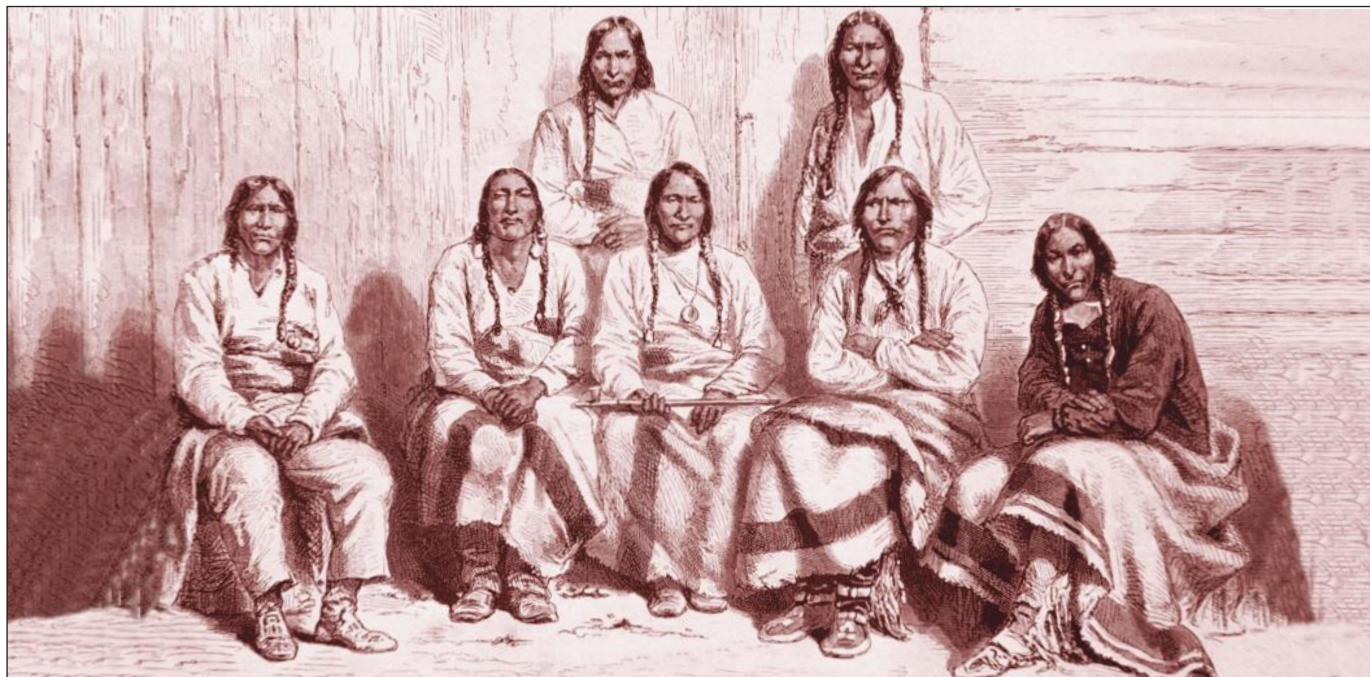


AMERICAN INDIAN SOVEREIGNTY



Chris Heiller / Alamy Stock Photo

This illustration depicts Cheyenne and Arapaho leaders assembled in Denver, Colorado, in 1863. In the Treaty of Fort Wise (1861), the U.S. government ceased to recognize the sovereignty of the Cheyenne and Arapaho nations, whose combined territory spanned Kansas, much of Nebraska, Eastern Wyoming, and Eastern Colorado.

Sovereignty is a political term that refers to the supreme power of a self-governing nation over its land and people. Over time, the U.S. Congress and the Supreme Court sharply weakened American Indian sovereignty, but a recent Supreme Court decision may begin to turn the tide.

The National Museum of the American Indian indicates that American Indian, Indian, Native American, and Native are acceptable terms for indigenous people in the U.S., though use of a specific tribal name is preferred. As historian Roxanne Dunbar-Ortiz wrote in *An Indigenous Peoples' History of the United States*, "I use 'Indigenous,' 'Indian,' and 'Native' interchangeably Indigenous individuals and peoples in North America on the whole do not consider 'Indian' a slur." (This article follows these same guidelines on terminology.)

The Founding Fathers said little in the Constitution about the American Indian peoples (aka "nations" or "tribes") that lived around them:

- Art. I Sec. 2 Cl.3: Representation in the House of Representatives was based on counting all free persons, three-fifths of slaves, but "excluding Indians not taxed." Thus, American Indians were not considered citizens of the United States.
- Art. I Sec. 8 Cl.3: Only Congress had the power "to regulate Commerce with foreign nations, and among the several States and with the Indian Tribes." The tribes were therefore something different from foreign nations and the states.

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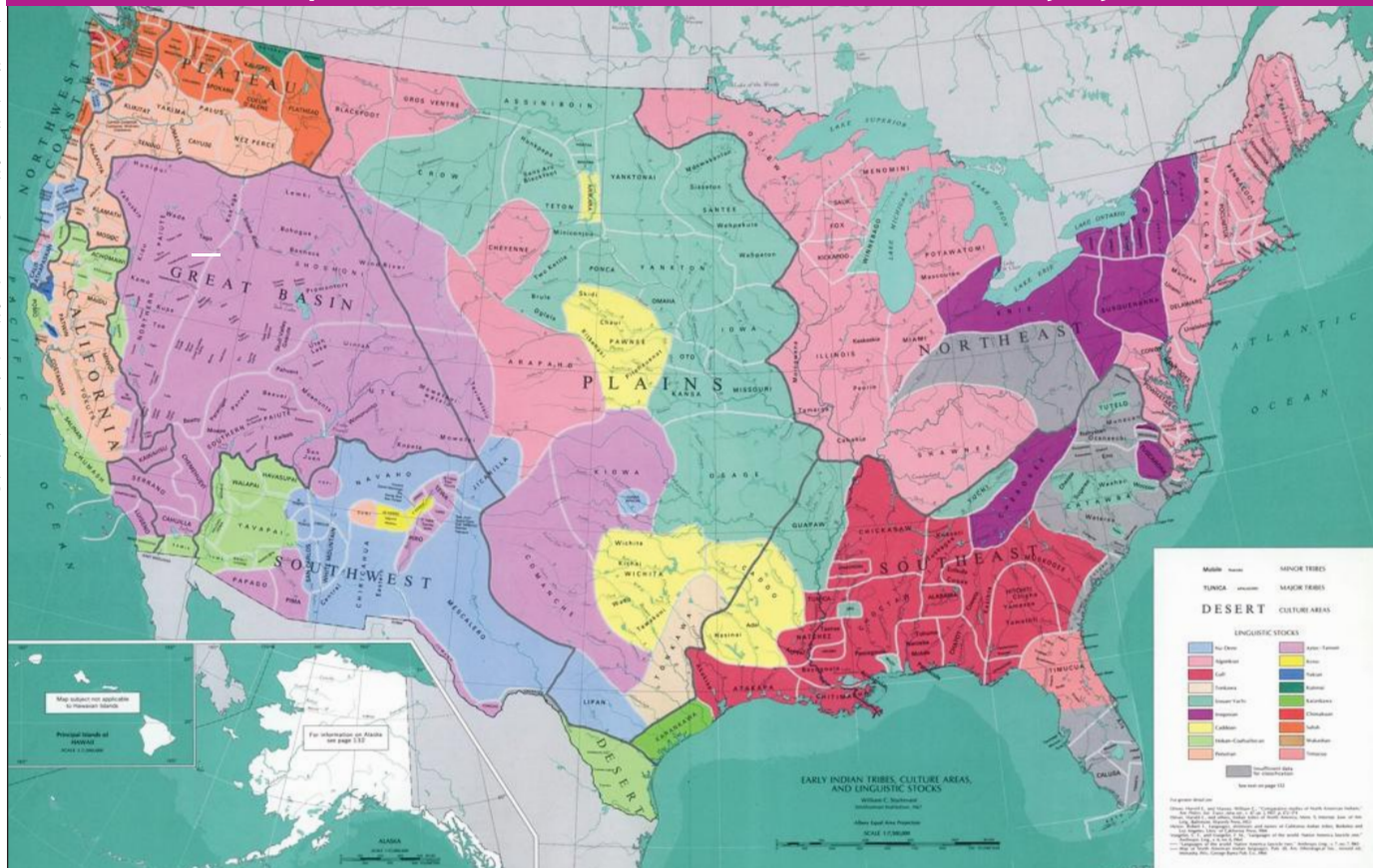
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Some Future Issues of *Bill of Rights in Action* Will Only Be Available Electronically!

Starting last fall 2020, we publish two issues of the quarterly *Bill of Rights in Action* in electronic format only and two issues in print and electronic format. To receive notification of when the electronic edition is available for download, sign up at www.crf-usa.org/bill-of-rights-in-action.

**SPECIAL
NOTICE**

Early American Indian Tribes, Cultural Areas, and Languages



- Art. II Sec. 2 Cl. 2: This provision gave the president the power to make treaties with the advice and consent of the Senate. This implied treaties with the Indians, which had been the practice of the British, the American colonies, and states before and after the Revolution.

At the time of the writing of the Constitution in 1787, most of the Native American tribes were sovereign nations. They were at the peak of their power, governed themselves, and occupied lands without interference from European settlers. But their sovereign status would soon change dramatically.

Removal of Indian Tribes

In 1787, Congress enacted the Northwest Ordinance to govern territory north of the Ohio River. This law recognized that Indian “land and property shall never be taken from them without their consent.”

A few years later, President George Washington was personally involved in securing one of the new country’s first treaties with American Indian people, the Treaty of New York in 1790. As part of this treaty, the Creeks gave up some of their land in Georgia to the U.S. in exchange for a trade deal and farming tools.

