

07.04: Objective

What Rights Do You Have?



NAACP Protest for school integration, 1963

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You may remember from a previous civics or government class that the legislative branch makes the laws and the judicial branch interprets them. In the 1960s, American society was changing. The Supreme Court was asked to interpret several constitutional amendments as a response to the social activism of the time period, including events of the Civil Rights Movement.

Overall, Americans' rights are more expansive today in many areas of life because of Supreme Court decisions of the 1960s and 1970s. Significant topics included in this lesson are integration, busing, affirmative action, the rights of the accused, and reproductive rights. Some of the rulings are still controversial today, with some people seeking to have the courts change its interpretations.

Use this [chart](#) to take notes on the important cases discussed in this lesson. Although you are not required to submit this chart for a grade, it can help you complete the multiple-choice quiz at the end of the lesson and prepare for your upcoming exams.

Objective 07.04 Civil Rights Decisions

After completing this lesson, you will be able to:

- identify the issues surrounding significant Supreme Court cases related to civil rights and liberties

07.04 Civil Rights Decisions: Key Decisions

What Were the Key Civil Rights Decisions?

In 1953, President Eisenhower appointed Earl Warren as Chief Justice to the U.S. Supreme Court. Eisenhower probably did not realize he was the catalyst for what historians consider the most activist Supreme Court in the 20th century United States. The term "activist" as applied to a court means that the court's decisions had the effect of creating social change. The "Warren Court" is famous for many liberal rulings that expanded civil rights and federal power.

The Warren Court's decision in the school segregation case of *Brown v. Board of Education of Topeka, Kansas* was its most significant related to civil rights. The *Brown* decision served as a **precedent** for future cases that addressed similar issues, even after the era of the Warren Court ended in 1969. Examples of these include how schools should go about integrating the schools and whether busing students to distant schools was appropriate to meet the requirement.

Examine these cases in the following activity to learn more about the effects of the Brown decision.

Interactive

Slideshow - Text Version

Carefully consider each "Thinking Point" question as you study each Supreme Court case.

Slide 1: Separate But Equal?

The 1896 *Plessy v. Ferguson* case ruled that "separate but equal" public facilities were acceptable. The National Association for the Advancement of Colored People formed in 1909 and began raising challenges to this ruling.

Thinking Point

Is it acceptable to have separate schools based on race?

Image description: A newspaper article announcing the verdict in the Plessy versus Ferguson case. The Supreme Court's judgement upheld the 'separate but equal' doctrine that enforced segregation until repealed by the decision in the Brown v. Board of Education case in 1954.

Slide 2: *Brown v. Board of Education, 1954* (Background)

You have probably heard about or studied the *Brown v. Board of Education* case before. What you may not realize is that it was a deliberate effort by lawyers to force the Supreme Court to address the segregation issue. The NAACP had found that states often spent far more on the education of a white child than they did for a black child, sometimes ten times as much. It saw

this as obviously "unequal," which contradicted the *Plessy* decision. First, NAACP lawyers, including Thurgood Marshall, focused on challenging denied admissions to state universities and had some successes with obtaining the right of African Americans to attend their university of choice. Then they decided to approach the issue in the lower grades.

Parents in several states were suing school boards over segregation, and their cases were combined together under the name *Brown v. Board of Education of Topeka, Kansas*, focusing on one seven-year-old girl who had to travel far each day to her segregated school. The other cases focused on the conditions of the schools. At the time, most states in the South required school segregation, many in the Northeast and Midwest forbade it, and other states had limited or no related laws on the issue.

Linda Brown's father, Oliver Brown, wanted to send his daughter to the school nearest their home, an all-white elementary school. Thurgood Marshall argued the case, saying that the school board denied Linda's rights when it refused to allow her to attend the closer school. Marshall argued that the "separate but equal" policy actually led to unequal and unfair treatment, leading to poorer education and self-esteem for African American children. He said this was a violation of their constitutional rights as U.S. citizens to equal treatment.

