**Holocaust Education through a Civics Lens**

**Due Process**

*This lesson plan was developed to facilitate teaching and learning the history of the Holocaust and the required instructional approach as outlined in state statute* [*1003.42.2(g)1*](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1003.42&URL=1000-1099/1003/Sections/1003.42.html) *.  In addition, this lesson is aligned to the expectations of state statute* [*1003.42.2(g)2*](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1003.42&URL=1000-1099/1003/Sections/1003.42.html)*: Holocaust Education Week.*

| **Teacher Notes**: This lesson was adapted from a free online lesson from [Transforming Democracy: Law Day 2017](https://cdn.ymaws.com/www.lakebar.org/resource/resmgr/law_day/law_day_2017/2_2017_Middle_School_Lesson_.pdf)[Lesson Benchmark Alignment Appendix](https://docs.google.com/document/d/1FHUV_wXGDAE2SW8csnPL3VFlUCO_pbwv62K8xGWNHCU/edit?usp=sharing)**All accompanying links are found in the lesson plan below** |
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| Lesson Title | Florida Civics Benchmarks | Duration of Lesson |
| --- | --- | --- |
| Due Process | SS.7.C.2.1, SS.7.C.2.4, SS.7.C.2.5 and SS.7.C.3.6 | 1 Class Period |
| *Other Course Applications:**US Government**World History* |
| Essential Questions |
| * What is due process?
* Who does due process apply to in past events?
* Should pieces of due process be withheld from certain acts against humanity?
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| Learning Goals |
| Students will consider what it means to apply due process to a scenario based on a true event. They will be given multiple scenarios from former Nazi guards and their role in the Holocaust. Students will then apply the requirements of due process to each scenario.*Note: The* [*Florida Joint Center for Citizenship*](https://floridacitizen.org/) *(free teacher account) offers lessons on benchmarks SS.7.C.2.4, SS.7.C.2.5 and SS.7.C.3.6 under the “Resources” tab.* |
| Content Notes for Teachers |
| Due process rights reflect the Magna Carta of Great Britain, King John's thirteenth century promise to his noblemen that he would act only in accordance with law (“legality”) and that all would receive the ordinary processes (procedures) of law. It also echoes Great Britain's Seventeenth Century struggles for political and legal regularity, and the American colonies' strong insistence during the pre-Revolutionary period on observance of regular legal order. The requirement that government function in accordance with law is, in itself, ample basis for understanding the stress given these words. A commitment to legality is at the heart of all advanced legal systems, and the due process guarantees included in the U.S. Constitution Amendment 5 (federal level of government) and Amendment 14 (state level of government) are often thought to embody that commitment.Due process promises that before depriving a citizen of life, liberty or property, government must follow fair procedures. Thus, it is not always enough for the government just to act in accordance with whatever law there may happen to be. Citizens may also be entitled to have the government observe or offer fair procedures, whether or not those procedures have been provided for in the law on the basis of which it is acting. Action denying the process that is “due” would be unconstitutional. Suppose, for example, state law gives students a right to a public education, but doesn't say anything about discipline. Before the state could take that right away from a student, by expelling her for misbehavior, it would have to provide fair procedures, i.e. “due process.”*Source: Adapted from* [*“Due Process”*](https://www.law.cornell.edu/wex/due_process)*, Legal Information Institute, Cornell Law School.* In the late 1970s the United States ceased to be a refuge for Nazi criminals seeking to avoid prosecution for the crimes they had committed during World War II. Although the laws of the United States had always prohibited the immigration of those who had participated in the crimes of the Nazi regime, large numbers entered the country by concealing or falsifying their past and, even if discovered, easily avoided expulsion thereafter. All this changed in the late 1970s when public concern and congressional action moved the executive to proceed against these criminals. The courts revoked citizenship fraudulently obtained, and these denaturalized criminals, together with others who had retained their status as alien residents, faced deportation to the countries where they had committed their crimes. But deportation had never been the only means to rid the United States of Nazi criminals; they could also be extradited. In deportation, the Government of the United States initiates the proceedings and, if successful, expels the criminal. In extradition, a foreign nation initiates the proceedings and, if successful, has the criminal surrendered to it.*Source: Adapted from* [*The Extradition of Nazi Criminals: Ryan, Artukovic, and Demjanjuk*](https://www.museumoftolerance.com/education/archives-and-reference-library/online-resources/simon-wiesenthal-center-annual-volume-4/annual-4-chapter-2.html)*, The Museum of Tolerance.*  |
|  Florida Civics Benchmarks |
| SS.7.C.2.4 Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.Benchmark Clarifications:* Students will recognize that the Bill of Rights comprises the first ten amendments to the U.S. Constitution.
* Students will recognize the five freedoms protected by the First Amendment.
* Students will evaluate how the Bill of Rights influences individual actions and social interactions.
* Students will use scenarios to identify rights protected by the Bill of Rights.
* Students will use scenarios to recognize violations of the Bill of Rights or other constitutional amendments.

