

Fully describe the activity or assignment in detail. What will both you and the students do?

- The teacher will begin the lesson by reviewing the powers of the executive branch of government. The teacher may wish to have the students use <https://constitutioncenter.org/interactive-constitution/articles/article-ii> to review the powers first. The students can then brainstorm using a Think or Write/Pair/Share. Students will think of or write as many of the powers of the executive, compare them with a partner or group, then share out what they came up with the class.
- Next the teacher will contextualize Japanese internment with the American reaction to Pearl Harbor. The teacher will remind the students of the circumstances of the attack on Pearl Harbor and review the American reaction with a brief discussion.



Original Source: Library of Congress



[Original Source: Library of Congress](#)

- The students will review Order for Japanese Internment by having the students/class read the historical context of Japanese Internment. The students will close read the excerpt of the Executive Order for the Internment of Japanese Americans and answer the close read guided questions. The teacher can assess the student answers by having the students share and compare then have teacher review answers as a class.

### **Executive Order 9066: The President Authorizes Japanese Relocation**

In an atmosphere of World War II hysteria, President Roosevelt, encouraged by officials at all levels of the federal government, authorized the internment of tens of thousands of American citizens of Japanese ancestry and resident aliens from Japan. Roosevelt's Executive Order 9066, dated February 19, 1942, gave the military broad powers to ban any citizen from a fifty- to sixty-mile-wide coastal area stretching from Washington state to California and extending inland into southern Arizona. The order also authorized transporting these citizens to assembly centers hastily set up and governed by the military in California, Arizona, Washington state, and Oregon. Although it is not well known, the same executive order (and other war-time orders and restrictions) were also applied to smaller numbers of residents of the United States who were of Italian or German descent. For example, 3,200 resident aliens of Italian background were arrested and more than 300 of them were interned. About 11,000 German residents—including some naturalized citizens—were arrested and more than 5000 were interned. Yet while these individuals (and others from those groups) suffered grievous violations of their civil liberties, the war-time measures applied to Japanese Americans were worse and more sweeping, uprooting entire communities and targeting citizens as well as resident aliens.

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Executive Order No. 9066 (excerpt)

*The President*

Executive Order

Authorizing the Secretary of War to Prescribe Military Areas

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense...

Now, therefore, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to

accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies...

Franklin D. Roosevelt

The White House,

February 19, 1942.

[F.R. Doc. 42-1563; Filed, February 21, 1942; 12:51 p.m.]

Source: Executive Order No. 9066, February 19, 1942.

**Analysis Questions:**

1. Who is the author of this document? What is their motivation for writing this?
  
2. Who is responsible for carrying out this order? What does this order allow them to do?
  
3. Are there any restrictions placed on the enforcement of this order?
  - The students will analyze the pamphlet on Japanese internment and follow the same procedure as with the executive order to determine the impact of this order on Japanese Americans. The teacher will assess and review questions with the class.

**Western Defense Command and Fourth Army  
Wartime Civil Control Administration**

**Presidio of San Francisco, California  
April 30, 1942**

**INSTRUCTIONS TO ALL PERSONS OF  
JAPANESE  
ANCESTRY  
Living in the following area:**

All that portion of the County of Los Angeles, State of California, within the boundary beginning at:  
...the intersection of Western Avenue and Redondo Beach Boulevard...

Pursuant to the provisions of Civilian Exclusion Order No. 29, this Headquarters, dated April 30, 1942, all persons of Japanese Ancestry, both alien and non-alien, will be evacuated from the above area by 12 o'clock noon, PWT Thursday May 7th 1942. No Japanese persons living in the above area will be permitted to change residence after 12 o'clock noon, Thursday April 30th 1942, without obtaining special permission from the representative of the Commanding General Southern California Sector at the Civil Control Station located at: 16522 South Western Ave Torrance, CA

**The following instructions must be observed:**

1. A responsible member of each family, preferably the head of the family, or the person in whose name most of the property is held, and each individual living alone, will report to the Civil Control Station to receive further instructions. This must be done between 8am and 5pm on Friday May 1st 1942, or between 8am and 5pm on Saturday May 2nd, 1942.
2. Evacuees must carry with them on departure for the Assembly Center, the following property:
  - a. Bedding and linens (no mattresses) for each family member
  - b. Toilet articles for each member of the family
  - c. Extra clothing for each member of the family
  - d. Sufficient knives, forks, spoons, plates, bowls and cups for each member of the family
  - e. Essential personal effects for each member of the family
3. No pets of any kind will be permitted
4. No personal items and no household goods will be shipped to the Assembly Center
5. The United States government through its agencies will provide for storage at the sole risk of the owner of the more substantial household items, such as iceboxes, washing machines, pianos, and other heavy furniture. Cooking utensils and other small items will be accepted for storage if crated, packed, and plainly marked with the name and address of the owner. Only one name and address will be given by a family.
6. Each family, and individual living alone, will be furnished with transportation to the Assembly Center. Private means of transportation will not be utilized.