Image description: Brown vs. Board of Education National Historic Site, Monroe Elementary School, Topeka, Kansas

Slide 3: *Brown v. Board of Education, 1954* (Decision)
Is it acceptable to have separate schools based on race?

The unanimous answer of the Warren Court was "no." The justices did not arrive at this answer easily, as they discussed the case for hours in conference. Historians believe that Chief Justice Warren played a large role in leading all of the justices to support the majority opinion. The justices also would have understood the significance of their decision, that it was overturning the *Plessy* decision in part, as it applied to public schools.

Later the justices would reconvene to discuss the effects of the decision on school boards. In what historians call "*Brown II*" they ruled, again unanimously, that public school systems had flexibility in how they carried out desegregation but that it should happen with "all deliberate speed." The justices were aware of the challenges communities would face with integrating schools and so did not set an exact deadline. This had the effect of delaying integration in some areas for nearly a generation.

Image description: Front page of The New York Times, 18 May 1954, announcing the Supreme Court decision in the *Brown v. Board of Education* school segregation case.

Slide 4: *Green v. County School Board, 1968*
As the Civil Rights Movement achieved other successes and national attention, the Supreme Court faced issues of how to desegregate the schools. An important case related to this issue was *Green v. County School Board of New Kent County*.

Thinking Point

Is allowing parents to select their children's school of attendance an acceptable approach to integration?

Slide 5: *Green v. County School Board, 1968* (Background)

Rural New Kent County in Virginia had just two schools—one for black students in grades kindergarten through twelve and one for whites that spanned the same grades. The school for white students had a gym and sports fields while the other did not. It also had better classroom materials and equipment. Charles Green was a father concerned about the quality of his sons' education. He was part of his local NAACP chapter and learned that the group was looking for people willing to challenge school boards on desegregation policy in the courts. School districts that failed to comply with the Brown ruling and civil rights legislation could lose their federal funding.

Green volunteered to help, convincing many parents in his community to join him in demanding that the school board integrate the schools. They were ignored until the NAACP filed a lawsuit in the name of one of Green's sons. The school board adopted a "freedom of choice" plan that would allow parents of African American students to apply for admission to the white school. Few parents took advantage of that plan, likely in fear of community reaction, and thus it had no significant impact on the racial breakdown of the schools.

The NAACP argued that the "freedom of choice" plan was unfair because it required African Americans themselves to desegregate the schools rather than the district carrying it out. The lawyers argued that the county used buses to maintain segregated schools as some students had to travel far to reach their assigned school.

Image description: Map of counties in Virginia highlighting New Kent County

Slide 6: *Green v. County School Board, 1968* (Decision)

Is allowing parents to select their children's school of attendance an acceptable approach to integration?

The Supreme Court (with Thurgood Marshall now a justice) ruled that it was not acceptable because it did not have the effect of desegregating the schools. Note that the ruling did not determine "freedom of choice" plans as unconstitutional. It just stated that the plan was unacceptable if it failed to achieve integration.

The case showed that the court was losing patience with those taking advantage of the "all deliberate speed" phrasing from the *Brown* decision. The justices realized that they needed a new plan to "convert promptly to a system without a 'white' school and a 'Negro' school, but just schools." New Kent County converted its all-white school into a single, integrated high school for the county and the former all-black school became the elementary and middle grades school. The decision affected the whole country. Those areas that had resisted desegregation of the schools felt the pressure to make it happen, and quickly.

Image description: African American and white students walking to school together

Slide 7: *Swann v. Charlotte-Mecklenburg, 1971*

Following the *Green* decision, school districts scrambled to create and implement plans to integrate the schools. Some districts still faced intense resistance from parents and students and the issue of "busing" came to center stage.

Thinking Point

Is busing an acceptable way to enforce integration of public schools?