SS.7.C.2.5 Distinguish how the Constitution safeguards and limits individual rights.Benchmark Clarifications:* Students will recognize that rights are protected, but are not unlimited.
* Students will examine rationales for limiting individual rights.
* Students will use scenarios to examine the impact of limits on individual rights on social behavior.
* Students will examine the role of the judicial branch of government in protecting individual rights.

SS.7.C.3.6 Evaluate Constitutional rights and their impact on individuals and society.Benchmark Clarifications:* Students will recognize how individual rights shape involvement in the social, political, and economic systems.
* Students will recognize how the social, political, and economic systems in the United States are dependent upon individual rights.
* Students will use scenarios to recognize and/or evaluate options for exercising constitutional rights.
* Students will evaluate the impact of the government upholding and/or restricting individual constitutional rights.
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| Instructional Strategies/Lesson Activity |
| **Hook Activity** * Show the following video to students: [Due Process from LegalYou](https://youtu.be/J436pFZA3is)
* Inform the students In the US Constitution, the phrase “due process” appears twice. Once in the Fifth Amendment and in the Fourteenth Amendment. Both amendments guarantee that no one is denied life, liberty or property, but nowhere in the Constitution nor in any other legal brief are the specific qualifications of due process. One thing is certain, that ALL citizens are entitled to due process.

**Activity****Part 1*** Divide students into small groups (2-3 in each group)
* Using the [Due Process Scenarios](https://docs.google.com/document/d/1zOSVV7dHbhr6UnNajDXhMYIntaHj8Ha_u1iMvS6UIuc/edit?usp=sharing) document, provide the groups with one of the three different scenarios.
* Have students individually read the scenario through independent reading.
* Be sure to inform the students that these scenarios are based on true events and people.

Scenario 1 - Guard #1 is based on [Reinhold Hanning](https://time.com/nazi-trials/)Scenario 2 - Guard #2 is based on [John Demjanjuk](https://www.nytimes.com/2012/03/18/world/europe/john-demjanjuk-nazi-guard-dies-at-91.html)Scenario 3 - The Bookkeeper is based on [Oskar Gröning](https://www.nytimes.com/2018/03/12/obituaries/oskar-groning-the-bookkeeper-of-auschwitz-is-dead-at-96.html)**Part 2*** Distribute the [Requirements for Due Process](https://docs.google.com/document/d/1pCKWkltMfZCE6HdZoMICPLjvZjFdZHoanJefss2hFZQ/edit?usp=sharing) document to each group and a sheet of poster paper
* Inform the student that Judge Henry Friendly was a lawyer, a judge, and an expert in written law. He wrote an article titled “Some Kind of Hearing” which listed the required procedures that due process requires. This list is not mandatory, but helps guide many legal procedures.
* Have students format their poster paper as it appears on the [Due Process Poster Layout](https://docs.google.com/drawings/d/1KVviU5fKhUXZ7o82eiQOLt0vVO6JJYLcrszFH2Jvebc/edit?usp=sharing)

*\*Note: to add a layer of creativity to the lesson, allow the students to design their own layout.** After formatting the poster, have students answer all the questions.
* When students are finished, display the posters around the room for the students to observe the opinions of their classmates.

