

Teacher Guide
The Constitution and Bill of Rights:
Due Process Clause of the Fourteenth Amendment
Chicago v. Morales
High School Presentation

Overview

This PowerPoint lesson begins with *The Constitution and Bill of Right* presentation to introduce and provide background on the judicial system and the Constitution. Using graphics, this presentation provides a visual medium to accompany the presenter’s oral narrative. It is designed to provide flexibility for presenters to focus on key concepts most appropriate for their courses and students.

The PowerPoint lesson also includes a moot court activity, *Chicago v. Morales: A Supreme Court Case*. In this activity, students apply their knowledge about the Constitution and Bill of Rights as they prepare for and present a modified moot court case.

Time Estimations

Part I: The Constitution and the Bill of Rights	7 -10 minutes
Part II: <i>Chicago v. Morales</i> PowerPoint introduction	7 -10 minutes
Part III: Moot Court activity	20 minutes
Part IV: Lesson Reflection	5 minutes
Part V: Share Supreme Court’s decision	<u>5 minutes</u> 50 minutes

Part I and II—Suggested Presentation Strategy

1. Preview the PowerPoint slides and summary U.S. Supreme Court decision before the visit.
2. Prepare to narrate PowerPoint presentation. You may want to provide additional depth on specific topics, depending on what you predict the students will be most interested in.
3. Following the introductory presentation, explain to students that they are going to have a chance to participate as attorneys and justices in a Supreme Court case.
4. Using PowerPoint, guide students through the activity, *Chicago v. Morales*. Step-by-step procedures are included in the “Talking Points” which can be viewed using the “Notes Page” command in “View.” Below you will find questions and analyses you might consider in helping students begin to develop their arguments and questions.

Part III—Conducting the Moot Court Activity

1. Tell the students they are now at the Supreme Court of the United States. Distribute “Student Handout” and read through the “To Prepare for the Case” and “Rules for the Oral Arguments” from the Student Handout with them. Make sure students understand the rules.
2. Form them into groups of seven. Each group is its own court. You can assign roles or the students can select their role. Each member of each group will have one of the following roles:
 - Two will be attorneys for Chicago (appellant)
 - Two will be attorneys for Morales (respondent)
 - Three will be Supreme Court Justices (the three justices are a “triad”)
3. Give courts enough time, probably 15 minutes, to prepare according to the Student Handout.
4. When all groups are ready, attorneys for Chicago will speak first. Attorneys for Morales will speak second.
5. Remind students that the justices may ask questions at any time.
6. Attorneys for the Chicago take turns giving a one-minute summary of their arguments.
7. Attorneys for Morales take turns giving a one-minute summary of their arguments.
8. Justices should spend a few minutes asking questions of each side.
9. After hearing both sides, justices in each group deliberate out loud. Attorneys listen but do not interrupt the justices.
 - Justices deliberate by discussing the arguments they heard. Justices share with each other the most persuasive and least persuasive arguments they heard.
 - Justices provide reasons why they thought arguments were most persuasive or least persuasive.
 - After justices deliberate, each triad votes whether they will rule in favor of the Chicago or Morales.
10. After justices deliberate, take a poll of the triads in the classroom. How many triads voted for Chicago? How many for Morales? How many triads were unanimous in their decision? How many had a dissenting justice (voting differently than the other two)?
11. Alternatively, have the judge triads come to the front of the room to deliberate in a fishbowl activity.

Part IV—Lesson Reflection

Debrief the activity with the students. Ask these questions in a whole-class discussion:

- What was the most persuasive argument you heard?
- Which side in the case do you think had the stronger arguments? Why?
- What facts of the case do you think were the most important for the Chicago?
- What facts of the case do you think were most important for Morales?
- How do you think the real Supreme Court decided this case? What makes you think the court decided the case that way?

Part V—Share the Supreme Court’s decision from the PowerPoint

Reveal the Supreme Court’s ruling. How was it similar or different than the student justices ruling?

Teacher Tips

During the prep for the moot court activity, you might use the following prompts to help the student groups get started:

Justices

What questions might you ask to help you decide...

1. If the way the ordinance defines “loitering” is too vague.
2. If under the ordinance, the police have too much discretion in determining who is “loitering” and who is a member of a “criminal street gang.”
3. If the ordinance violates the protections of the due process clause of the 14th Amendment.
4. In the United States, there is an expectation that citizens can move about freely and congregate with whomever one chooses. However, most people do not know that the Constitution does not recognize a generalized right of social association.
5. In the Chicago case, the ordinance prohibits criminal street gang members from loitering. To be valid, the ordinance cannot be vague or overbroad in its application. How much weight should the Court give to the fact that Officers were given absolute discretion to determine what activities constitute loitering? Is there a Constitutional right to loiter? Can a person standing on a street corner be there for innocent purposes? Can a person standing on a street corner be there for the purpose of criminal activity?
6. The police officers enforcing the Chicago ordinance were trained professionals in gang activity and had special skills in identifying gang members. Should this matter? Is it possible that the ordinance may be enforced against non-gang members? Should it matter that non-gang members could also be charged with violating the ordinance?
7. The term “gang” can mean different things to different people. A group of students from the same sports team may be labeled a gang, or a group of graffiti artists may

also be called a gang. Is it reasonable for persons of common intelligence to differ in their interpretation and application of the term “street gang member”?

8. Criminal gang activity can be a serious problem in many communities. The Chicago ordinance was enacted to address this activity and protect citizens from dangerous criminal endeavors. Should residents give up certain freedoms to ensure safety in their community?

Morales:

How could you convince the justices that...