All items carried will be securely packaged, tied, and plainly marked with the name of the owner and numbered in accordance with instructions obtained at the Civil Control Station.

The size and number of packages is limited to what which can be carried by the individual or family group.

**Analysis Questions:**

4. What kinds of items can they bring with them to the internment camp? What kinds of items do they have to leave behind?

5. Many Japanese Americans or Japanese citizens living in America found out about the internment camp program by reading these notices posted in their neighborhood after Pearl Harbor. How do you think it would feel to suddenly receive this notice and to have to quickly uproot your whole life?
  6. Where does the notice mention where they will be taken to?
- The teacher will review the rights of Americans under the Constitution and checks and balances. The teacher may wish to have the students use <https://constitutioncenter.org/interactive>. The teacher will then ask the students to predict; “Does this executive order violate the Constitution?” The teacher may use questioning techniques that task students to synthesize and assess the executive order.
  - The students will review *Judgement in Korematsu v. US*. The teacher will have students/class read the historical context and answer the analysis question. The students will the close read the decision of the Supreme Court and the dissent and answer the analysis questions. The teacher will have students share and compare their answers then review analysis questions with the class.

### ***Korematsu v. United States: The U.S. Supreme Court Upholds Internment***

America fought World War II to preserve freedom and democracy, yet that same war featured the greatest suppression of civil liberties in the nation’s history. In an atmosphere of hysteria, President Roosevelt, encouraged by officials at all levels of the federal government, authorized the internment of tens of thousands of American citizens of Japanese ancestry and resident aliens from Japan. One of the most important of the legal challenges to the internment policy was *Korematsu v. United States*, a case brought by Fred T. Korematsu, a Nisei (an American-born person whose parents were born in Japan). Korematsu had been arrested by the FBI for failing to report for relocation and was convicted in federal court in September 1942. The U.S. Supreme Court, in a sharply divided 6–3 decision, upheld Korematsu’s conviction in late 1944. The majority opinion, written by Justice Hugo Black, rejected the plaintiff’s discrimination argument and upheld the government’s right to relocate citizens in the face of wartime emergency.

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### Supreme Court Opinion in *Korematsu v. United States* (excerpt)

Mr. Justice Black delivered the opinion of the Court.

The petitioner, an American citizen of Japanese descent, was convicted in a federal district court for remaining in San Leandro, California, a “Military Area”, contrary to Civilian Exclusion Order No. 34 of the Commanding General of the Western Command, U.S. Army, which directed that after May 9, 1942, all persons of Japanese ancestry should be excluded from that area. No question was raised as to petitioner’s loyalty to the United States. . . .

It should be noted, to begin with, that all legal restrictions which curtail the civil rights of a single racial group are immediately suspect. That is not to say that all such restrictions are unconstitutional. It is to say that courts must subject them to the most rigid scrutiny. Pressing public necessity may sometimes justify the existence of such restrictions; racial antagonism never can. . . .

Executive Order No. 9066, 7 Fed. Reg. 1407 . . . issued after we were at war with Japan, declared that “the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities. . . .”

Korematsu was not excluded from the Military Area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures, because they decided that the military urgency of the situation demanded that all citizens of Japanese ancestry be segregated from the West Coast temporarily, and finally, because Congress, reposing its confidence in this time of war in our military leaders—as inevitably it must—determined that they should have the power to do just this. There was evidence of disloyalty on the part of some, the military authorities considered that the need for action was great, and time was short. We cannot—by availing ourselves of the calm perspective of hindsight—now say that at that time these actions were unjustified.

Affirmed.

