

**AP GOVERNMENT  
REVIEW/REFERENCE  
SHEET**

**EXAM: 5-11-20 4:00 PM**

**BEGIN THE SIGN ON  
PROCESS AT 3:30**

**GOOD LUCK!**

## AP U.S. Government: Foundational Documents Quick Reference Guide

Document	Author	Main Points
Declaration of Independence	Thomas Jefferson (primary) - Authorized by Second Continental Congress	Declared Independence from Britain – justification for “divorce” Identified Natural Rights- Life, Liberty, Pursuit of Happiness and gov’t’s job to protect them Influenced heavily by John Locke <ul style="list-style-type: none"> <li>o Consent of the Governed; Popular Sovereignty; Social Contract Theory</li> <li>o Limited Government</li> </ul>
Articles of Confederation	John Dickinson - Authorized by Second Continental Congress	Confederal Government (state sovereignty); Weak- Congress not given many powers to prevent tyranny Unicameral Legislature <ul style="list-style-type: none"> <li>o Each State = 1 vote; 9/13 votes needed to pass laws</li> </ul> No Executive/ No Judicial (cannot settle interstate disputes); no power to tax citizens No power to raise an army
U.S. Constitution		<p>Preamble outlines job of government: <u>We the People</u> [popular sovereignty; consent of the governed] of the United States, in Order to <u>form a more perfect Union</u>, <u>establish Justice</u>, <u>insure domestic Tranquility</u>, <u>provide for the common defence</u>, <u>promote the general Welfare</u>, and <u>secure the Blessings of Liberty to ourselves and our Posterity</u>, do ordain and establish this Constitution for the United States of America.</p> <p>Outlines the structure of the government [republic; federalism]  Three branches of government [separation of power; checks and balances]  Relationships between states [extradition clause; privileges and immunities; full faith and credit clause]  Amendment process? [Article V] Proposed by Congress or Convention, ratified by ¾ state legislatures  1 = Freedom of religion (establishment and free exercise clauses), speech, press, assembly, petition for redress  2 = Arms 4 = Protection from unwarranted search &amp; seizure (exclusionary rule) 5 = No self-incrimination or double jeopardy; due process 6 = speedy trial by jury, right to counsel 7 = trial by jury in civil cases  8 = no cruel/unusual punishment 9 = These are not all your rights 10 = reserved powers/states rights clause  12 = Process for selecting pres &amp; VP in E.C. 13 = No slavery 14 = Due process, equal protection, Incorporation  15 = Black male vote 16 = Income tax 17 = Popular election of senators 18 = Prohibition 19 = Women vote  21 = End prohibition 22 = Pres term (2 terms +2 years as VP) 23 = DC votes for pres 24 = No poll tax  25 = Presidential succession 26 = 18 to vote</p>
Federalist #10	James Madison Federalist Papers	Factions are inevitable – cannot destroy them, so must manage them Large Republic is the best form of government to address factions – too difficult for any one faction to gain power; less likely for corruption Pluralism – many factions competing for influence leads to only the best ideas being enacted Prevents tyranny of the majority Views of the people will be “refined and enlarged” by their elected representatives

Document	Author	Main Points
Brutus #1	Robert Yates Anti- Federalist	<p>Constitution gives too much power to central government</p> <ul style="list-style-type: none"> <li>○ Necessary and Proper Clause (Elastic Clause) is a blank check to Congress</li> <li>○ Supremacy Clause – state governments will be obsolete; impotent</li> <li>○ Too large a country for Congress to represent local concerns; ineffective because too many views (factions) to form consensus</li> </ul> <p>Can do away with State Governments          Standing Army in peacetime is a destruction of liberty          Once you give up power the only way to get it back is by force</p>
Federalist #51	Madison Federalist Papers	<p>Power is divided between :</p> <ul style="list-style-type: none"> <li>○ three branches of government, each w/ little control over the other</li> <li>○ national &amp; state government; House and Senate are divided &amp; elected in different ways (back then)</li> </ul> <p>Checks and Balances – Gov't must be powerful enough to control the people, but also to control itself – separate but equal powers          All keep power from becoming too centralized- prevent one person/ one group from taking over the government          “If men were angels, no government would be necessary”</p>
Federalist #70	Alexander Hamilton	<p>Argues for a single, “energetic” executive (president)</p> <ul style="list-style-type: none"> <li>○ President must be a single person; having a dual executive or a committee will lead to confusion, disagreement, and inability to act decisively</li> <li>○ Debate and disagreement are good for Congress, poison for the president.</li> </ul> <p>President needs to be able to act quickly and decisively to respond to crises          Having a single president makes the executive easily accountable; multiple presidents = finger pointing and shifting blame</p>
Federalist #78	Alexander Hamilton	<p>“Least dangerous branch” – cannot enforce its decisions (no influence over “sword or purse”)          Judiciary must be independent; life terms ensure justices are (otherwise they will be beholden to their appointers); qualified men won't do the job if it is temporary          Judicial review – job is to interpret the Constitution</p>
Letter from a Birmingham Jail	MLK, Jr.	<p>Justice delayed is justice denied; Injustice anywhere is a threat to justice everywhere          All people should be treated the same under the law (14<sup>th</sup> Amendment Equal Protection Clause)          Nonviolent direct action seeks to create an urgency for legislative action</p>