The treaty also called for the United States to protect the Creeks from outside threats. This provision, common in treaties with other tribes, made the Creeks somewhat dependent on the U.S. Treaties like this one were designed to secure peace, regulate trade, and prohibit white settlers from invading Native-occupied

lands. But as immigration to the U.S. from Europe surged, white settlers increasingly sought to acquire Native territories, provoking often violent confrontations.

Who owned the land where the American Indian peoples lived? In an 1823 Supreme Court decision, Chief Justice John Marshall wrote that the Indians had the right to *occupy* the land, but they could not *own* it. Marshall also wrote that as successors to the British in North America, only the United States federal government had the right to acquire Indian lands by treaty or conquest.

Native people had a different view. Tecumseh, a Shawnee leader in what is now Ohio and Indiana, once stated that the land “belongs to the first who sits down on his blanket or skins, which he has thrown upon the ground, and till he leaves it no other has right.”

A few southeastern Native nations, including the Creeks, Chickasaws, Choctaws, Seminoles, and Cherokees, early on began to adopt white Americans’ customs and social standards. They took up farming, learned English, built schools, created privately owned businesses, and adopted more strict class divisions within their society. A few among the elite even became slave owners, sometimes through intermarriage with white planters. Whites dubbed these nations the “Five Civilized Tribes.” They lived in various parts of what are now Florida, Georgia, Tennessee, North Carolina, Alabama, and Mississippi.

However, after gold was discovered on Cherokee land, Georgia began to take the land and claim it as

belonging to the state. White settlers flooded in and demanded the removal of all Native peoples living east of the Mississippi River.

In 1830, Congress and President Andrew Jackson passed the Indian Removal Act. Over the next few years, the U.S. pressured most Native nations in the east to sign treaties that gave up their lands in exchange for “reserved lands” (reservations) promised to them “forever.” These were mostly in what was called Indian Territory (now Oklahoma).

The Cherokee Cases

Meanwhile, the Cherokees resisted removal and went to the U.S. Supreme Court in 1831 to challenge the annexation of their land by Georgia. Chief Justice Marshall again wrote the decision. He ruled that the Cherokees could only give up their land voluntarily and only to the U.S., not to a state, like Georgia.

Marshall went on to declare that American Indian tribes were not foreign sovereign nations, but “dependent foreign nations.” According to his view, the Native peoples possessed only limited sovereignty.

Georgia next attempted to impose its laws on Cherokee lands. In 1832, the Cherokees went back to the Supreme Court. Marshall ruled this time that Cherokee treaties with the U.S. recognized their rights of self-government, rights to occupy land, and federal protection. Marshall concluded that state laws did not apply on Indian lands.

However, the state of Georgia and President Jackson ignored Marshall’s decision. Jackson was notoriously prejudiced against Native people, frequently calling them “savages.” An estimated 15,000 Cherokee men, women, and children were forced to leave their lands in Georgia and Alabama under U.S. military threat in the winter of 1838. During the 800-mile march to Indian Territory, an estimated 4,000 of these Cherokee people died in what survivors called the Trail of Tears.

Erosion of Indian Sovereignty

The U.S. did not leave American Indian nations alone on their reservations in Indian Territory. The federal Bureau of Indian Affairs (BIA) authorized white reformers and missionaries with little understanding of Native peoples to supposedly “civilize” them.

The missionaries wanted Native people to become Christian farmers and abandon their own culture, language, and beliefs. One cruel way they did this was to take Indian children from their parents without their permission to attend boarding schools off the reservation. At these schools, mainly white missionaries forced the children to conform to white American cultural norms.

With westward expansion throughout the 19th century came white settlers across what would become the continental United States. The U.S. annexation of most of the West after the Mexican-American War in 1848 especially led westward-moving white settlers to encroach on traditional Native lands in the Great Plains and Southwest.

In what became known as the “Indian Wars,” the U.S. Army, sometimes aided by state militias, fought Native peoples defending themselves and their traditional lands from the encroaching settlers. The wars ended after the Civil War, with the U.S. government forcing the tribes into new reservations.

In 1871, and without consulting any Native people, Congress decided to end treaty-making with Native nations. However, the nearly 400 treaties that had been signed since George Washington’s presidency remained in effect.

Up until 1885, Indian tribal courts handled criminal cases for crimes that occurred on reservations. But in that year, Congress passed the Major Crimes Act that transferred the jurisdiction of most felony crimes on a reservation to U.S. federal courts. (As we will see, this law is still important to understanding American Indian sovereignty today.)

In 1886, the Supreme Court upheld the Major Crimes Act. This decision by the court allowed Congress to exercise *plenary power*, or unlimited authority, over Indian affairs.

General Allotment Act

In 1887, Congress passed the General Allotment Act (aka the Dawes Act) with no Indian involvement or consent. This law offered allotments or parcels of reservation lands to individual Native men, who were expected to become farmers. They would get actual ownership of their allotments and become U.S. tax-paying citizens after 25 years. The goals of the act were to abolish the tribes by dividing tribal lands and to assimilate Indians to the mainstream of white American society.

The Kiowa nation, who had been forced onto a reservation in southwestern Oklahoma in 1867, sued the U.S. over the Dawes Act. They argued that it violated a treaty that said tribal lands could be broken up only with the consent of three-fourths of all adult Kiowa men.

In 1903, the Supreme Court decided that Congress could allot the tribal land of the Kiowa and all other Native nations without their consent even if doing so meant the U.S. government was breaking a treaty. The court ruled that all Indian matters were within the plenary control of Congress.

The effects of the Dawes Act, upheld by the Supreme Court decision, were devastating. During the nearly fifty years that the law was in effect, Native nations lost two-thirds of their reservation land. The federal government sold 90 million “surplus” acres of reservation lands to mainly white settlers. The BIA enforced policies that weakened or abolished tribal governments, courts, and laws. The BIA also prohibited Indians from practicing their Native religions, speaking their Native languages, and performing traditional ceremonies. Reduction of federal aid weakened Indian health and economic well-being.

In 1924, Congress passed a law that made all American Indians U.S. citizens. Many Native people





U.S. Assistant Secretary of the Army for Civil Works Jo-Ellen Darcy speaking by invitation to the Navajo Nation Council on January 27, 2016.

welcomed now having the right to vote, while many others, such as the Onondaga people of New York, opposed the law. They saw it as an attempt by the federal government to coerce Native people to assimilate to white society and to undermine tribal sovereignty.

As political scientist and member of the Lumbee Tribe of North Carolina David E. Wilkins has written, Native people did not ask for U.S. citizenship, but rather the 1924 law “thrust [citizenship] upon them without their consent.”

The Indian Reorganization Act

Congress sought to reverse American Indian policy during President Franklin Roosevelt’s New Deal. John Collier, the new head of the BIA, opposed assimilation policies. With Native input, Collier drafted a bill that became the Indian Reorganization Act (IRA), enacted by Congress in 1934. The law repealed the Dawes Act of 1887, ending the devastating allotment system, and allowed tribes to write their own constitutions.

The federal government gave money subsidies to tribes that adopted constitutions modeled on the U.S. Constitution. Writing about the IRA in 1983, Standing Rock Sioux historian Vine Deloria Jr. and his coauthor Clifford Lyttle described the controversy of the new tribal constitutions. “The experience of self-government,” they wrote, “according to Indian traditions had eroded and, while the new constitutions were akin to the traditions of some tribes, they were completely foreign to others.”

While most Native nations accepted the IRA’s terms, some did not, most notably the Navajo Nation. In 1934, the Navajo were the largest Native population, inhabiting a reservation that stretched across parts of Utah, New Mexico, and Arizona.

The Termination Act

After World War II, the trend in U.S. policy swung

back to enforcing assimilation. In 1953, Congress passed the Termination Act, this act sought to permanently abolish all the tribes and end any U.S. responsibility for them. This would mean ending services like health and education, which had long been a U.S. “trust responsibility” in many treaties with Native nations.

Between 1953 and the late 1960s, the federal government terminated (ended) its relationship with over 100 tribes. The U.S. distributed reservation land to tribal members and sold other tribal land to non-Native people. The federal government also turned over its legal jurisdiction over terminated tribes to the states.

Self-Determination

Urged by President Richard Nixon, Congress yet again radically changed American Indian policy in the late 1960s by rejecting the termination policy. In 1968, Congress passed the Indian Civil Rights Act, which applied most, but not all, of the U.S. Bill of Rights to Native people on reservations.

While guaranteeing freedom of religion, the Indian Civil Rights Act did not prohibit the “establishment of religion” by tribes because of their historic tribal religions. Also, while it guaranteed criminal jury trials on reservations, the Indian Civil Rights Act did not guarantee juries in civil cases, leaving traditional tribal courts to decide these matters.

In 1975, Congress passed the Indian Self-Determination Act. This law once more promoted self-government and greater tribal sovereignty. The tribes now had the authority to administer reservation health care, schools, police, child custody, and many other programs that the federal government had long controlled. The act further recognized that the U.S. still had a trust responsibility to protect tribal treaty rights, lands, and resources.

Self-determination also meant encouraging the tribal governments to develop economic enterprises. The most successful of these has been Indian gaming casinos, although only about a third of the tribes in the U.S. have them on their reservations today.

Indian casinos are located on reservation land, but the tribes do not have complete sovereign control over them. Once again, in 1988 Congress intervened by passing the Indian Gaming Regulation Act. This act requires a tribal government to negotiate an agreement with the state over what games are allowed and what regulations are required before the U.S. Department of Interior approves the casino.

