

## LESSON THREE

# THE BILL OF RIGHTS

### Overview

The Constitution, with a system of separated powers, checks and balances, and an extended republic, was intended to better secure individual rights. Additional limitations on government were set forth in the first ten amendments to the Constitution, known as the Bill of Rights. Students will analyze scenarios for possible violations of those rights, and evaluate Supreme Court rulings in similar situations.

*A free people [claim] their rights as derived from the laws of nature, and not as the gift of their chief magistrate.*

–Thomas Jefferson, 1774

*The Framers of the Bill of Rights did not purport to “create” rights. Rather, they designed the Bill of Rights to prohibit our Government from infringing rights and liberties presumed to be preexisting.*

–William J. Brennan, 1989

### Critical Engagement Question

How does the Bill of Rights protect freedom?

### Objectives

Students will:

- Identify fundamental liberties protected by the Bill of Rights.
- Analyze the connections and interdependence among the protections in the Bill of Rights.
- Evaluate situations in which rights may be violated.
- Appreciate the Bill of Rights and its protection of liberty.

### Standards

CCE (5-8): IIA1, IVB1, VB1-2

CCE (9-12): IIA1, IIC1, IVC1, VB1-2

NCHS (5-12): Era 3: 3B; Era 10: 2E

NCSS: Strands 2, 5, 6, and 10

## Materials

- The Bill of Rights [Appendix C]
- **Handout A:** The Value of Rights
- **Handout B:** Bill of Rights Scenario Cards
- **Handout C:** The Bill of Rights Today [optional]
- **Handout D:** Life Without Rights for the Accused [optional]

## Time

One fifty-minute class period

## Background/Homework

10 minutes the day before

- A. Distribute the Bill of Rights (Appendix C). Ask students to translate the key protections of each amendment into simple, modern phrasing. Use the board or overhead and have students take notes as you discuss each protection. See the Answer Key for suggestions.
- B. Have students use their annotated copies of the Bill of Rights to complete **Handout A: The Value of Rights** individually.

## Warm-Up

10 minutes

- A. Ask students to share and explain some of their responses to **Handout A**. Then engage the class in a large group discussion to answer the questions:
  - What similarities do you find among the rights people generally ranked as most important?
  - Do you think responses might change based on the following factors: **Age**—would the rights have a similar ranking if the students were adults? **Place in history**—would the rights have a similar ranking if the students lived during the Founding era? The Civil War? The Progressive Era? **Family**—would the rights have a similar ranking if the students' parents were lawyers? Ministers? Convicted felons? Members of the military?
  - Why is it wrong for governments to infringe on these individual rights?
- B. Conclude the discussion by reminding students that many of the rights in the Bill of Rights are natural human rights all people are born with, and that nobody should have to live without. The Bill of Rights was written to protect individuals from government infringing on those rights.

## Activity

30 minutes

- A. Divide the class into twelve groups. Give each group one Card from **Handout B: Bill of Rights Scenario Cards**. Referencing their copies of the Bill of Rights, groups should write their answers to the following questions: 1) Which right (if any) is being violated? and 2) Which amendment (if any) offers protection against such a violation?
- B. After two or three minutes, have groups pass their Scenario Card another group. Continue until each group has responded to every Scenario Card.
- C. Ask one member of each group to line up in the front of the room in order of amendments to create a “living Bill of Rights.” (Some amendments will have more than one representative in line.)

- D. Have each representative read their group's Scenario Card and share their group's response. See the Answer Key for correct answers.
- E. When going over Scenario Cards which focus on Supreme Court cases, ask students to evaluate the Court's ruling. Did the Court decide the constitutional question correctly?

## Wrap-up

10 minutes

Ask students if the protections for individual rights that were added to the Constitution in 1791 are out of date, or if they are still important today. What current issues highlight the importance of Bill of Rights protections?

## Homework

- A. Distribute **Handout C: The Bill of Rights Today**. Have students research current events that illustrate the rights and protections guaranteed in the Bill of Rights. Students can begin their research by reading "Bill of Rights in the News" stories updated daily at: [www.BillofRightsInstitute.org/headlines](http://www.BillofRightsInstitute.org/headlines).
- B. Have students read the narrative on **Handout D: "Life Without Rights for the Accused,"** which tells a fictional story of an accused person living in a society where government does not honor the criminal procedure protections in the Bill of Rights. Have them identify the violations of rights. Then ask them to write their own "Life Without..." story. For example: "Life Without Freedom of Expression," (which would include speech, press, assembly and petition); "Life Without Freedom of Religion," or "Life Without Protection for Private Property." Student may then:
- Trade papers and challenge a friend to find the violations in their story
  - Give the class buzzers or flags; have one student read his or her story aloud while the rest of the class buzzes or raises a flag when a violation has occurred.
  - Combine stories into one long series of narratives which they can share with other classes.