## Required Court Case Cheat Sheet

Case	Principle/Clause	Holding
<i>Marbury v. Madison</i> (1803)	Article III- Judicial Review	The Supreme Court is allowed to nullify an act of the legislative or executive branch that violates the Constitution
<i>McCulloch v. Maryland</i> (1819)	Elastic Clause (Necessary and Proper Clause)/ Supremacy Clause	Established supremacy of the US Constitution and federal laws over state laws
<i>Schenck v. United States</i> (1919)	First Amendment Free Speech	Speech creating a “clear and present danger” is not protected
<i>Brown v. Board of Education I</i> (1954)	14 <sup>th</sup> Amendment Equal Protection Clause	Raced based segregation is illegal
<i>Baker v. Carr</i> (1961)	14 <sup>th</sup> Amendment Equal Protection Clause	Established “one man, one vote” and opens door to courts to reviewing redistricting challenges
<i>Engle v. Vitale</i> (1962)	1 <sup>st</sup> Amendment Establishment Clause	Schools cannot sponsor religious activities. No state sponsored prayer
<i>Gideon v. Wainwright</i> (1963)	Sixth Amendment Right to Counsel	Guarantee of an attorney for the poor or indigent
<i>Tinker v. Des Moines Independent Community School District</i> (1969)	First Amendment- Freedom of Speech (Symbolic Speech)	Public school students have the right to wear black armbands in school to protest the Vietnam War because it does not cause a disruption
<i>New York Times Co. V. United States</i> (1971)	First Amendment- Freedom of Press	Establishes a “heavy presumption against prior restraint” even in cases involving national security
<i>Wisconsin v. Yoder</i> (1972)	First Amendment- Free Exercise Clause	Cannot compel Amish students to attend school past the eighth grade
<i>Roe v. Wade</i> (1973)	Due Process Clause and 9 <sup>th</sup> Amendment implied right of privacy (establish through Griswold v. CT)	Protects the right of a woman to have an abortion
<i>Shaw v. Reno</i> (1993)	14 <sup>th</sup> Amendment Equal Protection Clause	Legislative redistricting must be conscious of race
<i>United States v. Lopez</i> (1995)	Commerce Clause	Congress may not use the commerce clause to make possession of a gun in a school zone a federal crime
<i>McDonald v. Chicago</i> (2010)	14 <sup>th</sup> Amendment due process clause, Privileges and Immunities Clause, 2 <sup>nd</sup> amendment	Right to keep and bear arms for self-defense applies to the states
<i>Citizens United v. FEC</i> (2010)	1 <sup>st</sup> Amendment Free Speech	Political spending by corporations, associations, and labor unions is protected and cannot be limited by law; Money = Speech

## Unit 1 Summary- Constitutional Democracy

**Big Idea #1: A balance between governmental power and individual rights has been a hallmark of American political development.**

### Ideas the U.S. Government is Based

Terms	Definition
Natural Rights (and the 3 natural rights)	John Locke-Rights inherent in human beings-not dependent on government 1. Life 2. Liberty 3. Property
Popular Sovereignty	A belief that ultimate power resides in the people
Republicanism	A form of government in which people elect representatives to create and enforce laws
Social Contract	An agreement between the people and their government signifying their consent to be governed

### Views on Central Government and Democracy

Define: FACTION	Political groups that agree on objectives and policies; the origins of political parties	
	Federalist	Anti-Federalists
Foundational Document: Federalist 10, Federalist 51		Foundational Document: Brutus 1
Author: Madison, Hamilton, Jay (Publius)		Author: Robert Yates
Main Idea(s) (reasons to ratify constitution) They believed the Constitution was the best way to deal with "the tyranny of the majority" by creating three branches of government having distinctive and separate powers		Main Idea(s) (reluctance to ratify constitution) Believed that the Constitution gave too much political, economic, and military control. They wanted a decentralized governmental structure that granted most power to the states

### Article of Confederation and its Weaknesses

	Description Incidents and Challenges	Description of the Long-term Challenge
Shay's Rebellion	Impoverished farmers in Massachusetts lost their farms because they were unable to pay taxes. They challenged the government by staging an uprising that the government could not stop because they did not have the power to form an army.	Made leaders realize the need to revise the Articles of Confederation because they could not raise or maintain an army, there was no national court system or national currency, Congress could not regulate commerce among the states.
Power to Tax	Inability to collect taxes. Politely asked for \$3 million from the states only to receive 1%.	Made leaders realize that taxes needed to be collected in a more firm manner if they were planning on receiving them.