### **Analysis Questions:**

7. How does the author refer to the petitioner’s (Korematsu) loyalty and race?
  
8. How is the war with Japan used to support the author’s opinion?
  
9. What are the three reason given in the third paragraph for excluding Korematsu from the “military area”?

Mr. Justice Roberts, ***dissenting***. (excerpt)

I dissent, because I think the indisputable facts exhibit a clear violation of Constitutional rights.

This is not a case of keeping people off the streets at night as was *Kiyoshi Hirabayashi v. United States*, nor a case of temporary exclusion of a citizen from an area for his own safety or that of the community, nor a case of offering him an opportunity to go temporarily out of an area where his presence might cause danger to himself or to his fellows. On the contrary, it is the case of convicting a citizen as a punishment for not submitting to imprisonment in a concentration camp, based on his ancestry, and solely because of his ancestry, without evidence or inquiry concerning his loyalty and good disposition towards the United States. . . .

The petitioner, a resident of San Leandro, Alameda County, California, is a native of the United States of Japanese ancestry who, according to the uncontradicted evidence, is a loyal citizen of the nation. . . .

The predicament in which the petitioner thus found himself was this: He was forbidden, by Military Order, to leave the zone in which he lived; he was forbidden, by Military Order, after a date fixed, to be found within that zone unless he were in an Assembly Center located in that zone. . . .

The petitioner, prior to his arrest, was faced with two diametrically contradictory orders given sanction by the Act of Congress of March 21, 1942. The earlier of those orders made him a criminal if he left the zone in which he resided; the later made him a criminal if he did not leave.

I had supposed that if a citizen was constrained by two laws, or two orders having the force of law, and obedience to one would violate the other, to punish him for violation of either would deny him due process of law. And I had supposed that under these circumstances a conviction for violating one of the orders could not stand. . . .

I would reverse the judgment of conviction.

Source: *Toyosaburo Korematsu v. United States*, 323 U.S. 214 (1944).

### **Analysis Questions:**

10. Who is the author of this document? What document does he use to base his dissent?
  
  11. What is similar about the description of Korematsu in both the Supreme Court opinion and dissent? What does this say about the defendant (Korematsu)?
  
  12. How does the author use ancestry to justify his opinion? As we were also at war with Germany, why would this justify his dissent?
- The teacher will review the content of the lesson to clarify any misconceptions.
  - The teacher will assess the students with a written assignment that asks students to explain the causes and effects and evaluate the executive order.

Assessment: fully explain your assessment method in detail or create and attach your scoring guide:

**Directions:** Using information from the documents above, you will now write a response to the task below.

**Task:** Using the information from the documents above, and your knowledge of US History, complete the following writing prompt:

During times of war, the government of the United States has at times suspended civil liberties granted to citizens and residents in the Bill of Rights & US Constitution. According to the government, these extreme measures are taken in order to ensure the protection and safety of the entire body of American citizens and residents during uncertain times of war.

In 2 paragraphs, *explain* the causes and effects of the internment of Japanese Americans during World War II and *argue* whether or not the civil liberties of Japanese Americans should have been suspended

during World War II. *Explain* why or why not and identify the opposing argument. Be sure to use and cite at least one document to support your argument.

- Rubric-

\_\_\_\_\_ Two complete paragraphs (Introductory sentences, 5-6 Details, and transition or concluding sentence)

\_\_\_\_\_ Completely answers all aspects of the TASK with many accurate facts and details

\_\_\_\_\_ Is more analytical than descriptive

\_\_\_\_\_ CITES at least one document to support the argument

- The teacher may choose to include an extension; Compare to Lincoln suspending Habeas Corpus and/or the Patriot Act.

### Extension Activity:

#### **Patriot Act - 2001**

The Patriot Act was passed in 2001 in response to the terrorist attacks of September 11th. The law was very controversial - and some saw it as a violation of civil liberties granted to all Americans in the US Constitution.



[This is an article that was originally published in the NY Times in 2013.](https://www.nytimes.com/2011/02/13/opinion/13sun1.html) (you may need to print this article for your students)

<https://www.nytimes.com/2011/02/13/opinion/13sun1.html>

Read the article, and then answer the analysis questions below.

1. In the first paragraph, the authors write, "...The two programs violate both the letter and the spirit of federal law. No statute explicitly authorizes mass surveillance. Through a series of legal contortions, the Obama administration has argued that Congress, since 9/11, intended to implicitly authorize mass surveillance." What does the word "contortion" mean? What does it mean in the context of this article?