**Closing Activity*** At the end of class have students view the video from [Reinhold Hanning](https://time.com/nazi-trials/)’s article. The video is located at the top of the page.
* After viewing the video, ask the students if any of their opinions have changed.
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| Assignment(s) |
| * Due Process Poster
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| Assessment and Monitoring (Checks for content and mastery) |
| * Teacher observation and questioning of groups and individuals at each step of the instructional process and during transitions between activities.
* Check Due Process Poster for understanding of the content.
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| Adaptations for Unique Student Needs |
| * Enable closed captioning for all videos
* Convert the scenario readings into an audio format
* Divide the reading into smaller segments and discuss each before proceeding
* Use appropriate visuals to help guide struggling readers
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| Resources and Materials |
| - YouTube video: [Due Process from LegalYou](https://youtu.be/J436pFZA3is)- [Due Process Scenarios](https://docs.google.com/document/d/1zOSVV7dHbhr6UnNajDXhMYIntaHj8Ha_u1iMvS6UIuc/edit?usp=sharing)- [Requirements for Due Process](https://docs.google.com/document/d/1pCKWkltMfZCE6HdZoMICPLjvZjFdZHoanJefss2hFZQ/edit?usp=sharing)- [Due Process Poster Layout](https://docs.google.com/drawings/d/1KVviU5fKhUXZ7o82eiQOLt0vVO6JJYLcrszFH2Jvebc/edit?usp=sharing)- Scenario 1 - Guard #1 is based on [Reinhold Hanning](https://time.com/nazi-trials/)- Scenario 2 - Guard #2 is based on [John Demjanjuk](https://www.nytimes.com/2012/03/18/world/europe/john-demjanjuk-nazi-guard-dies-at-91.html)- Scenario 3 - The Bookkeeper is based on [Oskar Gröning](https://www.nytimes.com/2018/03/12/obituaries/oskar-groning-the-bookkeeper-of-auschwitz-is-dead-at-96.html)- [Due Process Test Items](https://docs.google.com/document/d/1yoVw27WslkIjzJu5E0x6Yt5m1msjp54ijGTRKQzEQwk/edit?usp=sharing)*Note: The* [*Florida Joint Center for Citizenship*](https://floridacitizen.org/) *(free teacher account) offers lessons on benchmarks SS.7.C.2.4, SS.7.C.2.5 and SS.7.C.3.6 under the “Resources” tab.* |