While the states cannot tax casino revenue, they may collect a percent of the earnings for state regulation costs. Some tribes distribute casino profits to tribal members. However, most use the revenue to pay for health clinics, schools, jobs, and other benefits for the entire tribe.

Indian Sovereignty Today

Today, there are over 550 federally recognized Indian tribes in more than 30 states. However, many Native Americans do not live on reservations.

Federalism, or the sharing of power by states and the federal government, can be complex. So, too, is the sharing of power between sovereign tribal governments, state governments, and the federal government.

Congress claims, and the Supreme Court agrees, that Congress has plenary or unlimited power over these special nations, even if the U.S. violates treaties it made with American Indians. However, the Supreme Court has ruled that certain treaty provisions must be respected.

The McGirt Case

In 2020, the Supreme Court issued a landmark decision regarding Native sovereignty. Jimcy McGirt, a Native American, was convicted of a felony by an Oklahoma state court. The crime took place in Oklahoma on lands reserved for the Creek nation as a “permanent home” by a treaty with the U.S. in 1833.

McGirt appealed, arguing that a federal court should have tried him instead of the Oklahoma state court. Recall that under the Major Crimes Act, the U.S. government, not Oklahoma, had jurisdiction over criminal cases.

Oklahoma argued that the Creek reservation had been “disestablished” (abolished) during the Allotment period in the early 20th century and was now state territory. However, writing for the 5-4 majority, Justice Neil Gorsuch ruled that Congress had never acted to disestablish the Creek reservation. Therefore, the

now-called Muscogee (Creek) Nation lands — comprising almost half of Oklahoma’s territory — still legally existed and were not state territory.

McGirt was entitled to a new trial in federal court. Moreover, the court’s decision restored to the Muscogee Nation a major element of its sovereignty, affirming the federal government’s responsibility to honor treaty obligations. “On the far end of the Trail of Tears was a promise,” Justice Gorsuch wrote. “Today . . . we hold the government to its word.”

Julian Brave NoiseCat, a member of the Secwepemc and St’at’imc Nations in Canada, wrote in July 2020, “In the long Indigenous struggle for justice, *McGirt v. Oklahoma* might be one of the most important Supreme Court cases of all time.” The *McGirt* decision made the important point that old treaties still matter.

WRITING & DISCUSSION

1. Summarize how the U.S. Constitution defined relations between the United States and Native nations.
2. The Indian Civil Rights Act of 1968 applies most, but not all, of the U.S. Bill of Rights to Native Americans on reservations. Why did Congress leave out certain rights? Do you agree? Why or why not?
3. In your opinion, what are the three most important events in the history of American Indian people’s sovereignty in the United States? Use evidence from the article to explain your answer.

For a timeline of major legislation discussed in this article, go to: <https://padlet.com/crfusa/2wz2ebu698gxj7j2>

ACTIVITY: Constitutional Self-Determination

Form small groups of no more than five. Half of each group will read the Zuni tribe’s preamble, and the other half will read the Menominee’s preamble. Answer the following questions for your reading, discussing them with your half of your group. When ready, take turns sharing your findings with the rest of your group:

1. What year was the constitution established?
2. List the basic goals described in each preamble.
3. What, if any, language in the constitution shows self-determination for the tribe?
4. What was happening in the development of tribal sovereignty when this constitution was established? Do you see effects of that in the language used? Use evidence from the article in your answer.

Preamble to the Constitution of the Zuni Tribe (1970)

We, the members of the Zuni Tribe, Zuni Indian Reservation, New Mexico, in order to secure to us and to our posterity the political and civil rights guaranteed to us by treaties and by the Constitution and statutes of the United States; to secure educational advantage; to encourage good citizenship; to exercise the right of self-government; to administer both as a municipal body and as a proprietor of our tribal affairs; to utilize, increase and protect our tribal resources; to encourage and promote all movements and efforts leading to the general welfare of our tribe; to guarantee individual rights and freedom of religion; and to maintain our tribal customs and traditions; do ordain and establish this constitution.

Preamble to the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin (1991)

We, the members of the Menominee Tribe of Wisconsin, being a sovereign nation, in order to organize for the common good, to govern ourselves under our own laws and customs, to maintain and foster our tribal culture, to protect our homeland and to conserve and develop its natural resources, and to ensure our rights guaranteed by treaty with the Federal Government, do establish and adopt the following Articles and Bylaws of this Constitution and Bylaws for the government, protection, and common welfare of the Menominee Indian Tribe of Wisconsin and its members.

POLICE REFORM AFTER THE DEATH OF GEORGE FLOYD

Kelly Kline/Flickr Commons, used under a CC BY-NC-ND 2.0 license.



Protesters in Seattle, Washington, marched in response to the death of George Floyd, who was killed by police in Minneapolis, Minnesota. Multiple polls showed that by July 2020, an estimated 15 million to 26 million people had demonstrated in response to George Floyd's death.

Since the first centralized police departments appeared in major U.S. cities in the middle of the 19th century, members of the public have made various demands for police reform. After the killing of George Floyd on May 25, 2020, in Minneapolis, Minnesota, at the hands of four police officers, the nation's attention was sharply focused on the issues of police misconduct, use of excessive force, and the impacts of racism.

George Floyd was a Black man. The police officers subdued him and held him face-down on the ground with his hands cuffed behind his back. A white officer kept his knee on Floyd's neck for nearly nine minutes while George Floyd was lying on the ground. The three other officers present and involved in the incident were Black, white, and Asian-American, respectively.

The incident shocked the consciences of many. Polls in June 2020 showed that an overwhelming majority of Americans favored firing the officers involved in George Floyd's death. The polls also showed a supermajority of Americans supported charging the officer whose knee was on Floyd's neck with murder. In fact, the four officers were subsequently arrested and charged with murder for Floyd's death. The officer who kept his knee on Floyd's neck was convicted of murder and manslaughter on April 20, 2021.

As multiple studies have shown, Black people are killed by police at higher proportional rates than are

white people. According to the U.S. Census, Black people make up about 13 percent of the U.S. population, whereas non-Hispanic white people make up about 60 percent. In 2020, however, Northeastern University and Harvard University released a study of 2014-2015 data from 27 states showing that Black people are killed in police-related shootings at twice the rate of white people.

A 2020 study published by the Harvard Chan School of Public Health also found that among more than 5,400 police-related deaths between 2013 and 2017, Black people were three times as likely to be killed by police than white people. The higher rate of deaths among Black people makes the number of deaths *disproportionate* compared to the lower total population of Black people.

In response to the murder of George Floyd, the largest public protests in U.S. history took place across the country — supported by many sympathetic protests overseas — prompting a nationwide debate about institutional or systemic racism. The term *institutional racism* was first used in 1968 in the writings of Black political activists Stokely Carmichael and Charles V. Hamilton. The term referred to racism that is built into systems of policymaking and governance. Since

then, the term has been used interchangeably with *systemic racism*.

Reformers and scholars have not agreed on one definition of systemic racism. They nonetheless have generally understood that systemic racism involves racism which has become part of a normal practice of policymaking or governance, such as policing. It can also refer to a system that perpetuates disproportionate poverty and lack of opportunity generation to generation in many minority communities. According to this understanding, individuals who may not believe they are discriminating on the basis of race can still be participants in activities which involve systemic racism and which can have discriminatory impacts.

In 2020, U.S. political leaders of both major parties spoke to the concerns of the public protests. Then-Democratic presidential candidate Joe Biden commented that George Floyd's death was "not an isolated incident but a part of an ingrained systemic cycle of injustice." Republican Senator Lindsey Graham said, "This happens way too much."

"We've got to get to the bottom of that," Graham said, "because there is a real disconnect. The way to solve this problem, in my view, is to have the police engage in the community." As chair of the U.S. Senate Judiciary Committee in 2020, Graham presided over a Senate hearing that contributed to competing Republican and Democratic proposals for reform. In 2021, with a Democratic-controlled Congress, the proposals continued to be debated.

Defunding Police?

One response to George Floyd's death has been the call for "defunding" the police. As protests spread to all 50 states, many protesters' signs bore the three-word phrase "Defund the Police." The phrase was picked up by news cameras and social media feeds and thrust onto the national stage.

Taken literally, the word "defund" means to stop providing funds. Indeed, during the 2020 protests, some activists advocated for police departments to be abolished and for department budgets to be entirely reallocated toward social services, like health care, public housing, and public schools.

Other supporters of "defunding" called for reducing police budgets, not abolishing police. These advocates would reinvest the funds from the partial defunding into social services like those mentioned above. They believe the reinvestment will decrease crime more effectively than continuing to give the police more and more money each year. Those calling for defunding often also advocate for removing police

officers from public schools and ending the sale of military weapons and vehicles to police departments.

Supporters of reducing, but not eliminating, police budgets still see a role for traditional police departments. But they also believe that police officers currently serve some functions that are inappropriate or best left to others. Supporters propose that social workers, not police, should be first responders to people experiencing mental-health crises or neighborhood noise complaints.

Andrea Ritchie, an attorney who has studied the "defund the police" movement since the social unrest surrounding the Rodney King beating in 1992, says, "What 'defund the police' is calling for is saying, 'we need to take money, power and equipment and scope of operation away from police and we need to invest that money and more into what people need to survive this [coronavirus] pandemic and this economic crisis.'"

In June 2020, a majority on the Minneapolis City Council pledged to completely defund the city's police department. Just a few months later, however, a majority of councilmembers changed their minds. In December 2020, the council instead reduced police department funding by \$8 million, or 4.5 percent of the city's police budget. The \$8 million would go instead to other city services, such as mental health.

By August 2020, 13 cities had reduced police budgets. Los Angeles reduced its \$3 billion police budget by \$150 million. Seattle reduced its police budget by 20 percent. By 2021, however, no city had completely defunded its police departments.