### Extensions

Assign students to work in pairs to research one of the topics (e.g. criminal procedure, religion, expression, etc.) from the Bill of Rights in the News Activities section of the Bill of Rights Institute Web site. Have them present a five-minute summary of major positions on the issue, and conclude with their opinions. Activities can be found at: <http://www.billofrightsinsitute.org/Teach/FreeResources/Lessons/>

HANDOUT A  
**THE VALUE OF RIGHTS**

**Directions:** Read over the Bill of Rights and the rights protected in each amendment. Then think about which rights are most important to you. Choose five that you believe are the most important, and list them in the chart below. Then answer the questions below.

Right	Amendment
1	
2	
3	
4	
5	

1. Why did you select these rights?
  
  
  
  
  
  
  
  
  
  
2. How would life change without the other rights?
  
  
  
  
  
  
  
  
  
  
3. Why is it important that we have all of these rights?

**BILL OF RIGHTS SCENARIO CARDS**

**Note:** Print the Scenario Cards on colored paper and distribute one card to each group.

SCENARIO 1	SCENARIO 2
<p>Gennie, an eighteen year old college student, is arrested for stealing a classmate’s designer sweater and selling it on eBay. When Gennie appears before the judge, she asks for a lawyer to help defend her. The judge tells Gennie that if she is smart enough to be in college, she knows enough to defend herself. Besides, she is not charged with a felony, so the stakes are not very high.</p>	<p>Susette bought a house and spent years restoring it. She loves her home. One day, she gets a notice that the local government is going to take her property in order to turn her land over to a private company. The local government says it can take Susette’s home because the new jobs and tax revenue created by the company will benefit the public.</p>
SCENARIO 3	SCENARIO 4
<p>Carolyn is arrested for shoplifting a candy bar from a grocery store. At trial, she is found guilty. The judge decides that the right punishment is to cut off Carolyn’s hands so she will not be able to shoplift again.</p>	<p>Congress wants to find ways to cut costs because of the soaring budget deficit. Congress passes a law to require American citizens to house US soldiers in their homes during peacetime.</p>
SCENARIO 5	SCENARIO 6
<p>Brett’s science teacher asks the class to exchange papers to correct last night’s homework. Brett refuses to let anyone except the teacher see his homework paper, and is sent to the principal.</p>	<p>Concerned about rising crime, lawmakers for the District of Columbia ban all handguns in the city, and require that shot-guns be kept unloaded and/or disassembled.</p>

**BILL OF RIGHTS SCENARIO CARDS (CONT.)**

SCENARIO 7	SCENARIO 8
<p>John, a fourteen year old public school student, wears a shirt to school that says “Be happy, not gay” to express his belief that homosexuality is wrong. His dean tells him he must change his shirt or be suspended from school. John refuses, and is suspended for a week.</p>	<p>Thirteen year old Marianne is a freshman in high school. She is an honor student and wants to sing in the choir. When she arrives at choir practice, the teacher tells her she must take a drug test if she wants to participate in any extra-curricular activities. Marianne refuses and is kicked out of choir.</p>
SCENARIO 9	SCENARIO 10
<p>A man suspected of a violent crime is brought in to the police station. The alleged victim picks him out of a lineup as the man who attacked her. Police inform him that he has the right to refuse to answer questions, but they do not offer to let him speak to a lawyer. After being questioned for two hours, the man admits the crime.</p>	<p>Elizabeth is twelve years old. Her parents are very religious, but she is not. Once a week, Elizabeth’s parents make her come with them to their place of worship. Elizabeth always says she does not want to go, but her parents make her come with them anyway.</p>
SCENARIO 11	SCENARIO 12
<p>Members of Congress are unhappy with students’ standardized test scores. They pass a federal law that abolishes local school boards and requires a national, standardized curriculum.</p>	<p>A public school principal smells smoke in the hallway, and believes it is coming from the girls’ bathroom. She walks into the bathroom and finds Susan standing by the sink. She suspects Susan has been smoking, and demands to search her purse for cigarettes or other evidence of smoking.</p>

HANDOUT C

# THE BILL OF RIGHTS TODAY

**Directions:** Complete the chart below by finding examples of news stories about issues related to the Bill of Rights. You can find up to date articles organized by topic at [www.BillofRightsInstitute.org/headlines](http://www.BillofRightsInstitute.org/headlines). As you respond to each article, think about ways the issue or event may touch your life.

Summary of Article	Related Amendment	Your Response to This Issue/Event

## LIFE WITHOUT RIGHTS FOR THE ACCUSED

**Directions:** Read the story and underline the sections where Johnny's rights are violated.

Johnny Q. Public dozed off to sleep while watching a crime show on TV. Suddenly there was a noise on his porch and then, "BAM!" Five men in police uniforms stood in his living room with guns pointed at him.

The captain shouted to the other officers, "You, go search the basement. You, search the garage. You, search the kitchen!"

"Wh- wh- where's your search warrant?" asked Johnny nervously.