Slide 8: *Swann v. Charlotte-Mecklenburg, 1971* (Background)

After the *Brown* ruling, many districts tried various plans for integrating their schools, with little or no success. One problem, especially in large cities, was segregated neighborhoods. Usually school boards assigned students to a school based on where they lived. Therefore, in cities like Charlotte, North Carolina, even though a single school system existed there were multiple schools for each grade level, with the segregated neighborhoods causing nearby schools to be primarily of one race.

Soon after the *Brown* case, the NAACP suggested busing as a remedy. In communities where busing was tried, black parents voiced concern that it was mainly their children traveling long distances. White parents also had concerns that some of their children would now have to attend schools that had historically been inferior. In Charlotte, North Carolina, the district created zones that divided neighborhoods among the schools. This allowed busing of the students to the various schools in an attempt to achieve more racial balance and comply with the ruling. However, the district allowed student transfers to preferred schools, and the schools remained largely segregated.

In *Swann v. Charlotte-Mecklenburg Board of Education*, the court heard an appeal from the NAACP that the school district had not done enough to integrate its schools.

Image description: African American and white students board school buses together in Charlotte.

Slide 9: *Swann v. Charlotte-Mecklenburg, 1971* (Decision)

The Supreme Court examined several issues in this case, including how to determine that a school is "integrated." Should a court base it on percentages? Are there limits to how the attendance zones are drawn? The *Swann* decision did not change the *Brown II* ruling that it was largely up to the local districts and states to determine their own plan for carrying out integration.

However, and this is why the *Swann* case is remembered, the Supreme Court upheld the use of busing as an acceptable means of achieving racial balance in public schools. Busing remains a controversial issue even today in many school districts.

07.04 Civil Rights Decisions: Affirmative Action

What Is Affirmative Action?

Schools were not the only institutions undergoing changes during this time period. Based on an order from President Kennedy, "**affirmative action**" is a term that refers to policies meant to achieve racial equality. The Civil Rights Act of 1964 stated that employers were not supposed to base hiring decisions on race or gender.

Yet inequality persisted, and affirmative action policies required that employers actively work to ensure that minority groups, especially African Americans, had the same opportunities in hiring, wages, and promotions as anyone else. The same rule would apply to college admissions, scholarships, and financial aid.

Like school desegregation, there wasn't a specific rule that applied to all situations, so it was difficult to tell if an individual university or business was applying the guidelines fairly. The Supreme Court often helped define affirmative action by ruling on discrimination cases. Some of the rulings made citizens question the wisdom of the new policy. They began to believe that affirmative action was helping minorities by placing limits on those in the majority. This belief became known as reverse discrimination.

University of California v. Bakke, 1978



Allen Bakke attends his first day at the University of California in September 1978 after the Supreme Court ruled on his case.

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Allan Bakke was a Vietnam veteran and graduate of Coral Gables High School in Florida and the University of Minnesota. He applied to the University of California medical school as a white male with a strong college transcript. The school rejected his applications in both 1973 and 1974, even though his scores were higher than those of some students admitted through affirmative action.

The school had set aside 16 of its 100 student spots for minority applicants. This was the university's way of complying with affirmative action policy. Bakke sued the school claiming that its admissions policy had led to "reverse discrimination" by unfairly denying him acceptance to the medical school as a white male.

The Supreme Court agreed with Allan Bakke in the 1978 case *Regents of the University of California v. Bakke*. While the Court continued to support the idea of affirmative action, it ruled that the strict quota system at the University of California medical school was unconstitutional.

07.04 Civil Rights Decisions: Rights of the Accused

How Did Suspects' Rights Change?

The Warren Court also made several rulings related to the rights of people accused of crimes. Several amendments to the Constitution in the Bill of Rights protect a suspect's rights. The following amendment sections were addressed in several key Supreme Court cases:

- **Fourth:** protection from search or seizure of property without a warrant
- **Fifth:** protects the right of a suspect to not be a witness against him or herself and to not go on trial for the same exact crime twice (no "double jeopardy")
- **Sixth:** protects the right to trial by jury and to have legal counsel

Examine each of the key cases in the activity below.