1. The freedom to loiter for innocent purposes is protected by the due process clause of the 14th Amendment.
2. The way the ordinance defines “loitering” is too vague. There are good reasons why a person might be standing on the street.
3. The police should not have the authority to decide who is “loitering” and who has an apparent purpose for standing on the street.
4. If the loitering is in fact harmless and innocent, the dispersal order itself is an unjustified impairment of liberty.

Chicago:

How could you convince the justices that...

1. The ordinance is necessary to protect Chicago from criminal street gangs. Criminal street gangs congregate in public places, deal drugs, and terrorize neighborhoods.
2. There is nothing “vague” about this ordinance. When a police officer asks people to disperse and remove themselves from the area, people of ordinary intelligence will know what that means and understand exactly how to comply.
3. The law is constitutional because it protects the rights of citizens against threats and criminal activities. “Loitering” is not a constitutional right.
4. The ordinance does nothing more than allow the police to maintain the public peace, and, when necessary, to disperse groups of individuals who threaten it.
5. The Gang Congregation Ordinance is not arbitrarily enforced. Police officers enforcing the ordinance have special skills and training in identifying known criminal street gang members.

Case Syllabus: <http://supct.law.cornell.edu/supct/html/97-1121.ZS.html>

The Questions Before the U.S. Supreme Court:

Is the City of Chicago's Gang Congregation Ordinance violate the due process clause of the 14th amendment? Why or why not?

To Prepare for the Case...

Attorneys for Chicago: Create arguments to convince the justices that the ordinance is **not** unconstitutional or vague.

Attorneys for Morales: Create arguments to convince the justices that the ordinance is vague and unconstitutional.

Justices of the U.S. Supreme Court: Create at least three questions to ask each side to help you determine whether the Chicago's ordinance violates the due process clause of the 14th amendment.

Rules for the Oral Argument

1. Attorneys representing Chicago appealed the case to the Supreme Court, they are *appellants*. They will present first.
2. Attorneys representing Morales are responding to the appeal, they are *respondents*. They will present second.
3. Justices will ask questions of both sides during the arguments.
4. After hearing both sides, justices deliberate out loud. Attorneys listen but do not interrupt.
 - Justices, deliberate by discussing the arguments you heard. Share with each other the most persuasive and least persuasive arguments you heard.
 - Justices, provide reasons why you thought arguments were most persuasive or least persuasive.
 - After deliberating, vote whether your court rules in favor of Chicago or Morales.

The Arguments of Chicago (Appellant):

Attorneys representing Chicago argued the city ordinance was constitutional. To support their position they argued:

1. The ordinance is necessary to protect Chicago from criminal street gangs. Criminal street gangs congregate in public places, deal drugs, and terrorize neighborhoods. Our city has been afflicted with criminal street gangs, and these gangs terrorize the neighborhoods. Many residents feel that they are prisoners in their own homes.
2. The ordinance does nothing more than allow the police the power to maintain the public peace, and, when necessary, to disperse groups of individuals who threaten it.
3. There is nothing "vague" about this ordinance. When a police officer asks people to disperse and remove themselves from the area, the majority of people will know what that means and understand exactly how to comply.
4. The Gang Congregation Ordinance is not arbitrarily enforced. Police officers who have special skills and training in identifying known criminal street gang members.
5. The law is constitutional because it protects the rights of citizens against threats and criminal activities. "Loitering" is not a constitutional right.

The Arguments of Morales (Respondent):

Attorneys representing Morales argued Chicago's ordinance was unconstitutional. To support their position they argued:

1. The freedom to loiter for innocent purposes is protected by the due process clause of the 14th Amendment and is part of our personal liberty.
2. The way the ordinance defines "loitering" is too vague. There are good reasons why a person might be standing on the street that might not be apparent to a police officer.
3. The police should not have the authority to decide who is "loitering" and who has an apparent purpose for standing on the street.
4. If the loitering is in fact harmless and innocent, the dispersal order itself is an unjustified impairment of liberty.
5. The law is unconstitutional because it prohibits people who are not doing anything illegal to assemble in public areas.

Justices

1. Is the way the ordinance defines "loitering" too vague?
2. Under the ordinance, do the police have too much discretion in determining who is "loitering" and who is a member of a "criminal street gang"?
3. Does the ordinance violate the protections of the due process clause of the 14th Amendment?
4. To be valid, the ordinance cannot be vague or overbroad in its application. How much weight should the Court give to the fact that Officers were given absolute discretion to determine what activities constitute loitering? Is there a Constitutional right to loiter? Can a person standing on a street corner be there for innocent purposes? Can a person standing on a street corner be there for the purpose of criminal activity?
5. The police officers enforcing the Chicago ordinance were trained professionals in gang activity and had special skills in identifying gang members. Should this matter? Is it possible that the ordinance may be enforced against non-gang members? Should it matter that non-gang members could also be charged with violating the ordinance?
6. The term "gang" can mean different things to different people. A group of students from the same sports team may be labeled a gang, or a group of graffiti artists may also be called a gang. Is it reasonable for persons of common intelligence to differ in their interpretation and application of the term "street gang member"?
7. Criminal gang activity can be a serious problem in many communities. The Chicago ordinance was enacted to address this activity and protect citizens from dangerous criminal endeavors. Should residents give up certain freedoms to ensure safety in their community?

14th Amendment: No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

1st Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; **or the right of the people peaceably to assemble**, and to petition the Government for a redress of grievances.

GANG CONGREGATION ORDINANCE (RELEVANT PARTS): "Whenever a police officer observes a person whom he reasonably believes to be a criminal street gang member loitering in any public place with one or more other persons, he shall order all such persons to disperse and remove themselves from the area. Any person who does not promptly obey such an order is in violation of this section." "As used in this Section: 'Loiter' means to remain in anyone place with no apparent purpose."