Maintaining Police Funding

Critics of the idea of defunding the police argue that decreasing police budgets will not address the problems cited by supporters. The Marshall Project, a nonprofit that studies the urgency of criminal-justice reform, has reported that the Great Recession of 2008 led to cities decreasing police budgets. Existing officers became overworked and often underpaid. In 2015 in Memphis, Tennessee, complaints about police use of force as well as 911 wait times rose after the police budget was reduced.

Criticism of defunding the police has come more recently, as well. Seattle's first Black woman police chief Carmen Best resigned in protest in August 2020 when Seattle reduced police department funding and laid off 100 new police officers. Best noted that the layoffs would make the police department less racially diverse as non-white police officers were more recently hired and had less seniority.

Despite popular support for protests against police misconduct and against systemic racism, polls also

showed that only about one-third of American supported the Defund the Police movement. Former President Barack Obama himself said a “snappy slogan like ‘Defund the Police’ ” will make the movement lose “a big audience.” Rep. Jim Clyburn (D-SC), the highest-ranking Black lawmaker in Congress, said that support for “defund the police” likely cost the Democratic Party congressional seats in the November 2020 elections. “We need the police,” Clyburn said in November 2020. “We want the police. They have a role to play.”

Reforming Police Departments

Prior to Clyburn’s comments, an August 2020 Gallup poll found that 81 percent of Black Americans wanted the time police spend in their communities to remain the same or to increase. Around the same time, however, another Gallup poll showed that 96 percent of all Americans support reforms that would provide for greater accountability and punishment of officers for misconduct. Ninety-eight percent of Americans support reforms that would bar officers with multiple incidents of misconduct from continuing to serve as officers.

That same Gallup poll also showed that most Americans want “major changes” to the practice of policing in the United States. Only six percent of Americans said that “no change” was needed. While 47 percent of Americans said they support reducing police department budgets, only 15 percent of Americans said they support abolishing police departments. Various reforms to address Americans’ concerns have been proposed at the federal, state, and local levels.

At the federal level, many bills were introduced in 2020 in response to concerns over police conduct. House Democrats passed the George Floyd Justice in Policing Act in 2020 and again in 2021. This act would make it easier to prosecute police for misconduct, including excessive force and racial bias. Democrats proposed a companion bill in the Senate, the Justice in Policing Act, which, among other things, would make it easier for federal courts to hold police personally liable for civil-rights violations.

One provision of the George Floyd Justice in Policing Act lowers the criminal intent standard to convict law enforcement officers of misconduct. Under existing standards, it must be proved that an officer *willfully* commits an offense, or that an officer acted with intent to break the law. This makes it difficult to convict the officer. Under this act, however, it would have to be proved that the officer *knowingly* or *recklessly* commits an offense. This means that an officer could be convicted even if he or she acts without knowing that their specific conduct breaks the law.

Republican Sen. Tim Scott (SC) introduced the JUSTICE Act to improve and reform policing practices, accountability, and transparency. In addition,

Republican Sen. Rand Paul (KY) authored the Justice for Breonna Taylor Act. The act would prohibit no-knock warrants from any federal law enforcement agency and any agency receiving federal funds. As of this writing, neither the 2021 House bill nor either of the Senate acts have become law.

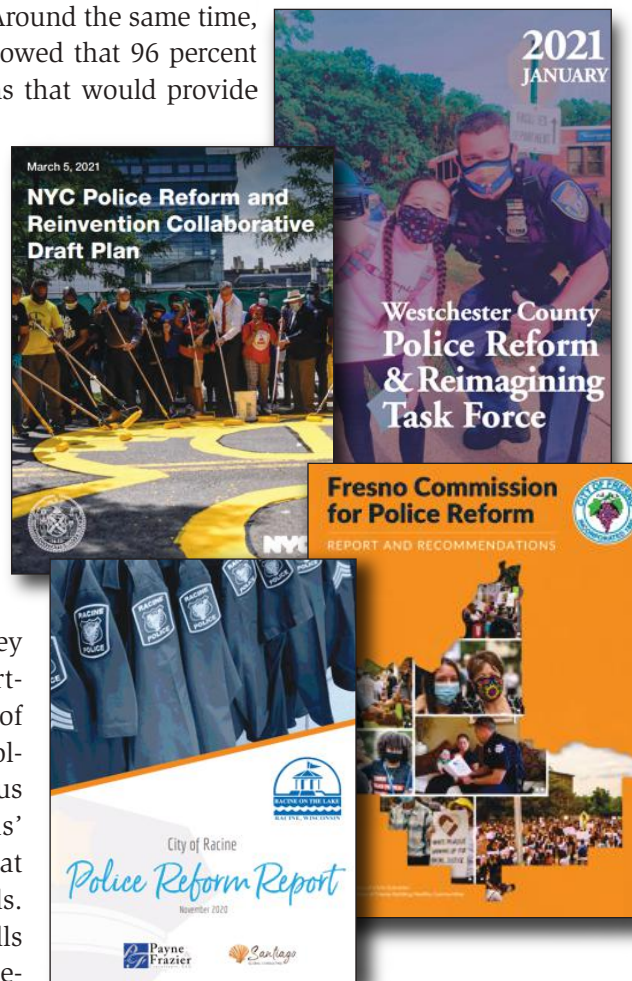
Senator Paul’s act was named for Breonna Taylor, an unarmed woman who was not a criminal suspect but was shot and killed by police in Kentucky in 2020. Officers forced their way into her apartment as part of a drug investigation into Taylor’s former boyfriend. A judge had granted the officers a no-knock warrant, which meant they did not have

to announce themselves before forcing entry.

Taylor’s current boyfriend did not hear any announcement from the police, thought they were intruders, and fired a shot at them. Police responded with 32 shots into Breonna Taylor’s apartment, killing her.

Despite the federal stalemate, many cities also passed local reforms in 2020:

- Seattle, San Francisco, and Washington, D.C., banned police use of chokeholds on suspects.



- Mayors from Chicago, Cincinnati, and Tampa, as well as police chiefs from Baltimore, Columbia (South Carolina), and Phoenix formed the Police Reform and Racial Justice Working Group to recommend reforms to police departments.
- School boards in Seattle, Minneapolis, Denver, and Portland (Oregon) discontinued use of police resource officers in schools. They instead now use private security.
- Dallas police now have a “duty to intervene” and stop officers from using excessive force.

The Milwaukee Example

Many police departments are now adjusting to decreased 2021 annual budgets. The Milwaukee City Council proposed a 10 percent reduction in the police department’s budget to reallocate to public services. Using 2020 figures, the Milwaukee police department budget is approximately \$297 million. Over 95 percent of the department’s operating budget goes to salary, wages, and fringe benefits to its 2,305 employees, which includes 1,868 uniformed officers. This amounts to an average of approximately \$122,000 per employee.

A 10 percent police department budget reduction in Milwaukee is \$29.7 million. By contrast, Milwaukee’s total health department budget is \$14 million. Using these figures, applying just half of the police-department

reduction to the Health Department would double resources for the city’s health programs.

Milwaukee Chief of Police Alfonso Morales, however, is critical of this reduction, arguing it would decrease the size of the police force by 375 officers — a 20 percent cut to the police force. Chief Morales stated that he believes the reduction would mean longer response times; less traffic enforcement; no private security at community events; no fingerprinting services for businesses and individuals; and a reduction in responses to nonviolent complaints such as prostitution, family conflicts, drug overdoses, and noise.

WRITING & DISCUSSION

1. What are the conflicting views on defunding the police?
2. Why have political leaders warned against using “defund the police” as a slogan? Do you agree? Why or why not?
3. After the Seattle City Council cut police funding, Police Chief Carmen Best resigned. She then said of her own African American family members, “It’s not that they don’t want policing. They just want to make sure that when policing happens, that it’s fair and just.” What do you think she meant?
4. How would changing the level of criminal intent from *willful* to *knowing* or *reckless* in the George Floyd Justice in Policing Act make it easier to convict a police officer of a crime?

ACTIVITY: The 8 Can’t Wait Campaign

The police-reform nonprofit organization Campaign Zero initiated the “8 Can’t Wait” campaign. They recommend eight reforms that local police departments can adopt to reduce police violence.

The reforms are:

- a. Require police officers to be trained in de-escalation (verbal techniques to calm potentially violent situations).
- b. Use a use-of-force continuum (reserving severe force only for extreme situations).
- c. Ban chokeholds and strangleholds.
- d. Require officers to verbally warn before shooting in all situations.
- e. Ban officers from shooting at moving vehicles in all situations.
- f. Exhaust all alternatives before using deadly force.
- g. Impose a duty to intervene (officers must intervene to stop excessive force by fellow officers).
- h. Require officers to report every single use of force, whether or not someone was injured.



Campaign Zero reports that although no city has adopted all eight reforms, most cities in the U.S.A. have adopted at least some of them.

You are on the city council of a city that has had many complaints of excessive force by police but has not adopted any of the proposed reforms of 8 Can’t Wait. Form a committee with three other council members in your class and decide which, if any, of the above reforms you want your city to adopt. Discuss the potential advantages and disadvantages of each reform. Who will likely be for or against each reform? If you adopt a reform, would you modify it in any way?

Choose a spokesperson and be ready to report to the whole city council (class) why your committee chose the reforms it chose.

THE LAST NUCLEAR TREATY

Since the original development of the atom bomb in the 20th century, people across the world have feared and dreaded nuclear war. The nuclear-arms proliferation (buildup) of the “super-powers” of the United States and then-Soviet Union (now Russia) became a central issue of diplomatic and military strategy during the Cold War between them. Even before the fall of the Soviet Union, however, both nations entered into historic agreements to reduce their fearsome nuclear arsenals.

