

# Teaching American History Grant: Learning Experience 2008-2009

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**Topic Title:** Civil Liberties and Presidential Power

**Grade Level:** Junior High Special Education, 12 grade honors, R and Alternative High School

## **Overview of the Learning Experience:**

### **Students will be able to:**

- Demonstrate an understanding of historical precedent for limiting civil liberties during wartime.
- Discuss the need to balance civil liberties and national security during specific era assigned.(How or Why the president did what he did)
- Discuss how the other branches reacted to the presidents actions.
- Analyze Supreme Court cases to determine how the court responded to the presidents actions.

### **Standards:**

NY State Standard 1- History of the United States

**Students will:** use a variety of intellectual skills to demonstrate their understanding of major ideas, eras, themes, developments, and turning points in the history of the United States and New York.

**Key Idea 1:** The study of New York State and United States history requires an analysis of the development of American culture, its diversity and multicultural context, and the ways people are unified by many values, practices, and traditions.

### **Performance Indicators:**

- interpret the ideas, values, and beliefs contained in the Declaration of Independence and the New York State Constitution and United States Constitution, Bill of Rights, and other important historical documents
- analyze the development of American culture, explaining how ideas, values, beliefs, and traditions have changed over time and how they unite all Americans

**Key Idea 4:** The skills of historical analysis include the ability to: explain the significance of historical evidence; weigh the importance, reliability, and validity of evidence; understand the

concept of multiple causation; understand the importance of changing and competing interpretations of different historical developments.

**Performance Indicators:**

- consider the sources of historic documents, narratives, or artifacts and evaluate their reliability
- understand how different experiences, beliefs, values, traditions, and motives cause individuals and groups to interpret historic events and issues from different perspectives

NY State Standard 5- Civics, Citizenship, and Government

**Students will:** use a variety of intellectual skills to demonstrate their understanding of the necessity for establishing governments; the governmental system of the U.S. and other nations; the U.S. Constitution; the basic civic values of American constitutional democracy; and the roles, rights, and responsibilities of citizenship, including avenues of participation

**Key Idea 1:** The study of civics, citizenship, and government involves learning about political systems; the purposes of government and civic life; and the differing assumptions held by people across time and place regarding power, authority, governance, and law. (Adapted from The National Standards for Civics and Government, 1994)

**Performance Indicators:**

- consider the nature and evolution of constitutional democracies
- analyze the sources of a nation's values as embodied in its constitution, statutes, and important court cases

**Key Idea 4:** The study of civics and citizenship requires the ability to probe ideas and assumptions, ask and answer analytical questions, take a skeptical attitude toward questionable arguments, evaluate evidence, formulate rational conclusions, and develop and refine participatory skills.

**Performance Indicators:**

- evaluate, take, and defend positions on what the fundamental values and principles of American political life are and their importance to the maintenance of constitutional democracy (Adapted from The National Standards for Civics and Government, 1994)
- explain how democratic principles have been used in resolving an issue or problem

**Essential Question(s):**

- **Why may (and how) civil liberties be endangered during times of war?**

**Time Allotment (classroom time):** 2 to 5 class periods

**Vocabulary (key terms):** civil liberties, presidential power, national security, habeas corpus, Ex Parte, constitution, checks and balances, separation of powers

**Materials/Resources:**

- Copy of Article I sec .8 Article II sec 1&2 of the Constitution
  - <http://www.yale.edu/lawweb/avalon/usconst.htm>
- Copy of the Bill of Rights
  - <http://www.yale.edu/lawweb/avalon/usconst.htm>
- War powers Resolution Public Law 93-1548
  - [http://www.policyalmanac.org/world/archive/war\\_owers\\_resolutions.shtml](http://www.policyalmanac.org/world/archive/war_owers_resolutions.shtml)

**Resources Packet:**

Executive Order 9066

<http://fatherryan.org/hcpmpsci/eo.htm>

The Patriot Act (excerpts)

<http://epic.org/privacy/terosim/hr3162.html>

Patriot Act (ACLU)-

<http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=12126c=207>

Hamdi vs. Rumsfeld Resources

<http://www.oyez.org/oyez/resources/case/1723/resources>

Civil Liberties after 9/11

[www.pbs.org/now/politics/timelines.html](http://www.pbs.org/now/politics/timelines.html)