### Compromises at the Constitutional Convention

	Description of the the Compromise
Great (Connecticut) Compromise	Virginia Plan: "large state" proposal for the new constitution, calling for proportional representation in both houses of a bicameral Congress.  New Jersey Plan: called for equal representation of each state in Congress regardless of the state's population.  Great (Connecticut) Compromise: agreement by states at the Constitutional Convention for a bicameral legislature with a lower house in which representation would be based on population and an upper house in which each state would have two senators

Electoral College	Presidential electors from each state, number of electors is based on the state's population. The number of electors for each state equals the number of senators and representatives that state has in Congress. The candidate with a majority of the electoral votes is elected to office. If no candidate receives a majority, the House of Representatives determines the outcome of the election.
Three-Fifths Compromise	Adopted at the Constitutional Convention, every five slaves would count as three people for representation and tax purposes
Compromise on the importation of slaves	The South stated that if slaves were banned, they would not ratify the Constitution. It was decided that Congress could not ban the Slave Trade until 1808.

**Special Note:** Compromises deemed necessary for adoption and ratification of the Constitution.

### Amendment Process

What does it mean to Informally Amend the Constitution?	By judicial interpretation	
Which Article describes the Formal Amendment Process	Article V	
<b>2 Ways to Formally Amend</b>	<b>Propose a Constitutional Amendment</b>	<b>Ratify a Constitutional Amendment</b>
	(1) 2/3 of each house can vote to propose an amendment	(1) 3/4 of each house can vote to approve a proposed amendment
	(2) 2/3 of the state legislatures can vote to propose a constitutional convention to propose an amendment	(2) special elections are held in each state to choose delegates to ratification conventions and the 3/4 of those conventions vote to approve a proposed amendment

**Special Note:** Debates about self-government during the drafting of the Constitution necessitated the drafting of an amendment process.

### Political Negotiations and Compromise and the Development of the Constitutional System

<b>Explain how each of the following scenarios are debated, balancing rights of individuals, state powers, and national powers.</b>	
<ul style="list-style-type: none"> <li>Government surveillance resulting from the federal government's response to the 9/11 attacks.</li> </ul>	U.S. Patriot Act-weakens important civil liberties and protections of American citizens- allows federal officials greater authority in tracking and intercepting communications. More active border patrol, etc.
<ul style="list-style-type: none"> <li>Role of the federal government in public school education.</li> </ul>	<p>NCLB Act incorporates increased accountability for states, school districts, and schools; greater choice for parents and students, more flexibility for states and local educational agencies in the use of federal education dollars</p> <p>"Race to the top" program-encouraged states through grants to satisfy certain educational policies such as performance-based standards for teachers and principals.</p>

**Big Idea #4** Federalism reflects the dynamic distribution of power between national and state governments.

### Federalism

<b>Expressed/Enumerated (National Powers)</b>	<b>Concurrent (Shared Powers)</b>	<b>Reserved (State Powers)</b>
Definition: Powers explicitly given to Congress in the Constitution	Definition: Powers held jointly by the national and state government	Definition: Powers not specifically granted to the federal government or denied to the states belong to the states and the people
List: (Provide at least 5)	Collect tax and borrow	Regulate trade

<ul style="list-style-type: none"> <li>-powers to levy taxes</li> <li>-power to regulate commerce and currency</li> <li>-power to declare war and raise an army</li> <li>-authority over the U.S. Navy</li> <li>-power to allow foreigners to become citizens</li> </ul>	<ul style="list-style-type: none"> <li>money</li> <li>Set up court system</li> <li>Create laws to maintain health, safety, and welfare</li> <li>Set minimum wage</li> <li>Charter banks</li> </ul>	<ul style="list-style-type: none"> <li>Marriage laws</li> <li>Conduct elections</li> <li>Establish local governments</li> </ul>
<b>Implied (National Powers)</b>		
Definition: Powers inferred from the express powers that allow Congress to carry out its functions		
Explain: A power that is not explicitly granted by the Constitution but is implied by the necessary and proper clause to be delegated for the purpose of carrying out the enumerated powers		