**Due Process Scenarios**

| **Scenario 1 - Guard #1**Guard #1 was born on Dec. 28, 1921, and left school at 14 to work in a factory. He joined the Hitler youth in 1935 and the Waffen SS, the armed wing of the SS, in 1940, at his stepmother’s suggestion. He fought in major battles before he was wounded by grenade splinters in Kiev in September 1941. Because of his wounds, his commander determined he was not fit for combat duty, and he was promoted and sent to Ausch­witz in 1942. He was initially assigned to register work details, away from the killing, but he later took a post in the guard tower.Guards in his company had to monitor ­arriving prisoners as they were chosen to work or be sent to their deaths in the gas chambers. It was a process referred to by survivors and witnesses as “selection.” Guard #1 did not describe witnessing selections or any personal involvement in killing, but he did admit to knowing about it. “Nobody talked to us about it in the first days there, but if someone, like me, was there for a long time, then one learned what was going on,” a statement from Guard #1. “People were shot, gassed and burned. I could see how corpses were taken back and forth or moved out. I could smell the burning bodies.”Witnesses don't remember Guard #1 from their time at Ausch­witz. Guard #1 says this shows how insignificant he was. “There were the Nuremberg trials after the war, where the big shots and responsible officers were tried and often sentenced to death,” Guard #1 stated. “And the further you go down the chain of command, the more the question arises of how far the legal responsibility goes.” *\*Based on true events and people.* |
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| **Scenario 2 - Guard #2**Guard #2 was born on April 3, 1920, in a village in Ukraine, to impoverished, disabled parents. The family nearly starved in a forced famine in the early 1930s that left millions dead in Ukraine. He had only four years of schooling, and was drafted into the Soviet Army in 1941. In 1942, the Germans wounded and captured him in the Crimea. After the war, Guard #2 met his wife in a German camp for displaced persons. They married and had a daughter while still living in camps.They emigrated to the United States and settled in Cleveland where he changed his first name and became a mechanic at a Ford plant and she worked in a factory. The couple had two more children and in 1958 Guard #2 was naturalized. He and his family lived quietly and retired in the Cleveland suburbs.He claims he was a Ukrainian prisoner of war in Germany and Poland who made his way to America and became a victim of mistaken identity. He was stripped of his citizenship, and deported to Israel, where witnesses and an identity card of “Ivan the Terrible,” a sadist who had murdered thousands of Jews at Treblinka, had turned up.Then deported to Germany, Guard #2 was suffering from bone-marrow and kidney diseases, was tried in a Munich court on charges in the killing of 27,900 Jews at the Sobibor camp in German-occupied Poland in 1943. In the nearly seven decades since 250,000 people were put to death at Sobibor, no surviving witnesses, even those who had been shown photographs, could place him at the scene.The case was largely based on documentary evidence — an S.S. identity card purporting to be Guard #2, Nazi orders sending the man identified as Guard #2 to work as a guard at Sobibor and other records of the era — and testimony by relatives of victims killed in the camp.*\*Based on true events and people.* |
| **Scenario #3 - The Bookkeeper**The Bookkeeper was born on June 10, 1921, in northern Germany. His mother died when he was 4 years old, and he was raised by his father, a stern textile worker who had emerged from World War I with a deep sense of grievance at the terms imposed on defeated Germany. Like others who shared his views, his father joined the Stahlhelm (Steel Helmet), an ultranationalist veterans’ group.His childhood was one of “discipline, obedience and authority.” He participated in the Stahlhelm’s youth movement before joining the Hitler Youth. His formal schooling ended in 1938, when he was 17, and he began training as a bank clerk. A year later, war intervened. His elder brother died as a soldier near Stalingrad in 1942, and he married his brother’s fiancée and they had a son.The Bookkeeper volunteered for the SS during a recruitment drive at a hotel near his home. After his service at Auschwitz he was sent to join German forces in the Ardennes region, where he was wounded. But he returned to his unit before Germany’s surrender in May 1945. After the war, he lied about Auschwitz, telling people that he had worked for an SS administrative office in Berlin. In 1946 he was shipped to England as a forced laborer, though he called his life there “very comfortable.” Back in West Germany the Bookkeeper told his family that the word Auschwitz and his connection to it “are never, ever to be mentioned again in my presence.”He claims he never rose above the rank of corporal, and insisted that he had played no more than a back-office role in the management of funds confiscated from Jews at Auschwitz. Yet he was accused as an accomplice in the murder of some 300,000 Hungarian Jews who had been transported to Auschwitz in 1944. He had volunteered for the Waffen SS in 1941 after training in civilian life as a bank teller, credentials that the SS determined qualified him to tally the cash and personal valuables seized from Jews transported to Nazi-occupied Poland. During his time at the camp, from 1942 to 1944, his ledgers recorded a range of currencies that reflected the money confiscated from the Jew’s who arrived at the camp. He remarked that he and his comrades enjoyed their quarters at Auschwitz, even as freight trains brought more Jews.The Bookkeeper acknowledged being present on two occasions when Jews were killed; in one instance. One involving a child and the other involving escaped Jews. He stated this was the only time he saw a gassing and he did not take part. Twice, he maintained, he asked to be transferred from Auschwitz to combat duties.He said that throughout his early life, he had been raised to believe that Jews were Germany’s enemy within. He stated that he swore an oath of loyalty and believed the Jews were Germany’s enemies. The Bookkeeper appeared at his trial as a silver-haired old man, a widower who found it difficult to walk unaided. Wartime photographs of him showed a self-confident and smiling young man in thin-rimmed spectacles, sporting the death’s-head emblem of the SS on his cap. By the time he was accused of these crimes he was in his nineties.*\*Based on true events and people.* |

**Requirements for Due Process**

As a party in court, you are entitled to the following requirements for due process:

(1) An unbiased judge and jury.