[www.pbs.org/now/classroom/civilliberties.html](http://www.pbs.org/now/classroom/civilliberties.html)

[www.pbs.org/americarespondes/tolerance.html](http://www.pbs.org/americarespondes/tolerance.html)

Authorization of Use of Military Forces, Congressional Joint Resolution

(September 18, 2001)

[http://www.yale.edu/lawweb/avalon/sept\\_11/sjres23\\_eb.html](http://www.yale.edu/lawweb/avalon/sept_11/sjres23_eb.html)

“Tap Dancing” A TNR online debate *The New Republic*

<http://www.tnr.com/doc.mhtml?i=w060130&s=heymanposner013106>

“House and Senate Committee Back Bush’s Wiretapping and Tribunal Legislation” National Constitution Center

<http://www.constitutioncenter.org/education/TeachingwithCurrentEvents/constitutionNewswire/16702.shtml>

“Court Allows Warrant less Wiretapping During Appeal” *Washington Post*

<http://www.washingtonpost.com/wp-dyn/content/article/1006/10/04AR1006100401731.html>

“Court OKs Wiretapping Program, Fore Now” CBS News

[http://www.cbsnews.com/stories/2006/10/04/politics/main\\_2063590.shtml](http://www.cbsnews.com/stories/2006/10/04/politics/main_2063590.shtml)

“Tentative Accord on Interrogations” Council on Foreign Relations

[http://www.cfr.org/publication/11469/geneva\\_convention\\_debate.html](http://www.cfr.org/publication/11469/geneva_convention_debate.html)

“House Approves Bill on Detainees” *Washington Post*

<http://www.washingtonpost.com/wp-dyn/content/article.2006/09/27/AR2006092701287.html>

“President Thanks Senate for Passage of Military Commissions Act of 2006”

Office of the Press Secretary, the White House

<http://www.whitehouse.gov/new/releases/2006/09/20060928-15.html>

### **Court Cases:**

*Youngstown Sheet and Tube co. vs. Sawyer, U.S. 579 (1952)*

The issue before the court was whether the President could seize private steel mills to avert an impending strike by steel workers. The President contended seizure was necessary as continued steel production was vital to national defense during the Korean War. The Court addressed both presidential and congressional power.

*United States. Vs. Curtiss-Wright, 299 U.S. 304 (1936)*

The issue in this case was whether the Joint Resolution authorizing the President to prohibit the sale of weapons to participants in foreign armed conflicts gave the President authority over foreign affairs that was broader than presidential authority over purely domestic matters.

The Prize Cases, 67 U.S. 635 (1863)

The issue in these cases was whether the President had the authority to blockade Confederate ports and seize ships in the absence of a congressional declaration of a war or specific congressional authorization.

Goldwater vs. Carter, 444 U.S. 966 (1979)

Members of Congress brought suit challenging the President's authority to unilaterally nullify a treaty. Six members of the Court ruled to dismiss the case without oral argument. Two concurring opinions were issued, one concluding that the issue was not ripe for review as Congress had not taken formal measure to challenge the President's actions, the other concluding that the issue was political and therefore not reviewable.

Korematsu vs. United States, 321 U.S. 760 (1944)

The court ruled on the constitutionality of Executive Order 9066 which imposed numerous restrictions on those of Japanese ancestry living on the West Coast during WWII, including curfews and confinement to internment camps. (By announcing that the laws singling out a racial group for disadvantage treatment would trigger strict scrutiny by the courts, the Supreme Court made it difficult for states or the federal government to justify discriminatory laws. This led to the Courts' analysis in Brown vs. Board of Education and the recent affirmative action cases as well as cases striking down laws based on gender, alien age, and illegitimacy.)

<http://www.oyez.org/resources/case/203/>

Rasul vs. Bush, 542 U.S. 466 (2004)

Foreign nationals were captured in Afghanistan and Pakistan by the American military and held at the United States military base in Guantanamo Bay, Cuba. They brought suit in U.S. District Court challenging the legality and conditions of their confinement. The issue before the Supreme Court was whether United States courts had jurisdiction to consider the cases.