Interactive

Slideshow - Text Version

Slide 1: What Do You Think?

If police find evidence during a search that leads to new criminal charges not related to the warrant, have they violated the suspect's rights?
Yes or No?

Slide 2: *Mapp v. Ohio*, 1961

Police forcibly entered the home of Dollree Mapp, who they thought was protecting a fugitive, a suspected criminal in a bombing who had fled custody. They did not find the fugitive but did find obscene materials in Mapp's basement in violation of an Ohio law. They charged her, and she was convicted. Appealing her case through the state courts, her lawyer argued that the police never had a search warrant for the fugitive, let alone the obscene materials, and therefore police should never have charged her with a crime. After the Supreme Court of Ohio reaffirmed her conviction, they appealed to the U.S. Supreme Court.

The "exclusionary rule" holds that evidence obtained in violation of a suspect's rights should not be admissible in court. In *Mapp v. Ohio* (1961), the Supreme Court affirmed the rule as coming from the Fourth Amendment, which protects people from searches and seizures of property without a warrant. It ruled that the police obtained evidence against Mapp illegally because there was no warrant to search her home or seize the obscene materials, per the

Fourth Amendment. Her conviction was overturned. Today you may notice on law-related TV shows that the police take great care to ensure the legal collection of evidence.

Image description: Policewoman carrying marked evidence

Slide 3: What Do You Think?

If a suspect in a crime cannot afford an attorney, is it a violation of the person's rights when the state does not pay for one?

Yes or No?

Slide 4: *Gideon v. Wainwright*, 1963

Someone burglarized and robbed a poolroom business in Florida. A witness identified Clarence Gideon as a man seen on the property. Police arrested and charged him for the crimes. Gideon requested that the court appoint him a lawyer, which the court denied because the crime was not a capital offense, meaning it was not punishable by death. The jury convicted Gideon and sentenced him to five years in prison. He wrote to the U.S. Supreme Court, requesting an appeal because he had been denied legal counsel in violation of the Sixth Amendment. The Supreme Court overturned the conviction, ruling that the states must provide legal counsel in all cases where a defendant is unable to afford counsel on his or her own. Returning the case to the Florida Supreme Court, the judges ruled Gideon not guilty of the charges.

Image description: Photo of inside of a courtroom, showing a judge, witness, and lawyers.

Slide 5: What Do You Think?

If police question a suspect in a crime without first informing the person of the right to be silent without having an attorney present, is it a violation of the suspect's rights?

Yes or No?

Slide 6: *Miranda v. Arizona*, 1966

The Fifth Amendment prevents government from forcing citizens to give evidence against themselves, called self-incrimination. If people are not aware of this right, they might say things that unfairly hurt their own case while being questioned by police. Police arrested Ernesto Miranda for kidnapping and raping a young woman in Arizona. The evidence against him was circumstantial, meaning that a jury decided he was guilty but there was no conclusive evidence against him. Miranda had signed a confession after an intense interrogation where police had not informed him of his rights. His attorney argued that the confession should not have appeared in court because of the unfair way police obtained it and appealed the case to the U.S. Supreme Court.

Image description: Photo of defense attorney John Flynn with client Ernesto Miranda.

In 1966, the Supreme Court ruled in *Miranda v. Arizona* that law enforcement must inform suspects of their rights before and during questioning. Law enforcement must prove they informed the person of the rights and that the person understood them. Without this proof, a judge could refuse to allow what a suspect said during the arrest process as evidence in a trial. Exceptions do exist under special rules. Since this decision, police in every state have made this informing of rights an official part of the arrest process. We say that an officer reads a person their "Miranda rights" or "Miranda warning." The Miranda warning serves to ensure that a suspect understands they have the right to not answer questions, or say anything at all, if they choose. However, if a suspect chooses to speak despite the Miranda warning, what they say could be used in court. Some Americans did not approve of the decision, concerned that it would interfere with police investigations and arrests of criminals.