The first such agreement was the Intermediate-Range Nuclear Forces (INF) Treaty. The U.S. and the Soviet Union agreed to the INF in 1987 during the U.S. presidency of Ronald Reagan. The INF Treaty mandated that the U.S. and the Soviet Union (later Russia) eliminate and pledge never to use ground-launched nuclear and conventional intermediate-range missiles. These missiles have ranges from 500 to 1,500 kilometers (about 310 to 930 miles). On February 2, 2019, the administration of President Donald Trump announced that it would be withdrawing the United States from the INF within six months.

In 1991, the U.S. and Russia (formerly the Soviet Union) signed another important treaty, the Strategic Arms Reduction Treaty (START). START significantly lowered the maximum limits of the two nations’ deployed (ready-to-use) nuclear weapons. The limit was 6,000 deployed nuclear warheads. The treaty also limited the launch capabilities from land, sea, and air (aka the “nuclear triad”).

The New START treaty of 2011 further limited the number of deployed nuclear warheads to 1,550. But the treaty was set to expire in 2020. Though the withdrawal of the INF treaty was a significant setback to reducing the threat of nuclear war, New START remained. It was the last nuclear treaty between the world’s two largest nuclear superpowers.

The Obama administration negotiated the New START treaty in 2010, and it was then ratified by the U.S. Senate. It included nuclear arms reductions that the White House considered to be “a national security imperative.” Significantly, New START limited the U.S.’s and Russia’s arsenals in the nuclear triad:

- intercontinental ballistic missiles (ICBMs),
- submarine-launched ballistic missiles (SLBMs), and
- deployed heavy bombers equipped for dropping nuclear warheads.



USSR President Mikhail Gorbachev and U.S. President Ronald Reagan signing the INF Treaty on December 8, 1987.

Ronald Reagan Presidential Library

The treaty was then set to expire on February 5, 2021, unless the U.S. and Russia agreed to renew it.

Two Nations or Three?

In 2020, President Donald Trump stated that he would not be willing to renew the New START treaty unless China was also included. This would make the *bilateral treaty* (between two nations) into a *multilateral treaty* (among more than two nations). A foreign ministry spokesperson from Beijing (China’s capital) said China had “no intention” of entering into the treaty negotiations.

What were China’s reasons for not wanting to enter the treaty? China’s nuclear capabilities were and still are significantly lower than that of both Russia and the United States (see the chart “Number of Nuclear Warheads by Country, 2020” on page 11). China had never been part of any nuclear arms-control treaty before.

Economic tensions between the Trump administration and Beijing made it even harder for New START to be a multilateral treaty. In 2019, Trump had imposed tariffs, or taxes on imports from China. In response, China banned the importing of American agricultural products, one of the U.S.’s principal exports to China.

Proponents of the multilateral treaty idea pointed to a potential nuclear threat from China. Even though China’s nuclear arsenal is significantly smaller than that of Russia and the U.S., the rate of its expansion has increased. The Pentagon reported in 2020 that China plans to double its nuclear arsenal over the next decade. Proponents also argued that even though Russia has a large arsenal, Russia’s economy is only a fraction of that of either the U.S.’s or China’s. They say China, not Russia, is the world power more likely to have future global influence.

Opponents argued that none of the potential threats from China in the future meant the New START treaty was a bad idea. The growing Chinese nuclear arsenal may create challenges for nuclear non-proliferation efforts in the near future. But that might make it more important to support the current bilateral agreement which, after all, has had historically successful results in reducing nuclear arms.

Cold War Memories

During July 2020 negotiations between the United States and Russia, the U.S. wanted Russia to sign a binding agreement that would, among other things, allow for China's future entry into New START. It had long been Russia's position, however, that if China ever entered the agreement, then the United Kingdom and France would have to enter it, too. In the face of U.S. demands, Russian President Vladimir Putin refused to agree to any "pre-conditions" on New START, saying in October 2020:

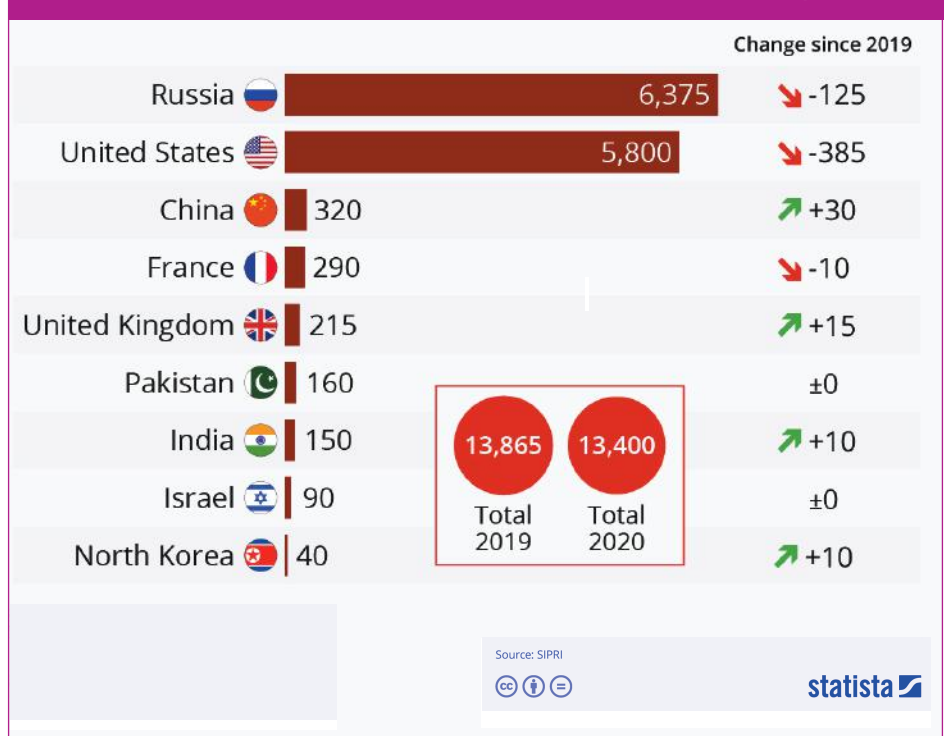
I have a proposal — which is to extend the current agreement without any pre-conditions at least for one year to have an opportunity to conduct substantial negotiations.

Trump would not agree to Putin's terms, especially not one month away from an election in which his opponent, then-Democratic candidate Joe Biden, had spoken of his support for renewal of New START. The Democratic Party found itself aligning with Russia's position on New START. Democrats urged the Trump administration to take the necessary steps to ensure the treaty was upheld and extended. Although the Trump administration kept the window of possibility for extending the treaty open, it held to its concerns about a nuclear arms buildup in China.

Many criticized the Trump administration's demand on Russia as a pretext (false reason) for ending New START. Daryl Kimball of the nonpartisan Arms Control Association, which supports nuclear-arms control treaties, called Trump's position "disingenuous." It was, he wrote, "an ill-advised strategy that has little chance of success and is probably designed to run out the clock on the last remaining treaty limiting the world's two largest nuclear arsenals."

Robert M. Gates, who was secretary of defense under Presidents George W. Bush and Barack Obama,

NUMBER OF NUCLEAR WARHEADS BY COUNTRY, 2020



stated that, in theory, it was a good idea to incorporate China into this treaty. In practice, however, that was impossible given China lacked any incentive to join, Gates argued. Through their shared experiences during the Cold War, the U.S. and Russia had become aware of the dangers of an arms race and the need for nonproliferation treaties.

Secretary Gates further stated that he hoped that this evident impossibility of including China would not stand in the way of renewing New START. Rather, he argued, the U.S. should pursue separate agreements with China, just as they did with the Soviet Union during the Cold War.

Election 2020 and Beyond

In November 2020, Donald Trump lost the presidential election. The February 5, 2021, deadline for renewing New START fell only a couple of weeks after the inauguration of the new president, Joe Biden. Though Biden had the intention of renewing the treaty with Russia, it had taken President Barack Obama months to negotiate the 2010 START renewal. Would there be enough time?

In lieu of a fully renegotiated treaty, President Joe Biden and Putin agreed to an extension of the current agreement until 2026. Under Art. II, Sec. 2, of the U.S. Constitution, the president "shall have the power, by and with the Advice and Consent of the Senate, to make treaties" As an extension of New START and not a new treaty, however, Biden did not have to seek approval from the U.S. Senate for his agreement with Putin.

The New START Treaty by the Numbers

The treaty sets limits on the maximum number of nuclear weapons that are deployed (ready for use) by the United States and Russia. Each nation can have no more than:

- **700** total deployed intercontinental ballistic missiles (ICBMs), deployed submarine-launched ballistic missiles (SLBMs), and deployed heavy bombers equipped for nuclear armaments;
- **1,550** nuclear warheads on deployed ICBMs, deployed SLBMs, and deployed heavy bombers equipped for nuclear armaments (each heavy bomber is counted as one warhead toward this limit);
- **800** deployed and non-deployed ICBM launchers, SLBM launchers, and heavy bombers equipped for nuclear armaments.

Source: U.S. Department of State



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A Russian intercontinental ballistic missile mobile launcher.

Putin, however, did have to get the approval of both houses of the Russian parliament, called the Duma. The Russian Foreign Ministry issued a statement saying it hoped the Biden administration would end what it called the “destructive U.S. policy” under Trump of ending nuclear arms-control agreements between the two nations.

In the meantime, tensions between the U.S. and Russia remained high. U.S. Secretary of State Antony Blinken said that despite the extension, the U.S. still demanded freedom for imprisoned Russian opposition leader Alexei Navalny “immediately and unconditionally.” Biden also ordered U.S. intelligence agencies to investigate alleged Russian interference in the 2016 U.S. presidential election.