### Grants, Incentives, and Aids

Term	Define	Example
Grants	Programs through which Congress provides money to state and local governments on the condition that the funds be employed for purposes defined by the federal government	Aid to families with dependent children
Incentives	An alternative to command-and-control, with market-like strategies such as rewards used to manage public policy	Marijuana, Minimum Wage
Federal Revenue Sharing		
Mandates	Terms set by the national government that states must meet whether or not they accept federal grants	Americans with Disabilities
Categorical Grants	Federal grants that can be used only for specific purposes, or "categories," of state and local spending. They come with strings attached, such as nondiscrimination provisions	Head Start Program
Block Grants	Federal grants given more or less automatically to states or communities to support broad programs in areas such as community development and social services	Community Development Block Grant Local Law Enforcement Block Grant
Explain how grants, incentives, and aid programs meet federal societal changes <b>AND</b> balance power.	Federal grants, incentives and aid programs give states freedom to implement social programs to advance disadvantaged groups. Power is balanced between the federal and state governments (example: welfare)	

### Balance of Power between National and State Governments

	Describe	Explain importance in a federal system
10 <sup>th</sup> Amendment	Power reserved to the states	Provides for the general idea of Federalism
14 <sup>th</sup> Amendment	Granted citizenship to all persons born or naturalized in the U.S. including former slaves	Freed slaves
Commerce Clause	Gives Congress the power to regulate all business activities that cross state lines or affect more than one state or nation	Deals with the balance of power between federal and state government
Necessary and Proper Clause	Allows Congress to make all laws that are "necessary and proper" to carry out the powers of the Constitution.	Possibly the most important clause

### Policy-Making: Distribution of power

**Task:** For each of the following columns, explain how the distribution of power impacts policy making. Be sure to include the influence of stakeholders and institutions involved, i.e. President, Interest Groups, Congress, etc.

Legislative	Executive	Judicial	National Power	State Power
<p>Constitutional guarantee of power via Article I and Congress. Areas of policy emphasis include financial in the sense of revenue, spending, coining of money, regulation of financial institutions etc.</p> <p>Also emphasis on foreign policy via appropriations funding, declaration of war, the Senate's "advise and consent" power, congressional oversight etc.</p>	<p>Constitutional guarantee of power via Article II via the Presidency. In recent years presidents have taken on a much greater role in foreign and domestic policy.</p> <p>Increased informal power through the President's use of the bully pulpit, the media, executive orders, signing statements, and greater persuasion of Congress</p>	<p>Constitutional guarantee of power via Article III and the federal courts.</p> <p>Serves as the umpire between disputes between the legislative and executive branches with the Supreme Court being the ultimately authority on these types of disagreements.</p>	<p>Through fiscal federalism the national government has increased its power over the states by increasing the amount of conditions of aid attached to federal grants that states very much wish to acquire.</p> <p>As the role of the presidency has increased so too has the power of the national government over the states in that Presidents are more willing to use the various powers granted to them in order to achieve their policy agenda.</p>	<p>States have looked in recent years to regain power via legislation designed to limit the scope of federal authority.</p> <p>Furthermore, from an investigatory sense state attorney generals have asserted this power more and more by litigating cases involving federal law in court.</p>



## Unit 2 Summary- Interactions Between Branches

**Big Idea #1** The republican ideal in the U.S. is manifested in the structure and operation of the legislative branch.

### Basic Congressional Requirements

House of Representatives		Senate
<b>435</b>	Number of members in each Chamber	<b>100</b>
<b>25</b>	Minimum Age	<b>30</b>
<b>7 years U.S. Citizen</b>	Citizenship Requirement	<b>9 years U.S. Citizen</b>
<b>2 years</b>	Term Length	<b>6 years</b>
<b>District</b>	Explain how the representation of each differs - whole state or the populate of the district.	<b>Whole State</b>
<b>Article I, Section 2</b>	Where in the Constitution are the requirements found?	<b>Article I, Section 3</b>

### Powers of Congress

Define: Enumerated Powers	Specific powers granted to congress
Define: Implied Powers	Powers derived from enumerated powers and the necessary and proper clause. These powers are not stated specifically but are considered to be reasonably implied through the exercise of the delegated powers
Where in the Constitution are the enumerated powers of Congress found?	Article 1, section 8
Where in the Constitution are the implied powers of Congress found?	Article 1, section 8, clause 18
List the ECONOMIC powers of Congress.	Taxation, coinage of money, regulation of commerce
List the MILITARY powers of Congress	Authority to provide for national defense
Explain why the Necessary and Proper Clause is used for addressing social and environmental issues.	Because it is broadly interpreted, it allows the government to do almost anything that is not prohibited by the Constitution