<http://www.law.duke.edu/publiclaw/supremecourtonline/certgrants/2003/resvuni.html>

Hamdan vs. Rumsfeld, 548 U.S.; 126 S.Ct. 2749 (2006)

Salim Hamdan, held at the United States military base in Guantanamo Bay, Cuba challenged the President's authority to convene a military commission in Guantanamo and further contended that he was entitled to procedures set forth in the Geneva Conventions.

<http://www.law.duke.edu/publiclaw/supremecourtonline/certGrant/2005/hamvrum.html>

## **Procedure for 12 grade honors and regular ed. students**

### ***Day 1:***

- Review the US Constitution (Article II) and the civil liberties granted to citizens
- Students will be broken into groups of no more than three.
- The students will chose from 8 presidents
  - 4 must be Lincoln, Wilson, GW Bush, FDR
- Within their groups they will look at relevant court cases of their choosing. (Some are listed in the resource packet) and determine how and when the President expanded or violated the powers granted to him using process sheet attached.
- Using the website resource list the students will use the computers to fill in the guided research chart. This research should be completed in the allotted time if not time will be given in the next session.

### ***Day 2:***

- Student will continue researching their presidents.
- Students will begin working on the second portion of their assignment, turning the guided research chart into a power point presentation. Each slide will represent a section of the guided research worksheet.

### ***Day 3:***

- Students will finish their power point presentations.

### ***Day 4:***

- Student will present their power point notes to the class.

***Day 5:*** If needed presentations will be continued.

## **Assessment:**

- A rubric will be given out to evaluate student performance.

## **Procedure for adapted lessons (Alternative High School):**

### ***Day 1:***

- Introduction of Lesson and overview of what will be discussed over the next few days
- Review Article I sec .8 Article II sec 1&2 of the Constitution
- Review War powers Resolution Public Law 93-1548

### ***Day 2:***

- As class we will read first court case, discuss how and why civil liberties were violated and discuss opinions on whether it was ok or not.
- Discuss how and why the Supreme Court reacted as it did
- Complete worksheet as class summarizing the days discussion

### ***Day 3:***

- As class we will read second court case, discuss how and why civil liberties were violated and discuss opinions on whether it was ok or not.
- Discuss how and why the Supreme Court reacted as it did
- Complete worksheet as individuals summarizing the days discussion

### ***Day 4:***

- Students will choose 4 more court cases involving Presidents from list provided
- Students will use the internet to research there court cases and complete worksheets
- Teacher assistance provided as needed

### ***Day 5:***

- Students will continue researching court cases and completing worksheets
- When students have completed research they will develop an essay using information acquired during research
- Essay will discuss how and why Presidents have limited civil liberties during wartime
- Teacher assistance provided as needed

### ***Day 6:***

- Students will complete essays
- Teacher assistance provided as needed

### **Assessment:**

- Essay will be graded by rubric to evaluate student performance.

## **Procedure for adapted lessons (Jr. High Spec. Ed.):**

### ***Day 1:***

- Introduction of Lesson and overview of what will be discussed over the next few days
- Review Article I sec .8 Article II sec 1&2 of the Constitution
- Review War powers Resolution Public Law 93-1548

### ***Day 2:***

- As class we will read first court case, discuss how and why civil liberties were violated and discuss opinions on whether it was ok or not.
- Discuss how and why the Supreme Court reacted as it did
- Complete worksheet as individuals or as class (if needed) summarizing the days discussion

### ***Day 3:***

- As class we will read second court case, discuss how and why civil liberties were violated and discuss opinions on whether it was ok or not.
- Discuss how and why the Supreme Court reacted as it did
- Complete worksheet as individuals or as class (if needed) summarizing the days discussion

### ***Day 4:***

- As class we will read third court case, discuss how and why civil liberties were violated and discuss opinions on whether it was ok or not.
- Discuss how and why the Supreme Court reacted as it did
- Complete worksheet as individuals or as class (if needed) summarizing the days discussion



Name: \_\_\_\_\_ Date: \_\_\_\_\_ Per: \_\_\_\_\_

President: \_\_\_\_\_

**Action:**

What civil liberties were violated or power expanded?

When did this occur?

How were civil liberties violated or power expanded?

**Response:**

How did different branches of the government respond?

How did the public respond?

*Positive or negative*