WRITING & DISCUSSION

1. Why was renewing New START important for reducing the number of nuclear weapons in the United States and Russia?
2. Who were the main supporters and opponents of renewing New START? What reasons did they give for their respective positions? Which side do you think had the better reasons? Why?
3. Compare the positions of President Joe Biden and his predecessor Donald Trump on renewing the treaty.

ACTIVITY:

Should Other Countries Be Involved?

One of the main disagreements that stalled the U.S. renewing the New START treaty was whether China should be a party to the treaty. You are an official with the U.S. Department of State tasked with coming up with terms for renewal of the treaty.

With three or four other officials, deliberate on whether the renewal of the START treaty should be *bilateral* (between the U.S. and Russia only) or *multilateral* (including China and possibly other nations). Use information from this article, including diagrams, and decide in your group what type of treaty you think the president should sign. Choose a spokesperson for your group.

After all groups have decided, each group will present their decision to the class.

After all groups have presented, write a paragraph on what you think the future START treaty should say and give three reasons why, using information from this article and your small-group discussion.

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Sources

American Indian Sovereignty

"A SOVEREIGN NATION." Prairie Band Potawatomi Nation, pbpindi-antiribe.com/government/a-sovereign-nation/. • *Cherokee Nation v. Georgia* (1831). Justia US Supreme Court Center, 29 Aug. 2020. supreme.justia.com. • Christensen, Grant and Tatum, Melissa L. *Reading American Indian Law, Fundamental Principles*. Cambridge University Press, 2020. • Citizenship for Native Veterans. <http://nebraskastudies.org/en/1900-1924/native-american-citizenship/citizenship-for-native-veterans/>. • Congress Seeks to Abolish Tribes, Relocate American Indians - Timeline - Native Voices. nlm.nih.gov/nativevoices/timeline/488.html#:~:text=relocate%20American%20Indians-,1953%3A%20Congress%20seeks%20to%20abolish%20tribes%2C%20relocate%20American%20Indians,reservations%20and%20into%20urban%20areas. • *Constitution & Bylaws of the Menominee Indian Tribe of Wisconsin*. 1991. <http://courts.menominee.nsn.gov/pdf/constitutionAndBylaws.pdf>. • *Constitution of the Zuni Tribe, Zuni Reservation, Zuni, New Mexico*. 1970. • <http://www.ashiwi.org/Documents/RevisedZuniConstitutionAnnotatedFinal.pdf>. • Dawes Act (General Allotment Act). Colorado Encyclopedia, coloradoencyclopedia.org/article/dawes-act-general-allotment-act. • Dittmer, Robert, ed. *McGirt v. Oklahoma* (July 9, 2020). Native American Tribal Sovereignty Supreme Court Decisions [compilation]. Printed 21 July 2020 at Laverne, Tenn. • Dunbar-Ortiz, Roxanne. *An Indigenous Peoples' History of the United States*. Beacon Press, 2014. • What Happened on the Trail of Tears? - Trail Of Tears National Historic Trail (U.S. National Park Service). nps.gov/trte/learn/historyculture/what-happened-on-the-trail-of-tears.htm. • Hauptman, Lawrence. *The Iroquois and the New Deal*. Syracuse University Press, 1991. • Hazlett, J. Mark. *American Indian Sovereignty, the Struggle for Religious, Cultural and Tribal Independence*. McFarland, 2020. • India, David Thorstad, et al. "White Earth Nation Adopts New Constitution." MR Online, 21 Nov. 2013. mronline.org/2013/11/21/thorstad211113.html. • Johnson, Ju. "Repatriation, Land, and Sovereignty: The Indian Citizenship Act (1924) and the Indian Reorganization Act (1934)." *Theirs or Ours?*, 10 Feb. 2015. pages.vassar.edu/theirsorours/2015/02/10/repatriation-land-and-sovereignty-the-indian-citizenship-act-1924-and-the-indian-reorganization-act-1934/. • *Lone Wolf v. Hitchcock* (1903). FindLaw. 29 Aug 2020. lp.findlaw.com/. • *McGirt v. Oklahoma*. 140 S.Ct. 2452 (2020). Syllabus. • Native American Constitutions. tribal-institute.org/lists/constitutions.htm. • "Native History: Citizenship Thrust Upon Natives by U.S. Congress." *Indian Country Today*, indiancountrytoday.com/archive/native-history-citizenship-thrust-upon-natives-by-us-congress. • NoiseCat, Julian Brave. "The McGirt Case Is a Historic Win for Tribes." *The Atlantic*, 12 July 2020, theatlantic.com/ideas/archive/2020/07/mcgirt-case-historic-win-tribes/614071/. • Pevar, Stephen L. *The Rights of Indians and Tribes*. 4th ed., New York: Oxford University Press, 2012. • Prucha, Francis Paul. *The Great Father, The United States Government and the American Indians*. Abridged ed., University of Nebraska Press, 1986. • "Public Law 280." Tribal Court Clearinghouse. n.d. 3 Aug. 2020. tribal-institute.org/lists/pl280.htm. • "Q&A with 'Dismembered' Coauthors David E. Wilkins and Shelly Hulse Wilkins." University of Washington Press Blog, 14 June 2017, uwpressblog.com/2017/06/14/qa-dismembered/. • "The Cherokees vs. Andrew Jackson." *Smithsonian Magazine*, smithsonianmag.com/history/the-chokees-vs-andrew-jackson-277394/. • Robinson, Gary. *Tribal Sovereignty: The Right to Self-Rule*. Santa Ynez: Tribal Eye Productions, 2016. • "Text of Indian Civil Rights Act." Tribal Court Clearinghouse. n.d. tribal-institute.org/lists/icra1968.htm. • United States Senate, Committee on Indian Affairs. Hearings on Safeguarding the Integrity of Indian Gaming. 114th Congress, 1st sess, GPO, 2015. • Wilkins, Andrea. *Fostering State-Tribal Collaboration: An Indian Law Primer*. Rowman & Littlefield, 2016. • Wilkins, David E. and Lomawaima, K. Tsianina. *Uneven Ground: American Indian Sovereignty and Federal Law*. University of Oklahoma Press, 2002. • *Worcester v. Georgia* (1832). Justia US Supreme Court Center, 28 Aug. 2020. supreme.justia.com.

Police Reform After the Death of George Floyd

Arnold, Amanda. "What Exactly Does it Mean to Defund the Police?" *The Cut*. *New York Magazine*, 12 June 2020. thecut.com/2020/06/what-does-defund-the-police-mean-the-phrase-explained.html. • Balsamo, Michael. "A side-by-side look at police reform bills in Congress." *AP News*, 23 June 2020. apnews.com/article/cb459fa005a19b074f452ac1092b6d04. • Barker, Kim. "The Black Officer Who Detained George Floyd Had Pledged to Fix the Police." *The New York Times*, 27 June 2020. nytimes.com/2020/06/27/us/minneapolis-police-officer-kueng.html. • Brown, Matthew. "Democratic Whip Jim Clyburn: 'Defund the police' cost Democrats seats, hurt Black Lives Matter movement." *USA Today*, 9 Nov. 2020. usatoday.com/story/news/politics/2020/11/08/james-clyburn-defund-police-cost-democrats-seats-hurt-black-lives-matter/6216371002/. • Collins, Jon, and Brandt Williams. "After pledging to defund the police, Mpls. City Council still rethinking public safety." *MPR News*, 28 Oct. 2020. mprnews.org/story/2020/10/28/after-pledging-to-defund-police-mpls-city-council-still-rethinking-public-safety.

