constructive intent refers to when that harm is inadvertent but the individual should have known that their actions could cause harm to the public or to property (ex: reckless driving, fireworks).
- Proving a single element of a crime (*actus reus* or *mens rea*) is not enough to establish criminal liability; a crime needs to include both action and intention by the offender.
- Concurrence refers to both *actus reus* and *mens rea* being present simultaneously at the time of the crime.
- Concurrence is an official prerequisite for a crime.
- The completion of a crime also needs causation, which means the offense is a result of concurrence.
- Inchoate crimes refer to crimes in which both elements of a crime do not coincide but would have done so if the offender’s plan were successful (ex: solicitation, conspiracy, attempts).
- Criminal law classifies crimes based on two factors: seriousness of the crime and the victim.
- A felony is the most serious classification of crime (ex: murder, assault, rape, kidnapping).

- A misdemeanor is the less serious or less harmful classification of crime (ex: trespassing, petty theft).
- A violation refers to crimes that are less serious than misdemeanors and typically results only in fines (ex: traffic violations, code infractions)
- The legal system classifies the following crimes based on victim: state (ex: treason, sedition), public order and morals (ex: disorderly conduct, public drunkenness, curfew), habitation (ex: burglary, arson), property (ex: theft, embezzlement, larceny), and persons (ex: homicide, assault, kidnapping).
- The prosecution must show all evidence collected against the defendant to the defense lawyer(s).
- Evidence that is collected through illegal or unethical means cannot be presented in a court of law.
- The Fruit of the Poisonous Tree doctrine prevents unconstitutionally obtained secondary evidence from being used in trial.
- Statute of limitations, which vary depending on the seriousness of the crime, refer to the maximum duration of time that can lapse between the discovery or acknowledgement of a crime and the action taken against the accused.
- Some crimes do not have a statute of limitations.

The Pretrial Process

- **Key terms:** probable cause, affidavit, bail, grand jury, arraignment, plea, plea bargaining, pretrial motion, rules of evidence, *voir dire*, challenge for cause, peremptory challenge
- The pretrial process begins after a crime occurs and it is reported to a law enforcement agency.
- The police and prosecution need evidence to establish probable cause in order to arrest an individual accused of a crime.
- An affidavit, which describes the crime, probable cause, and role of the suspect involved, must be filed before a warrant for an arrest or search is authorized by a judge.
- A search warrant allows police to search for particular material evidence at a specific time and place.
- For most crimes, police must release a suspect if the victim or the state fails to press charges within 48 hours.
- Suspects are informed of their legal rights and provided counsel if they can not afford one.
- The bail amount depends on the seriousness of the crime with which the suspect has been charged.
- Courts can deny bail to a suspect if the person poses a threat or is considered a flight risk.
- The primary purpose of a preliminary hearing is to establish probable cause before a judge.
- A defense attorney can challenge the evidence presented during a preliminary hearing and a judge may dismiss the charge before continuing the pretrial process.
- A grand jury hears the facts of the case and decides whether there is probable cause to believe that the suspect committed the crime in question.
- The grand jury system is helpful in cases with multiple or high-profile suspects and ongoing crimes.
- An arraignment allows the suspect to be informed of the number and nature of the charges filed by the prosecution.
- After an arraignment, the prosecution cannot modify the charges against the defendant.
- A plea is a statement that the defendant (or the defense attorney on behalf of their client) makes regarding their guilt or responsibility for the crime.
- A defendant can enter one of three pleas: guilty, not guilty, or no contest.
- A no contest plea means that the defendant does not accept guilt for the crime but will accept the punishment rendered by the court.

- A no contest plea cannot be used to establish guilt if the victim of the crime takes the defendant to civil court.
- Plea bargains allow the defense and prosecution to attempt to come to an agreement about a suitable punishment for a defendant before taking the court to trial.
- The defense might accept a plea bargain if they know their odds of winning the case if it goes to trial are slim.
- The prosecution might accept a plea bargain if they lack a strong case or fear that a trial may lead to a sympathetic jury or public pressure.
- Due to plea bargains in the United States, defendants plead guilty during the pretrial process over 90% of the time and most cases do not go to trial.
- A plea agreement can be agreed upon at any point in the trial until the jury declares its verdict.
- Some argue that plea bargaining might lead to innocent defendants pleading guilty and serving time for crimes they did not commit.
- Pretrial motions allow the defense and prosecution to view, challenge, and prepare evidence (and their case) before the trial begins.
- In the United States, a jury is selected from a jury pool through *voir dire*.
- The questioning of a jury pool ensures that potential jurors have no bias toward either the defense or the prosecution.
- Attorneys use challenges during the jury selection process to exclude potential jurors who may be biased.