Image description: Text of Miranda Rights - You are under arrest. Before we ask you any questions, you must understand what your rights are. You have the right to remain silent. You are not required to say anything to us at any time or to answer any questions. Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we question you and to have him with you during questioning. If you cannot afford a lawyer and want one, a lawyer will be provided for you. If you want to answer questions now without a lawyer present you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

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07.04 Civil Rights Decisions: Reproductive Rights

How Did Reproductive Rights Change?

One particularly controversial area the Supreme Court addressed during the civil rights era was reproductive rights and marital privacy. Two landmark cases addressed this topic—*Griswold v. Connecticut* and *Roe v. Wade*.

Griswold v. Connecticut, 1965



Estelle Griswold appears on the left of this photograph, taken as she and a friend examine newspaper coverage of the court's ruling in the *Griswold v. Connecticut* case.

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Image Quest 2012

Connecticut law banned the use of any device or medicine to prevent people from conceiving children. The law also banned the spreading of information related to the topic.

Estelle Griswold, a director of her state's chapter of the organization Planned Parenthood, opened a clinic that advised married couples on birth control methods.

She was arrested and convicted under the state law. Griswold appealed her case to the U.S. Supreme Court, saying that the Connecticut law violated married couples' rights. The court agreed in 1965, ruling that the law violated a "right to marital privacy."



Pro-life" activists march in protest of the Supreme Court ruling.

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An unmarried 21-year-old Texas woman found out she was pregnant and wanted to terminate her pregnancy through abortion. Texas law prevented abortions except for certain reasons, none of which applied to the woman. She sought the help of attorneys to challenge the Texas law, eventually appealing her case to the U.S. Supreme Court.

In the meantime, she gave birth and another family adopted the baby. To protect the woman's privacy, she used the name "Jane Roe" for the case, and "Wade" refers to the state attorney for Texas who defended the law.

In the *Roe v. Wade* ruling, the Supreme Court determined that a woman's decision to continue or end a pregnancy is within her right to privacy, though it did reserve the right for states to regulate abortions that would occur in the later stages of pregnancy. The ruling has incited interest groups to action and forced political candidates to take a stand on the issue.

An emotional debate rages to the present, with some Americans saying that the *Roe* ruling violated the rights of the unborn. The Supreme Court has reaffirmed its ruling in cases since. One example is *Casey v. Planned Parenthood (1992)*, which still upheld that abortion was legal but that states could regulate them to protect the health of the mother and the life of the fetus.

Interestingly, "Jane Roe" in the 1973 case eventually became a pro-life advocate.

07.04 Civil Rights Decisions: Review

You should now be familiar with important Supreme Court decisions related to civil rights in the 1950s to 1970s.

Review your notes and the information in the lesson. Did you print or save your chart and place it in a safe location?

Now it's time to review what you've learned.

Interactive

Fill in the Blanks - Text Version

Several key civil rights cases related to integration and affirmative action were decided during the civil rights era. _____ ruled that segregated schools were unconstitutional. The "freedom of choice" plan in Virginia was deemed illegal in _____, though it could be acceptable if it worked to fully integrate schools. The court upheld busing as a method of integration in _____. According to _____, the quota system one school used as part of the admissions process led to "reverse discrimination."

In the area of criminal justice, _____ held that evidence taken illegally could not be used in court. Suspects have a right to be informed of their rights because of _____. In _____, the court ruled that states must provide an attorney for a defendant when he or she cannot afford one.

In the area of reproductive rights, _____ ruled that couples have "marital privacy" in matters regarding the raising of a family. The _____ decision said that states could not prevent women from having an abortion.