council-still-rethinking-public-safety. • Collins, Sean. "The House has passed the George Floyd Justice in Policing Act." *Vox*, 3 March 2021. [vox.com/2021/3/3/22295856/george-floyd-justice-in-policing-act-2021-passed-house](https://www.vox.com/2021/3/3/22295856/george-floyd-justice-in-policing-act-2021-passed-house). • Crabtree, Steve. "Most Americans Say Policing Needs 'Major Changes'." *Gallup*, 22 July 2020. news.gallup.com/poll/315962/americans-say-policing-needs-major-changes.aspx. • Davis, Susan, et al. "The Death of George Floyd sparks Outrage From Both Sides of the Aisle." NPR, 28 May 2020. [npr.org/2020/05/28/864496274/the-death-of-george-floyd-sparks-outrage-from-both-sides-of-the-aisle](https://www.npr.org/2020/05/28/864496274/the-death-of-george-floyd-sparks-outrage-from-both-sides-of-the-aisle). • Dirr, Alison. "Milwaukee Common Council adopts 2021 budget, maintains cut of 120 police positions, fire station closure." *Milwaukee Journal Sentinel*, 9 Nov. 2020. [jsonline.com/story/news/local/milwaukee/2020/11/06/milwaukee-common-councils-adopted-2021-budget-maintains-police-cut/6181472002/](https://www.jsonline.com/story/news/local/milwaukee/2020/11/06/milwaukee-common-councils-adopted-2021-budget-maintains-police-cut/6181472002/). • Durr, Sara. "Nation's Mayors Assemble New Police Reform and Racial Justice Working Group." The United States Conference of Mayors, 8 June 2020. usmayors.org/2020/06/08/nations-mayors-assemble-new-police-reform-and-racial-justice-working-group/. • Edwards, Clarence. "Race and the Police." National Police Foundation, 18 Feb. 2016. policefoundation.org/race-and-the-police/. • Edwards, Frank, et al. "Risk of being killed by police use of force in the United States, by age, race-ethnicity, and sex." *PNAS*, 20 Aug. 2019. pnas.org/content/116/34/16793. • Kaba, Mariame. "Yes, We Mean Literally Abolish the Police." *The New York Times*, 12 June 2020. nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html. • King, Maya. "How 'Defund the Police' went from moonshot to mainstream." *Politico*, 17 June 2020. [politico.com/states/new-york/albany/story/2020/06/17/how-defund-the-police-went-from-moonshot-to-mainstream-1293451](https://www.politico.com/states/new-york/albany/story/2020/06/17/how-defund-the-police-went-from-moonshot-to-mainstream-1293451). • Koppelman, Andrew. "What is systemic racism, anyway?" *USA Today*, 23 Sep. 2020. usatoday.com/story/opinion/2020/09/23/systemic-racism-how-really-define-column/5845788002/. • Koran, Mario. "'We're suffering the same abuses': Latinos hear their stories echoed in police brutality protests." *The Guardian*, 12 June 2020. theguardian.com/world/2020/jun/12/latinos-police-brutality-protests-george-floyd. • Lovan, Dylan. "Grand jury audio details moments before Breonna Taylor died." *The Detroit News*, 2 Oct. 2020. [detroitnews.com/story/news/nation/2020/10/02/breonna-taylor-grand-jury-recording/5893277002/](https://www.detroitnews.com/story/news/nation/2020/10/02/breonna-taylor-grand-jury-recording/5893277002/). • McCarthy, Niall. "Police Shootings: Black Americans Disproportionately Affected [Infographic]." *Forbes*, 28 May 2020. [forbes.com/sites/niallmccarthy/2020/05/28/police-shootings-black-americans-disproportionately-affected-infographic/?sh=505e919159f7](https://www.forbes.com/sites/niallmccarthy/2020/05/28/police-shootings-black-americans-disproportionately-affected-infographic/?sh=505e919159f7). • McEvoy, Jemima. "At Least 13 Cities Are Defunding Their Police Departments." *Forbes*, 13 Aug. 2020. [forbes.com/sites/jemimamcevoy/2020/08/13/at-least-13-cities-are-defunding-their-police-departments/?sh=323c36f329e3](https://www.forbes.com/sites/jemimamcevoy/2020/08/13/at-least-13-cities-are-defunding-their-police-departments/?sh=323c36f329e3). • Morales, Alfonso. "I'm Milwaukee's police chief. Here's what 'defunding the police' might mean." *Milwaukee Journal Sentinel*, 14 July 2020. [jsonline.com/story/news/solutions/2020/07/14/mpd-chief-details-cuts-might-required-defund-police/5421894002/](https://www.jsonline.com/story/news/solutions/2020/07/14/mpd-chief-details-cuts-might-required-defund-police/5421894002/). • Pannett, Rachel, et al. "George Floyd Death in U.S. sparks Outcry Abroad." *Wall Street Journal*, 3 June 2020. [wsj.com/articles/george-floyds-death-in-u-s-sparks-outcry-abroad-11591123234](https://www.wsj.com/articles/george-floyds-death-in-u-s-sparks-outcry-abroad-11591123234). • Phillips, Coretta. "Institutional Racism and Ethnic Inequalities: An Expanded Multilevel Framework." *Journal of Social Policy*. Cambridge University Press, Vol. 40, Issue 1 (Jan. 2011). [cambridge.org/core/journals/journal-of-social-policy/article/institutional-racism-and-ethnic-inequalities-an-expanded-multilevel-framework/CC0299D0168307C7F6ED1FD891D74245](https://www.cambridge.org/core/journals/journal-of-social-policy/article/institutional-racism-and-ethnic-inequalities-an-expanded-multilevel-framework/CC0299D0168307C7F6ED1FD891D74245). • Saad, Lydia. "Black Americans Want Police to Retain Local Presence." *Gallup*, 5 Aug. 2020. [gallup.com/poll/316571/black-americans-police-retain-local-presence.aspx?utm_source=tagrss&utm_medium=rss&utm_campaign=syndication](https://news.gallup.com/poll/316571/black-americans-police-retain-local-presence.aspx?utm_source=tagrss&utm_medium=rss&utm_campaign=syndication). • Thomsen, Ian. "The Research is Clear: White People Not More Likely Than Black People to Be Killed by Police." *News@Northeastern*, 16 July 2020. news.northeastern.edu/2020/07/16/the-research-is-clear-white-people-are-not-more-likely-than-black-people-to-be-killed-by-police/. • Weichselbaum, Simon, and Nicole Lewis. "Support for Defunding the Police Department Is Growing. Here's Why It's not a Silver Bullet." *The Marshall Project*, 9 June 2020. themarshallproject.org/2020/06/09/support-for-defunding-the-police-department-is-growing-here-s-why-it-s-not-a-silver-bullet. • "#8CantWait." *8cantwait.org*, N.D. 8cantwait.org/. • "Black people more than three times as likely as white people to be killed during a police encounter." Harvard T.H. Chan School of Public Health, 8 July 2020. [hsph.harvard.edu/news/hsph-in-the-news/blacks-whites-police-deaths-disparity/](https://www.hsph.harvard.edu/news/hsph-in-the-news/blacks-whites-police-deaths-disparity/). • "Graham Announces Hearing on Police Use of Force." Committee on the Judiciary. U.S. Senate, 19 May 2020. [judiciary.senate.gov/press/rep-releases/graham-announces-hearing-on-police-use-of-force](https://www.judiciary.senate.gov/press/rep-releases/graham-announces-hearing-on-police-use-of-force). • "H.R.7120 - George Floyd Justice in Policing Act." Congress.gov, N.D. [congress.gov/bills/116/congress-house-bill/7120](https://www.congress.gov/bills/116/congress-house-bill/7120). • "Peter Hamby Interviews President Obama." *YouTube*, uploaded by Snapchat, 2 Dec. 2020. [youtube.com/watch?v=Yj-eNGfG0o](https://www.youtube.com/watch?v=Yj-eNGfG0o). • "S.3985 THE JUSTICE ACT." Congress.gov, N.D. [congress.gov/bills/116/congress-senate-bill/3985](https://www.congress.gov/bills/116/congress-senate-bill/3985). • "Stop-and-Frisk Data." New York Civil Liberties Union, N.D.

(Continued on page 14.)

Standards Addressed

American Indian Sovereignty

California History-Social Science Standard 12.7. Students analyze and compare the powers and procedures of the national, state, tribal, and local governments. (1) Explain how conflicts between levels of government and branches of government are resolved.

California History-Social Science Standard 8.8. Students analyze the divergent paths of the American people in the West from 1800 to the mid-1800s and the challenges they faced. (2) Describe the purpose, challenges, and economic incentives associated with westward expansion, including the concept of Manifest Destiny (e.g., accounts of the removal of Indians, the Cherokees' "Trail of Tears," settlement of the Great Plains) and the territorial acquisitions that spanned numerous decades.

California History-Social Science Framework (2016), Ch. 17, p. 447: Teachers can emphasize how power and responsibilities are divided among national, state, local, and tribal governments and ask students to consider this question: Why are powers divided among different levels of government? Students should understand that local governments are established by the states, and tribal governments are recognized by constitutional provisions and federal law.

National U.S. History Standard 19. Understands federal Indian policy and United States foreign policy after the Civil War. **Middle School (1):** Understands interaction between Native Americans and white society (e.g., the attitudes and policies of government officials, the U.S. Army, missionaries, and settlers toward Native Americans; the provisions and effects of the Dawes Severalty Act of 1887 on tribal identity, land ownership and assimilation; the legacy of the 19th century federal Indian policy; Native American responses to increased white settlement, mining activities, and railroad construction). **High School (3):** Understands influences on and perspectives of Native American life in the late 19th century (e.g., how the admission of new western states affected relations between the United States and Native American societies; leadership and values of Native American leaders . . .). **Common Core State Standards:** RH.11-12.1, RH.11-12.2, SL.11-12.1, WHST.11-12.10.

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California History-Social Science Framework (Adopted 2016), p. 447-448: Teachers can emphasize how power and responsibilities are divided among national, state, local, and tribal governments and ask students to consider this question: **Why are powers divided among different levels of government?** . . . Students should also identify typical responsibilities of state government, including education, infrastructure such as roads and bridges, criminal and civil law, and regulation of business. The state also oversees and regulates local governments and the services provided such as fire and police protection, sanitation, local public schools, public transportation, housing, and zoning and land use.

California History-Social Science Standard 12.7: Students analyze and compare the powers and procedures of the national, state, tribal, and local gov-

ernments. (5) Explain how public policy is formed, including the setting of the public agenda and implementation of it through regulations and executive orders.

National Civics Standard 21: Understands the formation and implementation of public policy. Middle School (3): Understands why conflicts about values, principles, and interests may make agreement difficult or impossible on certain issues of public policy. **High School (2):** Understands the processes by which public policy concerning a local, state, or national issue is formed and carried out. (4) Understands why agreement may be difficult or impossible on issues such as abortion because of conflicts about values, principles, and interests.

The Last Nuclear Treaty

Common Core State Standards: RH.11-12.1, RH.11-12.2, SL.11-12.1, WHST.11-12.10. **Standards National World History Standard 43.** Understands how post-World War II reconstruction occurred, new international power relations took shape, and colonial empires broke up. **High School (2)** Understands the impact of relations between the United States and the Soviet Union during the Cold War.

National World History Standard 45. Understands major global trends since World War II. **Middle School (2)** Understands the origins and decline of the Cold War and its significance as a 20th-century event.

National Civics Standard 22. Understands how the world is organized politically into nation-states, how nation-states interact with one another, and issues surrounding U.S. foreign policy. **High School (5)** Understands the process by which United States foreign policy is made, including the roles of federal agencies, domestic interest groups, the media, and the public; and knows the ways in which Americans can influence foreign policy. (7) Understands the idea of the national interest and how it is used as a criterion for shaping American foreign policy.