### Procedures, rules, and roles that impact the policy-making process

	Define and describe the impact in the policy-making process	Which house?
Filibuster	An attempt to defeat a bill in the Senate by talking indefinitely, thus preventing the Senate from taking action on the bill.	Senate
Cloture	Mechanism requiring 60 senators to vote to cut off debate; after a cloture motion has passed, members may spend no more than 30 additional hours debating the legislation at issue.	Senate
Discharge Petition	A device by which any member of the House, after a committee has had a bill for thirty days, may petition to have it brought to the floor. If a majority of members agree, the bill is discharged for the committee.	House
Treaty Ratification	Senatorial power, to give consent to a treaty proposed by the president.	Senate
Confirmation of Judges	The authority given by the U.S. Constitution to the Senate to ratify treaties and confirm presidential cabinet, ambassadorial, and judicial appointments.	Senate
Rules Committee	The "traffic cop" of the House that sets the legislative calendar and issues rules for debate on a bill.	House

	Define and describe the impact in the budgetary process – include examples.
Discretionary Spending	A spending category through which governments can spend through an appropriations bill.
Mandatory Spending	Those areas of the federal budget that must be enacted each year by law and are not dependent on annual review by committees of Congress.
Pork Barrel Legislation	Legislation that gives tangible benefits to constituents in several districts or states in the hopes of winning their votes in return.

Logrolling	Vote trading; voting to support a colleague's bill in return for a promise of future support; often takes place on specialized bills targeting money or projects to selected congressional districts
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### Congressional Behavior and Governing Effectiveness

	<b>Define and explain how it influences congressional behavior.</b>
Divided Government	The political condition in which different political parties control the White House and Congress.
Partisan	Strong allegiance to one's own political party, often leading to unwillingness to compromise with members of the opposing party.
Bi-Partisan	Two political parties working together to reach a common goal
"Lame—Duck" President	A president whose successor has already been named

### President and Congressional Tension

Explain how the president's agenda can create tension and frequent confrontations with Congress.	Members of Congress are accountable to their states and districts, whereas presidents are accountable to the entire nation as whole thus creating a natural tension between the two.
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### Tensions between the President and the Senate

	Explain how conflict could occur with the Senate for each of the following.
Cabinet Members	Confirmation hearings in front of the Senate can get heated with some Senators that politically disagree with the nominee's ideology and/or qualifications
Ambassadors	Confirmation hearings in front of the Senate can get heated with some Senators that politically disagree with the nominee's ideology and/or qualifications
White House Staff	White House staffers are often responsible for helping get presidential nominations and legislation through the Senate and differences in opinion may arise

### Presidential Requirements

	Presidential Requirements	Where in the Constitution are the requirements found?
Minimum Age	<b>35</b>	<b>Article II, Section 1</b>
Citizenship Requirement	<b>14 years U.S. Citizen</b>	<b>Article II, Section 1</b>
Length of Term	<b>4 years</b>	<b>Article II, Section 1</b>

### Constitutional-Power Restrictions

	Describe the 22 <sup>nd</sup> Amendment	Explain why this demonstrates the changing presidential role.
22nd amendment	Limits the president to two terms or 10 years at the most in office	Passed in response to concerns that the increased power of the presidency in modern times would make it more likely to be abused, hence the need for a congressional check

### Communication, technology and the Presidency

	Explain how each has changed the president's relationship with the <b>national constituency</b> .	Explain how each has changed the president's relationship with the <b>other government branches</b> .
Modern technology (TV, radio, internet)	Allows for presidents to communicate policy initiatives in a variety of ways through mass media in order to reach a wider audience	Other branches are at a disadvantage in that the President as one person can more easily articulate his policy positions as opposed to the other branches with have multiple members
Social media	Much quicker way to convey policy initiatives (modern example is President Trump with Twitter)	Other branches are at a disadvantage in that the President as one person can more easily articulate his policy positions as opposed to the other branches with have multiple members
Nationally broadcast State of the Union	Nowadays a much anticipated and publicized annual major policy address	Another example of the power of a president as one person as compared to other branches with multiple members

**Big Idea #3- The federal bureaucracy is a powerful institution implementing federal policies with sometimes questionable accountability.**

	Define
Bureaucracy	A system of government in which most of the important decisions are made by state officials rather than by elected officials.
Patronage	A system of rewarding a person for supporting a candidate or party through various means including civil service jobs
Merit	The merit system is the process of promoting and hiring government employees based on ability, rather than political connections.
Civil Service	A system of hiring and promotion based on the merit principle and the desire to create a non-partisan government service.
"Power of the Purse"	The influence that legislatures have over public policy because of their power to vote on money for public purposes.
Compliance monitoring	The quality assurance testing carried out over the day to day activities of the business.