The Trial Process

- **Key terms:** court clerk, bailiff, victim, shield laws, prosecutor, inculpatory evidence, exculpatory evidence, witness, judge, jury, defendant, defense attorney, evidence, direct evidence, circumstantial evidence, examination, rebuttal, surrebuttal, jury instructions (charge), hung jury, mistrial, jury nullification, verdict, directed verdict
- The responsibility of handling trial documentation belongs primarily to the court clerk.
- Documentation of everything that is said and presented during a trial is handled by a court recorder.
- Criminal trials may lead to intense arguments and emotional outbursts from defendants, victims, witnesses, and attending members of the public gallery.
- Bailiffs have the authority to use force and arrest anyone who disrupts court proceedings.
- Victims are not always active participants in a criminal trial and are only compelled to testify in court if the defendant invokes their Sixth Amendment right to confront an accuser.
- Shield laws protect certain victims (ex: children, victims of sexual abuse) from testifying in person because the experience may prove traumatizing, disturbing, or unsafe.
- State prosecutors are elected; federal prosecutors are appointed.
- The burden of proof lies on the prosecution, who must establish the defendant's guilt beyond a reasonable doubt.
- Because prosecutors represent the people of the state and have an obligation to seek impartial justice, prosecutors can *not* conceal exculpatory evidence.
- Justice is served when the innocent are exonerated just as it is when the guilty are convicted.
- Witnesses may face perjury charges if caught lying during criminal proceedings.
- There are three types of witnesses: eyewitness (who saw part or the entire crime being committed), expert (forensic analysts, psychologists, etc.), and character (those who testify about the character of the defendant).
- Witnesses receive protection during and after a trial to ensure their safety.
- A co-defendant may be called as a witness in a trial to receive lesser sentences or have their charges dropped.
- In a bench trial, a judge (not a jury) decides whether or not a defendant is guilty.

- A defendant might favor a bench trial because it is often quicker, judges are sworn to be impartial, and judges are more knowledgeable about the law than jurors.
- Judges have the power to punish any trial participant who violates a rule by holding them in contempt of court.
- In most federal cases, a jury consists of 12 members and two alternate jurors.
- The defendant is the person under trial for the charges filed by the prosecution.
- If found not guilty, a defendant can not be prosecuted twice for the same crime.
- Information shared by a defendant to their attorney falls under attorney-client privilege and may not be disclosed to anyone without their client's permission.
- Defense attorneys have an obligation to ignore personal feelings and their own biases to provide the best possible defense for their client.
- In a trial proceeding, the prosecution may present real/physical evidence (ex: weapon, fingerprint) or testimonial evidence (witness testimony).
- Real or testimonial evidence may be direct (directly links defendant to crime) or circumstantial (shows a connection but not clear proof of defendant's connection to a crime).
- During cross examination, defense attorney's may attempt to question or undermine the credibility or truthfulness of a witness.
- After a prosecution presents its case, the defense will present its own and in rare instances can instead request a directed verdict.
- After both sides have presented their evidence and witnesses, there is an opportunity for rebuttal and surrebuttal before closing arguments.
- Closing arguments are reserved only for summaries; new evidence can *not* be presented.
- In closing arguments, the defense attorney tries to convince the jury that the prosecution failed to prove the defendant's guilt beyond a reasonable doubt.
- In closing arguments, the prosecution tries to convince the jury that the evidence and witnesses presented during the trial proceedings established the defendant's guilt beyond a reasonable doubt.
- The charge to the jury (or jury's instructions) includes instructions to the jury, a summary of evidence and witnesses presented, and applicable laws.
- Once a jury declares its verdict, the prosecution and defense can no longer reach a plea agreement.
- During deliberations, jurors are instructed not to view media coverage of the trial and avoid speaking to anyone outside of the courtroom.
- In criminal trials, the jurors' decision must be unanimous and without coercion.
- When jurors cannot agree on a verdict (hung jury), the judge declares a mistrial and a new trial is ordered for the defendant.
- Although rare, a jury can choose to acquit the defendant despite finding them guilty if the jurors consider the law itself to be unjust.
- The defendant has the right to appeal a guilty verdict or request a new trial if new evidence establishes their innocence.
- Objections raised during the trial proceedings (ex: coerced testimony or illegally obtained evidence) or errors in procedure are also grounds for appeal.

Students will be able to...

Criminal Law

- Define criminology.
- Identify the two elements of a crime.
- Provide examples of crimes of omission and explain why the individual is criminally liable.
- Differentiate between the general and specific intent.
- Provide examples of crimes with transferred or constructive intent.

- Debate how the incomplete nature of an inchoate crime should influence the severity of punishment.
- Explain the difference between a felony and a misdemeanor.
- Define the exclusionary rule.
- Describe how evidence might be collected through illegal or unethical means.

The Pretrial Process

- Explain what the pretrial process is and what it begins.
- List the common elements of an affidavit.
- Describe the responsibilities of attorneys during preliminary hearings and arraignments.
- List and explain the different pleas a defendant can enter at their arraignment.
- Defend or support the practice of plea bargains.
- Complete a model criminal jury *voir dire* questions from the state of New Jersey.
- Hold a mock *voir dire* using defense attorneys, prosecutors, a judge, and a jury pool.

The Trial Process

- List the various trial participants present at most criminal proceedings.
- Explain why victims may not be an active trial participant.
- Explain the roles of a prosecutor and defense attorney during a trial.
- List the three types of witnesses.
- Recognize and label different types of evidence as real, testimonial, direct, or circumstantial.
- Describe the responsibilities of a jury during a trial and how a verdict is reached.
- Complete a mock trial.

EVIDENCE OF LEARNING

Assessment:

What evidence will be collected and deemed acceptable to show that students truly “understand”?

- Summative Topic Assessments
- End of Unit Assessment

Learning Activities:

What differentiated learning experiences and instruction will enable all students to achieve the desired results?

- Class debates
- Role-playing
- Scenario-based learning
- Mock criminal investigation
- Mock trial
- Court visit/public gallery field trip

RESOURCES

Teacher Resources:

- [Glossary of Legal Terms](#)
- [New Jersey Administrative Code](#)
- [New Jersey Statutes database of the Rutgers University School of Law - Newark](#)
- [New Jersey Register digitized collection](#)
- [Online Companion: Criminal Law](#)

Equipment Needed:

- Computer and Internet Access
- Projector
- Screen/Smartboard