(2) An opportunity to have a lawyer with you.

(3) Notice of the charges being filed against you and why.

(4) An opportunity to explain why the charges against you should not be filed.

(5) The right to present evidence, and the right to know what evidence the opposing party has against you.

(6) The right to call witnesses, and the right to cross-examine, or question, the witnesses that the other party might call against you.

(7) A decision in your case that is based only on the evidence that has been presented during the case.

(8) A decision in your case that is written down and explained, and includes clear explanations of any facts of your case.

*Adapted from Judge Henry Friendly, “Some Kind of Hearing,” 1975 and the 2017 American Bar Association*

**Due Process Poster Layout**

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**Test Items**

| Benchmark | Benchmark Clarification | Cognitive Complexity |
| --- | --- | --- |
| 2.1 | BC 3 | Moderate |

| Question | What is one reason why the U.S. government might deport a naturalized citizen?  |
| --- | --- |
| A. | Because the naturalized citizen lied when they completed their citizenship application. |
| B.  | Because the naturalized citizen did not appear for jury duty when receiving their notice from the court.  |
| C. | Because the naturalized citizen registered for Selective Service upon turning 18.  |
| D. | Because the naturalized citizen applied for student loans to pay for college.  |

| Question | What is one reason why the U.S. government might deport a naturalized citizen?  |
| --- | --- |
| A. | Because the naturalized citizen lied when they completed their citizenship application. | ***Correct***-U.S. citizens may not be deported. Once naturalization is found to be based on false and/or dishonest information, the U.S. government might revoke naturalization. A person whose naturalization is revoked is no longer considered a U.S. citizen, which means that the now former citizen may be deported.  |
| B.  | Because the naturalized citizen did not appear for jury duty when receiving their notice from the court.  | **Incorrect**-Jury duty is reserved to U.S. citizens. U.S. citizens may not be deported for any reason.  |
| C. | Because the naturalized citizen registered for Selective Service upon turning 18.  | **Incorrect**-If male, both natural born and naturalized citizens are expected to register for Selective Service upon turning 18.  |
| D. | Because the naturalized citizen applied for student loans to pay for college.  | **Incorrect**-Whether natural born or naturalized, U.S. citizens are eligible to apply for student loans to pay for college although the loan request may be rejected by the lender.  |

| Benchmark | Benchmark Clarification | Cognitive Complexity |
| --- | --- | --- |
| 2.4 | BC 3 | Low |

| Question | In which amendment in the Bill of Rights is due process guaranteed? |
| --- | --- |
| A. | First Amendment |
| B. | Fourth Amendment |
| C. | Fifth Amendment |
| D. | Sixth Amendment |

| Question | In which amendment in the Bill of Rights is due process guaranteed? |
| --- | --- |
| A. | First Amendment | **Incorrect**-The First Amendment guarantees five freedoms (speech, press, assembly, petition, religious exercise) and one protection (establishment) |
| B. | Fourth Amendment | **Incorrect**-The Fourth Amendment guarantees protection from unreasonable searches and seizures |
| C. | Fifth Amendment | ***Correct***-The Fifth Amendment guarantees the right to federal-level due process |
| D. | Sixth Amendment | **Incorrect**-The Sixth Amendment guarantees the right to a fair trial |

| Benchmark | Benchmark Clarification | Cognitive Complexity |
| --- | --- | --- |
| 2.4 | BC 1 | Moderate |

| Question | Which constitutional principle is applied when the government acts according to law?  |
| --- | --- |
| A. | due process |
| B. | double jeopardy |
| C. | establishment of religion |
| D. | cruel and unusual punishment |

| Question | Which constitutional principle is applied when the government acts according to law?  |
| --- | --- |
| A. | due process | ***Correct***-Due process is a constitutional principle that requires that the government act according to law.  |
| B. | double jeopardy | **Incorrect**-Double jeopardy is a violation of due process and violates constitutional principles of fairness. |
| C. | establishment of religion | **Incorrect**-The First Amendment guarantees that the government (Congress) will not establish a religion. Establishing a religion violates the U.S. Constitution.  |
| D. | cruel and unusual punishment | **Incorrect**-The Eighth Amendment guarantees that the government will not inflict cruel and unusual punishment. Inflicting cruel and unusual punishment violates the U.S. Constitution.  |