**Tasks performed by departments, agencies, commissions, and government corporations**

	Explain how each assists the bureaucracy in carrying out the responsibilities of the national government
Writing and enforcing regulations	Bureaucracies have discretion in interpreting congressional legislation and thus make it more specific. Agencies wield large amounts of power via the regulation component of bureaucracies
Issuing fines	Fines are another example of government agencies having wide latitude in carrying out the legislative intent of Congress
Testifying before Congress	Informs Congress through its oversight function of the job that the government agency is doing
Issue networks and "Iron Triangle"	Iron triangles form mutually beneficial alliances between interest groups, bureaucracies, and Congress. Issue networks are looser policy networks that form between media pundits, experts in the field etc.

**Bureaucratic Agencies**

	Explain how the federal bureaucracy uses delegated discretionary authority for rule making and implementation.	Cite a recent example in the past 2 years.
Department of Homeland Security	Ensures a safe, secure, and resilient homeland against terrorism and other potential threats; carries out mission through promulgation of regulatory actions.	Trump border policy
Department of Transportation	Serves the U.S. by ensuring a fast, safe, efficient, accessible and convenient transportation system that meets vital national interests.	Review of 737 Max
Department of Veterans Affairs	Provides near comprehensive health care services to eligible military veterans and VA medical centers and outpatients.	Recent concerns regarding care in VA medical centers, Trump budget seeking increase in VA funding
Department of Education	Promotes student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.	ESSA
Environmental Protection Agency (EPA)	Protects human health and the environment, makes sure the U.S. plays a role in the global environmental health.	Trump requesting budget reductions
Federal Elections Commission (FEC)	The independent regulatory agency charged with administering and enforcing the federal finance law, and other election/voting law.	Trump tweets about FEC regarding SNL
Securities and Exchange Commission (SEC)	Regulates the various U.S. stock exchanges	Elon Musk tweets

**Methods of Oversight**

	For each, explain how Congress uses its oversight power in its relationship with the executive branch.
Committee hearings	Congress can investigate executive branch officials...recent examples are Democrats in the House with Trump officials and Republicans in Congress with Obama officials
Power of the Purse	Appropriations can be used by Congress to prioritize policy initiatives via the federal budget

**Special Notes:**

- As a means to curtail the use of presidential power, congressional oversight serves as a check of executive authorization and appropriation.
- Presidential ideology, authority, and influence affect how executive branch agencies carry out the goals of the administration.

**Governmental branches hold the bureaucracy accountable**

How does each ensure that the bureaucracy is held accountable?	Formal Powers	Informal Powers
• Congress	Legislation, overriding vetoes, advice and consent, treaty power	Use of the media, congressional oversight of the bureaucracy
• President	Veto power, commander-in-chief	Executive orders, executive agreements, signing statements
• The Courts	Supreme Court (judicial review implied but not listed in constitution)	Discretion in accepting cases

### Unit 3 Summary- Judicial Branch, Civil Rights and Civil Liberties

**Big Idea #1:** The design of the judicial branch protects the Supreme Court's independence as a branch of government, and the emergence and use of judicial review remains a powerful judicial practice.

#### Checks and Balances and Judicial Review

	Describe the Main Ideas	Explain the Importance of the Main Ideas
Article III of the Constitution	Lays out the structure, functions, and powers of the judicial branch of the United States	Establishes a Supreme Court and a three branch separation of powers
Judicial Review	The ability of courts to review legislation and government actions to determine if their intent is supported by the Constitution	Allows for an important check on the Congress and the Presidency
Federalist No. 78	Written by Alexander Hamilton, it outlines how the judicial branch will operate and why it is important that it be structured as laid out in the Constitution	As part of the Federalist Papers it is an important document showing the framers intent for the judicial branch and why it was important to ratify the Constitution

#### Checks and Balances and Judicial Review

Court Case	Year	Brief description of the case and outcome	Constitutional principles
<i>Marbury v Madison</i>	1803	John Adams appoints last minute judges...Thomas Jefferson directs James Madison not to deliver remaining judicial commissions. William Marbury does not receive his judicial commission and takes his case directly to the Supreme Court under the terms of the Judiciary Act of 1789 and demands a "writ of mandamus" which would legally compel his commission to be delivered.	-Article III -Judicial Review
Explain how the exercise of judicial review in conjunction with <u>life tenure of judges</u> can lead to debate about the <u>legitimacy</u> of the Supreme Court's power.		Judicial review and life tenure gives unelected federal judges wide discretion in public policy. The ability to be the final arbitrator on most policy matters is quite powerful. Being unelected and having life terms is questioned by some as being anti-democratic	