Common Core State Standards: RH.9-10.1, RH.9-10.2, SL.9-10.1, WHST.9-10.10.

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Sources continued. . .

nycclu.org/en/Stop-and-Frisk-data. • "U.S. Census Bureau Quick Facts." U.S. Census Bureau, N.D. census.gov/quickfacts/fact/table/US/PST045219.

The Last Nuclear Treaty

AFP. "Putin Proposes One-Year Extension of New START Treaty." *The Moscow Times*, 16 Oct. 2020, themoscowtimes.com/2020/10/16/putin-proposes-one-year-extension-of-new-start-treaty-a71780. • "America's Nuclear Triad." U.S. Department of Defense, defense.gov/Experience/Americas-Nuclear-Triad/. • Anderson, James. "Opinion: China's Arms Buildup Threatens the Nuclear Balance." *The New York Times*, 29 July 2020. nytimes.com/2020/07/29/opinion/russia-china-nuclear-weapons.html. • "Biden Says No More US 'rolling over' to Russia." *France 24*, 4 Feb. 2021, france24.com/en/live-news/20210204-biden-says-no-more-us-rolling-over-to-russia. • Desjardins, Jeff. "Visualizing the Composition of the World Economy by GDP (PPP)." *Visual Capitalist*, 30 Sept. 2019, visualcapitalist.com/visualizing-the-composition-of-the-world-economy-by-gdp-ppp/. • Detsch, Robbie, and Jack Gramer. "Trump Fixates on China as Nuclear Arms Pact Nears Expiration." *Foreign Policy*, foreignpolicy.com/2020/04/29/trump-china-new-start-nuclear-arms-pact-expiration/. • "Fact Sheet: The United States' Nuclear Inventory." *Center for Arms Control and Non-Proliferation*, 2 July 2020, armscontrolcenter.org/fact-sheet-the-united-states-nuclear-arsenal/. • Gould, Joe. "China Plans to Double Nuclear Arsenal, Pentagon Says." *Defense News*, 1 Sept. 2020, defensenews.com/congress/2020/09/01/china-planning-to-double-nuclear-arsenal-pentagon-says/. • Heinrichs, Rebecca L. "Transcript: The Arms Control Landscape ft. DIA Lt. Gen. Robert P. Ashley, Jr." Hudson Institute, 31 May 2019. hudson.org/research/15063-transcript-the-arms-control-landscape-ft-dia-lt-gen-robert-p-ashley-jr. • "INF Nuclear Treaty: US Pulls

out of Cold War-Era Pact with Russia." *BBC News*, 2 Aug. 2019. www.bbc.com, bbc.com/news/world-us-canada-49198565. • Lee, Jesse. "The New START Treaty: Signed." *The White House: President Barack Obama*, 2 Feb. 2011. obamawhitehouse.archives.gov/blog/2011/02/02/new-start-treaty-signed. • Marcus, Jonathan. "INF nuclear treaty: US pulls out of Cold War-era pact with Russia." *BBC News*, 2 Aug. 2019. state.gov/404. • "New START: The Future of U.S.-Russia Nuclear Arms Control." *Council on Foreign Relations*, cfr.org/in-brief/new-start-future-us-russia-nuclear-arms-control. • "New START Treaty." *United States Department of State*, state.gov/new-start/. • "New Start: US and Russia Extend Nuclear Treaty." *BBC News*, 3 Feb. 2021. www.bbc.com, bbc.com/news/world-us-canada-55923481. • Sanger, David E. "Trump Will Withdraw From Open Skies Arms Control Treaty." *The New York Times*, 21 May 2020. nytimes.com/2020/05/21/us/politics/trump-open-skies-treaty-arms-control.html. • Singh, Michael. "Opinion: Trump Is Right to Bid His Time in Renewing a Nuclear Treaty With Russia." *The Washington Post*, 19 February 2020. washingtonpost.com/opinions/2020/02/19/trump-is-right-bide-his-time-renewing-nuclear-treaty-with-russia/. • Sittlow, Brian. "New START: the Future of U.S.-Russia Nuclear Arms Control." *Council on Foreign Relations*, 28 Jan. 2020. cfr.org/in-brief/new-start-future-us-russia-nuclear-arms-control. • *The Intermediate-Range Nuclear Forces (INF) Treaty at a Glance* | Arms Control Association. armscontrol.org/actsheets/INFtreaty#:~:text=The%201987%20Intermediate%20Range%20Nuclear,of%20500%20to%205%2C500%20kilometers. • "The New START Treaty: Signed." *Whitehouse.Gov*, 2 Feb. 2011. obamawhitehouse.archives.gov/blog/2011/02/02/new-start-treaty-signed. • Tolliver, Sandy. "China Needs to Play Straight on New START Nuclear Treaty." *The Hill*, 22 July 2020, thehill.com/opinion/national-security/507211-china-needs-to-play-straight-on-new-start-nuclear-treaty.

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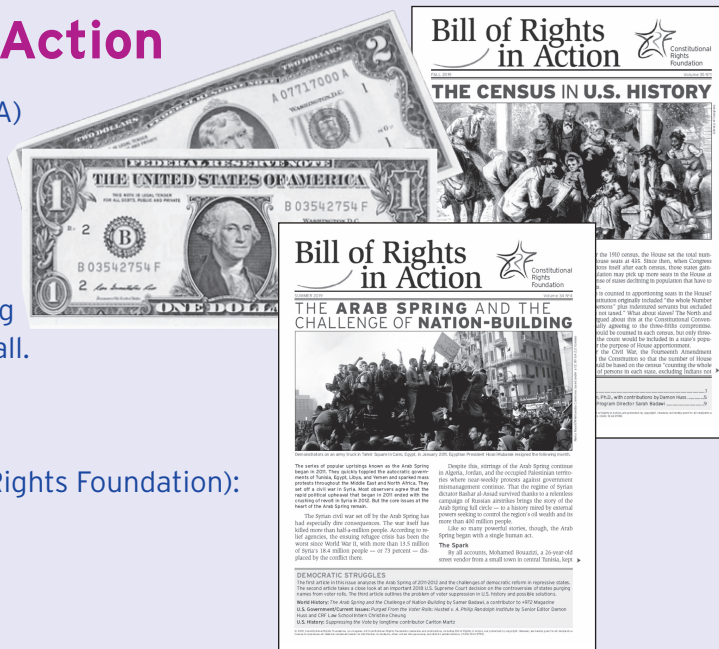
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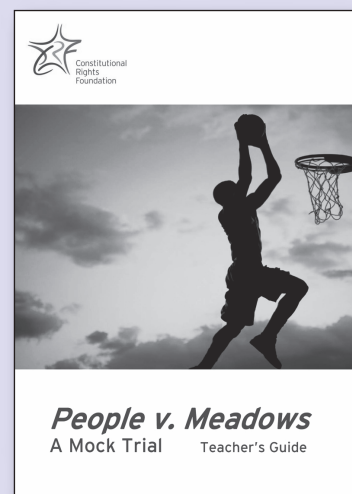
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People v. Croddy is the trial of Lee Croddy who hosts a popular YouTube channel. Croddy has been charged with two counts: (1) aiding and abetting in the commission of first-degree burglary by another, and (2) accessory after the fact. Croddy posts videos on Youtube in which Croddy discusses topics Croddy believes are suppressed by the government. One favorite topic of Croddy's is government cover-ups related to UFOs. Croddy attracted the attention of an enthusiastic fan, Remi Montoya. For almost a year, Montoya and Croddy communicated frequently in non-public Twitter group chats.

During one group chat, Croddy shared a short video clip that included an image of government documents. The documents contained personal information about an official named Drew Marshak who allegedly had information about UFOs. A few days later, Montoya stole a briefcase from Marshak's home and copied files from Marshak's computer. In a brief confrontation, Montoya hit Marshak in the face. Montoya later pleaded guilty to first-degree burglary and assault on a peace officer.

The prosecution alleges that Lee Croddy aided and abetted Montoya in the burglary. The prosecution will present evidence that Croddy showed a video with Marshak's information to Montoya and others in the group chat while instructing Montoya to "take what's ours" from Marshak and that Montoya acted under Croddy's influence. The prosecution further alleges that Croddy let Montoya spend the night in Croddy's home after the burglary, knowing that Montoya had committed a crime.

The defense argues that Lee Croddy did not knowingly aid or abet Montoya in any crime. The defense will present evidence that Croddy merely intended to build camaraderie within a political movement for government transparency through Croddy's videos, chat messages, and text messages. Therefore, the defense argues that Croddy did not have the intent to aid or abet Montoya's criminal acts. Furthermore, Croddy had no knowledge of the crimes after they occurred, and so was not an accessory after the fact.

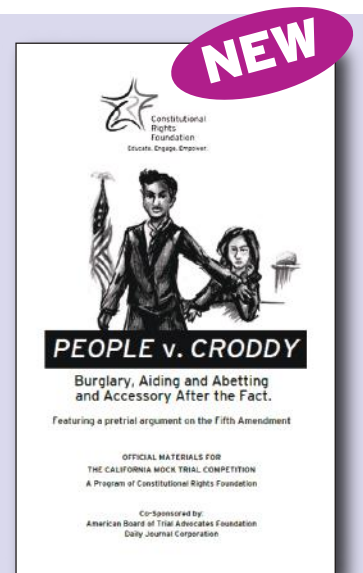
The pretrial issue centers on the Fifth Amendment protection against self-incrimination and as set forth in *Miranda v. Arizona*. The issue is whether or not the circumstances surrounding Lee Croddy's interaction with the police amounted to custodial interrogation. If so, the circumstances would require the protection of the Fifth Amendment and would have required the officer to read the defendant the Miranda warnings prior to interrogation.

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