"We don't need a warrant!" replied the police captain.

After searching his house, the captain announced, "Johnny Q. Public, you are under arrest."

Johnny was booked and led to a prison cell. He wondered what he had been arrested for. "Guard, why I have been arrested?" Johnny asked each day. But the guards said they didn't know.

Months went by. Finally Johnny was told that if he could post one million dollars bail, he could get out of jail until his trial. "I don't have that kind of money. Can I talk to an attorney?" He'd beg, but the answer was always, "No."

A year passed, and finally Johnny was transported from Virginia to Pennsylvania for trial. He found out that he was charged with shoplifting a t-shirt. As he entered the courtroom, he saw an empty jury box. He asked, "Where's my jury?" He was told he couldn't have a jury because judges were better at knowing when someone was guilty.

Then the district attorney said, "The prosecution calls Johnny Q. Public to the stand." Johnny didn't want to testify. But he was told he would be sent back to jail if he did not. Johnny put on the best defense he could. By some miracle, he was found not guilty.

A month later, Johnny was arrested again on the same charge. He had to prepare for another trial. The prosecution had new evidence this time. Johnny wanted to question the prosecution's witnesses, but the judge would not let him.

When it was time for Johnny to present his case, Johnny said, "I'd like to call my neighbor to the stand. He knows that I was at home alone that night." But the judge said, "Your neighbor didn't want to get involved, and so he would not agree to testify. There's nothing we can do."

Johnny was found guilty. The judge asked Johnny to stand while he read the sentence: "Johnny Q. Public, since this is your first offense, you have been sentenced to five years in a maximum security prison." Johnny felt dizzy and sat down. He thought, "I wish there were something that could protect me from these abuses!"

## The Bill of Rights Answer Key

### Background/Homework

Suggested paraphrases:

- I. The government cannot I. violate peoples' freedom of religion, speech, press, assembly, and petition. Note: \_e First Amendment, like the entire Bill of Rights, was written to restrict only the actions of the national government ("Congress"). The Supreme Court has used Fourteenth Amendment, (adopted in 1868) to apply some Bill of Rights protections to state governments is called the doctrine of incorporation.
- II. A well-equipped militia guards our freedom, the people have the right to have and carry weapons.
- III. The government cannot force people to quarter troops in their homes.
- IV. The government must have probable cause for a search warrant; the government cannot unreasonably search or take possessions.
- V. The right to: a grand jury in infamous crimes; not to be tried twice for the same offense; remain silent; due process of law; just compensation when the government takes your property for public use.
- VI. The right to: a speedy and public trial by an impartial jury in the area where the alleged crime occurred; to be told of the accusation; face accusers, require witnesses to appear in court; to have the assistance of a lawyer.
- VII. The right to a jury trial in civil suits over more than \$20; Juries have the final say on facts of a case.
- VIII. The government cannot impose bail or fines that are too big, or cruel and unusual punishments.

IX. The listed rights are not the only (or even necessarily the most important) rights people have.

X. The states and the people keep all powers not delegated to the federal government.

### Handout B: Bill of Rights Scenario Cards

1. Violation of the Sixth Amendment right "to have the assistance of counsel," according to the ruling in Gideon v. Wainwright (1963).
2. May depend on state law. \_e Supreme Court held in Kelo v. New London (2005) that the "public use" required by the Fifth Amendment when government takes property is satisfied if property taken for private redevelopment is for "public benefit." In reaction to this ruling, several states have passed laws forbidding the use of eminent domain for redevelopment.
3. Violation of Eighth Amendment protection from "cruel and unusual punishment."
4. Violation of Third Amendment, which reads "No soldier shall, in time of peace be quartered in any house, without the consent of the owner."
5. No violation, according to the ruling in Owasso Independent School District v. Falvo (2001).
6. Violation of Second Amendment "right of the people to keep and bear arms," according to the ruling in District of Columbia v. Heller (2008).
7. May be a violation of First Amendment "freedom of speech." In upholding students' right to wear plain black armbands in silent protest of the Vietnam War, the Supreme Court held in Tinker v. Des Moines (1969) that school officials may restrict student expression that would "materially and substantially" disrupt school discipline.

8. No violation, according to Board of Education of Pottawatomie v. Earls (2002).
9. Violation of Fifth Amendment freedom from being “compelled in any criminal case to be a witness against [one]self ” and Sixth Amendment right to “the assistance of counsel,” according to the ruling in Miranda v. Arizona (1966).
10. No violation. The Bill of Rights protects individuals from the actions of government. It does not limit the actions of parents.
11. Violation of Tenth Amendment reservation of powers to the states and the people. When the Constitution does not give a power to the federal government, nor deny it to the states, the power is reserved to the states and the people.
12. No violation. Public school officials can conduct searches of students’ belongings if they have “reasonable suspicion” of wrongdoing, according to the ruling in New Jersey v, T.L.O. (1985).