Rights Across Borders

How constitutional protections reach state and local governments

USG.C.6.4.D "Explain how the Bill of Rights protects individuals from abuse by the national government and explain the extent that protections have been applied to the states through the "doctrine of selective incorporation" established by the 14th..."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline two ways the Bill of Rights limits government power. Circle the words that explain how a protection can apply to state and local governments, then number one example of a protection that has not been applied to the states.

Whose Government Must Respect Your Rights?

1. Imagine a reporter investigating a federal agency. Federal investigators want to search her home for notes about her sources. The Fourth Amendment protects her against unreasonable government searches and seizures. Investigators generally need a warrant supported by probable cause to search a home, though limited exceptions exist. The First Amendment also prevents the national government from punishing her simply for publishing protected criticism of officials. These protections do not guarantee that a reporter can ignore every law. They set limits on what the national government may do, even when officials believe their work is important.

2. What if the officials work for a state or city instead? The Bill of Rights originally restricted the national government, not the states. After the Civil War, the Fourteenth Amendment barred states from depriving people of liberty without due process of law. The Supreme Court has used that amendment to apply many Bill of Rights protections to state and local governments, one protection at a time. This process is called selective incorporation. It means a city police officer, like a federal investigator, must respect the Fourth Amendment protection against unreasonable searches.

3. Selective incorporation has brought most, but not every, Bill of Rights protection to the states. For example, the Fifth Amendment requires a grand jury indictment for certain serious federal crimes, but the Supreme Court has not required states to use grand juries for those charges. States must still follow other constitutional rules for fair criminal proceedings. Constitutional protections against government action also have boundaries: a private neighbor searching a bag is not, by that act alone, conducting a government search under the Fourth Amendment. To evaluate a claim, identify who acted, which protection is involved, and whether that protection applies to that government.

2 ANSWER WITH EVIDENCE

Use the passage

1. How does the Fourth Amendment limit the federal investigators who want to search the reporter's home?

2. Why must a city police officer respect the Fourth Amendment if the Bill of Rights originally restricted only the national government?

3. Does the Fifth Amendment require states to use grand juries for the serious charges described in the passage? Explain what this shows about selective incorporation.

4. A city officer searches a bag, and a private neighbor searches another bag. Why does the Fourth Amendment question differ between these two searches?

3 YOUR TURN

Your own words

A state law bans peaceful protest signs that criticize the governor on public sidewalks. In three to four sentences, explain which Bill of Rights protection is at issue, why it applies to the state, and how the law differs from a rule about when or where people may demonstrate.

ANSWER KEY

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HIGH SCHOOL · USG.C.6.4.D

PART 1 · READ AND MARK

Underline two ways the Bill of Rights limits government power. Circle the words that explain how a protection can apply to state and local governments, then number one example of a protection that has not been applied to the states. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How does the Fourth Amendment limit the federal investigators who want to search the reporter's home?	**It protects against unreasonable searches. Investigators generally need a warrant supported by probable cause to search her home, subject to limited exceptions.**
2	Why must a city police officer respect the Fourth Amendment if the Bill of Rights originally restricted only the national government?	**Through selective incorporation under the Fourteenth Amendment, the Supreme Court applied the Fourth Amendment protection against unreasonable searches to state and local governments.**
3	Does the Fifth Amendment require states to use grand juries for the serious charges described in the passage? Explain what this shows about selective incorporation.	**No. The grand jury indictment requirement has not been applied to the states, showing that incorporation has not applied every Bill of Rights protection to them.**
4	A city officer searches a bag, and a private neighbor searches another bag. Why does the Fourth Amendment question differ between these two searches?	**The city officer acts for the government and must respect the Fourth Amendment. A private neighbor is not, by that act alone, conducting a government search.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The First Amendment protection for speech is at issue because the law bans signs based on their criticism of an official. Selective incorporation through the Fourteenth Amendment applies that protection to the state. A rule about when or where people may demonstrate could regulate use of the sidewalk without targeting a viewpoint. This law targets criticism itself.

Accept answers that identify the state's viewpoint-based restriction on protected speech and explain its application through the Fourteenth Amendment. Students need not use the term "viewpoint-based" if they clearly describe the distinction.