#### Judicial decision making: Importance of precedents and stare decisis

	Precedents	<i>stare decisis</i>	Landmark Case
Define	An earlier event of action that is regarded as an example or guide to be considered in subsequent similar circumstances	The legal principle determining points in litigation according to precedent	A court case (usually Supreme Court case) that serves as an important benchmark for historical purposes and legal precedent
Explain	Stability of law is an important part of American politics...constantly changing laws would lead to inconsistency and would undermine legal institutions	Legalization of abortion is a legal principle that has been in place since the Supreme Court's decision in <i>Roe v. Wade</i>	The Supreme Court issues maybe 75-100 decisions per year, however some decisions end up being more important than others for historical reasons and for establishing legal precedent

Provide an example	<i>Plessy v. Ferguson</i> was a precedent that was overturned in <i>Brown v. Board of Education</i>	<i>Roe v. Wade</i>	<i>Marbury v. Madison</i>
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### Ideology and SCOTUS

<p>Ideological changes in the composition of the Supreme Court, due to presidential appointments, have led to the Court's establishing new or rejecting existing precedents.</p> <p>Describe the consequences of each</p>	<p>Establishment of new precedents: The Warren Court in particular established many new legal precedents as it related to individual liberties due to an increase in the number of liberal justices on the Supreme Court</p> <p>Rejecting of new precedents: In later years a more conservative Rehnquist and Roberts Court has started to reign back some of those legal precedents established by the Warren Court</p>
<p>Controversial or unpopular Supreme Court decisions can lead to challenges of the Court's legitimacy and power which Congress and the president can address only through future appointments, legislation changing the Court's jurisdiction, or refusing to implement decisions.</p> <p>Describe consequences each.</p>	<p>Appointments: Appointments have become much more politically polarized in the last 50 years. While justices are expected to be above the law and apolitical, in recent times decisions have been much more ideological in nature</p> <p>Legislation: At the state and Congressional level, lawmakers will look to modify or undermine Court decisions by passing legislation that change the Court's intent</p> <p>Refusal to implement: Courts do not have any power to implement their decisions. They rely on the executive branch to do so which gives the executive branch discretion over how enthusiastic they can be regarding enforcement and implementation</p>

### Ideology and SCOTUS

	Loose Constructionist	Strict Constructionist
Define and Explain	One favoring a liberal construction of the Constitution of the U.S. to give broader powers to the federal government...broad government actions on things like health care which is not mentioned in the Constitution would be an example Loose constructionism looks to what someone thinks was the "intent" of the framers' language and expands and interprets the language extensively to meet current standards of human society today.	Interpreting the Constitution based on a literal and narrow definition of the text without reference to the differences in conditions when the Constitution was written and modern conditions, inventions and societal changes

### Checks and Balances: How other branches can limit the Supreme Court's power.

Restrictions on Supreme Court	Description	Example
Constitutional Amendments	Changes made to the Constitution over time	The Supreme Court cannot interpret a law in a manner that would take away freedom of speech
Judicial appointments	The ability of the Senate through its "advice and consent" power to	Brett Kavanaugh nomination process from October

and confirmations	approve federal judges	2018
President evading/ignoring SCOTUS decisions	Presidents can choose how much or little to enforce SCOTUS decisions through their directives to the executive branch	Andrew Jackson attributed quote even though he might not have really said it... "Justice Marshall has made his decision, now let him enforce it."  Marshall had declared state criminal jurisdiction over Indian territories void
States evading/ignoring SCOTUS decisions	States will go to great lengths at times to prevent SCOTUS protected rights from being implemented	Various state bills regarding abortion...fetal heartbeat bill, abortion doctors needing hospital admitting rights etc.
Congressional Acts	Laws passed by Congress that can modify Supreme Court decisions	At any time Congress can pass a law that changes or limits the Supreme Court's jurisdiction over cases. No modern examples as the respect for the institution of the Supreme Court would make this seem as an obvious power play by Congress to nullify the Supreme Court

**Big Idea #2:** Provisions of the U.S. Constitution's Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.

#### **U.S. Constitution: Civil Liberties and Civil Rights**

	<b>Civil Liberties</b>	<b>Civil Rights</b>
Define, describe and explain	Individual freedoms given to citizens as protection against government interference	Protections from unequal treatment by government for possessing certain characteristics such as race, gender, disability, sexual orientation etc.