| Benchmark | Benchmark Clarification | Cognitive Complexity |
| --- | --- | --- |
| 2.5 | BC 1 | Low |

| Question | How does the government safeguard individual rights? |
| --- | --- |
| A. | fair procedures |
| B. | freedom of speech |
| C. | right to bear arms |
| D. | probable cause |

| Question | How does the government safeguard individual rights? |
| --- | --- |
| A. | fair procedures | ***Correct***-Fair procedures is one way that the government safeguards individual rights by ensuring that people are treated fairly.  |
| B. | freedom of speech | **Incorrect**-Freedom of speech is a right protected by the government in the First Amendment.  |
| C. | right to bear arms | **Incorrect**-The right to bear arms is a right protected by the government in the Second Amendment.  |
| D. | probable cause | **Incorrect**-The Fourth Amendment guarantees that searches and seizures shall be conducted based on probably cause.  |

| Benchmark | Benchmark Clarification | Cognitive Complexity |
| --- | --- | --- |
| 2.5 | BC 3 | High |

| Question | The passage below is from a statement issued by the U.S. Department of Justice on April 30, 2004.

| Assistant Attorney General Christopher A. Wray of the Criminal Division announced today that the U.S. Court of Appeals for the Sixth Circuit unanimously held that the Government proved “through clear, unequivocal and convincing evidence” that John Demjanjuk was a guard at the Sobibor extermination camp and at the Majdanek and Flossenbürg concentration camps, and a member of the …unit “dedicated to exploiting and exterminating” Jews in Poland. |
| --- |

Based on the passage, which option represents John Demjanuk’s next step exercising his constitutional rights? |
| --- | --- | --- |
| A. | Proposing a gubernatorial pardon |
| B. | Petitioning the U.S. Supreme Court |
| C. | Seeking a presidential executive order |
| D. | Lobbying a state legislature |

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| --- |

Based on the passage, which option represents John Demjanuk’s next step exercising his constitutional rights? |
| --- | --- | --- |
| A. | Proposing a gubernatorial pardon | **Incorrect**-The scenario presents a federal issue and not a state-level scenario. |
| B. | Petitioning the U.S. Supreme Court | ***Correct***-The U.S. Supreme Court can rule on the constitutionality of the U.S. Court of Appeals decision. |
| C. | Seeking a presidential executive order | **Incorrect**-The purpose of an executive order is to impact how a law is enforced. The scenario presents a question about whether a court case was property adjudicated. |
| D. | Lobbying a state legislature | **Incorrect**-The scenario presents a federal issue and not a state-level issue.  |

| Benchmark | Benchmark Clarification | Cognitive Complexity |
| --- | --- | --- |
| 2.5 | BC 4 | High |

| Question | The passage below is from a statement issued by the U.S. Department of Justice on April 30, 2004.

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| --- |

Which constitutional principle likely motivated the U.S. Department of Justice to issue this statement?  |
| --- | --- | --- |
| A. | Executive privilege |
| B. | Judicial review |
| C. | Popular sovereignty |
| D. | States’ rights |

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| --- |

Which constitutional principle likely motivated the U.S. Department of Justice to issue this statement?  |
| --- | --- | --- |
| A. | Executive privilege | **Incorrect**-The U.S. Department of Justice functions as part of the executive branch although the attorney general’s office does not enjoy executive privilege.  |
| B. | Judicial review | ***Correct***-The appeals court ruled that the process for proving John Demjanjuk’s guilt was properly executed.  |
| C. | Popular sovereignty | **Incorrect**-The role of the people experiencing self-governance (popular sovereignty) is not presented in the scenario. |
| D. | States’ rights | **Incorrect**-The scenario presents a federal concern as evidenced by the role of the U.S. Department of Justice and the U.S. Court of Appeals.  |