#### **U.S. Constitution: Bill of Rights**

<b>Bill of Rights</b>	<b>List the freedoms contained in each amendment</b>
1 <sup>st</sup> Amendment	Freedoms of Speech, Press, Religion (Establishment and Free Exercise Clause), Assembly, and Petition
2 <sup>ND</sup> Amendment	Right to bear arms
3 <sup>RD</sup> Amendment	No quartering of troops
4 <sup>TH</sup> Amendment	No illegal searches and seizures
5 <sup>TH</sup> Amendment	Due Process in federal cases...no double jeopardy, eminent domain, no self-incrimination, grand jury
6 <sup>TH</sup> Amendment	Criminal case rights such as right to a lawyer, speedy and public trial by jury
7 <sup>TH</sup> Amendment	Right to a jury in civil cases when exceeding \$20 (in 1789)
8 <sup>TH</sup> Amendment	No cruel and unusual punishment or excessive bail or fines for crimes
9 <sup>TH</sup> Amendment	Unenumerated rights guaranteed to the people
10 <sup>TH</sup> Amendment	Powers not granted to the federal government reserved to the states

#### **Eighth Amendment and Cruel and Unusual Punishment**

Court Case	Year	Brief description of the case and outcome	Constitutional principles
<i>Gregg v. Georgia</i>	1976	This case reaffirms the ability of the federal government's usage of the death penalty in the United States.	-8th Amendment (Cruel and Unusual Punishment)

**Big Idea #3:** Protections of the Bill of Rights have been selectively incorporated by way of the Fourteenth Amendment's due process clause to prevent state infringement of basic liberties.

#### 14<sup>th</sup> Amendment

Term	Definition and Explanation
Selective Incorporation	The part by part application of the Bill of Rights to state and local government through court decisions
Due Process	The requirement that citizens accused of crimes are given fair treatment throughout the entire criminal process from arrest through trial and potentially appeal
Equal Protection	Clause in the 14th Amendment that guarantees all citizens are to receive equal protection under the law. Has been interpreted broadly to include many protections that aren't otherwise specifically spelled out in the Constitution.

#### Due Process and Infringing Upon Individual Rights

Congressional Act	Year	Brief description of the Act	Constitutional principles
Patriot Act	2001	Legislation passed post-9/11 to improve law enforcement's ability to protect against terrorism	1st and 4th Amendment concerns and the right to privacy are concerns that have been cited with this legislation
USA Freedoms Act	2015	Restricts collection of telephone metadata (data used to collect other data) on U.S. citizens	1st Amendment 4th Amendment Right to privacy

#### Rights of the Accused

Court Case	Year	Brief description of the case and outcome	Constitutional principles
<i>Miranda v. Arizona</i>	1966	Miranda arrested and questioned without his consent and ends up confessing. The Supreme Court rules his due process rights were violated and that arrested suspects going forward need to be informed of their rights later to become known as "Miranda Rights."	-5th Amendment (Due Process) -6th Amendment -14th Amendment (Due Process) -Selective incorporation
<i>Gideon v. Wainwright</i>	1963	Gideon arrested for breaking into a Florida pool hall. Not granted a lawyer and could not afford one. Sentenced to five years imprisonment. On	-6th Amendment (Right to Counsel)



		his appeal, the Supreme Court selectively incorporates the 6th Amendment's right to counsel.	-14th Amendment (Due Process) -Selective incorporation
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**Big Idea #6:** The Supreme Court's interpretation of the U.S. Constitution is influenced by the composition of the Court and citizen–state interactions. At times, it has restricted minority rights and, at others, protected them.

**Restriction and Protection of Civil Rights of Minority Groups**

Congressional Acts	Causes of Affirmative Action Acts	Outcome of Affirmative Action Acts	<b>Constitutional principles</b>
Affirmative Action Acts	Inequality in hiring and awarding of federal contracts for minorities and women.	Increased employment and awarding of federal contracts for minorities and women.  Increased admittance to colleges and universities for minorities and women.	-Equal Protection Clause of the 14th Amendment

## Practice Concept Analysis

## Argumentative Essay Template

<b>Thesis/Claim</b> ✓ Must be defensible ✓ Must have a line of reasoning	
<b>Evidence #1 Title:</b> Each piece of evidence must be related to the prompt	
<b>Describe</b> the piece of evidence  ✓ What is the main idea? ✓ What is this piece of evidence about?	
How is this piece of evidence <b>relevant</b> to the thesis?	
<b>Explanation/Reasoning:</b> How does it <u>prove</u> the thesis?	
<b>Evidence #2 Title:</b> Each piece of evidence must be related to the prompt	
<b>Describe</b> the piece of evidence  ✓ What is the main idea? ✓ What is this piece of evidence about?	
How is this piece of evidence <b>relevant</b> to the thesis?	
<b>Explanation/Reasoning:</b> How does it <u>prove</u> the thesis?	
