

Document-Based Essay in Miniature

High School DBQ Packet (Documents, Document Analysis Questions, and Assignment)

Central Question:

How have the New York State Courts Understood the Scope of Individual Rights?

This Document-Based Activity asks you to **chart the dialog between the New York State Courts, the Federal Courts, and other State Courts (Colorado, for instance) regarding the scope of individual rights.** Generally speaking, New York State courts are more protective of individual rights than federal courts and other State courts as well.

Step One: Understanding the Document-Based Question—Some Tips

It has been said that law and history are arguments about the past that continue into the present. All arguments need evidence and analysis. Crafting an argument that answers a question requires having a strong grasp over what the question is asking and what evidence you have to use to support your claim.

- A. **Define the Key Terms in the Central Question:** This activity asks you to assess how the New York State Courts have understood the *scope (or parameters)* of individual rights., as determined by the Federal and State Constitutions, and by State law. **Define the following terms (in your own words):**
 - a. Scope:
 - b. Individual Rights:
 - c. New York State Courts:
- B. **Read the documents closely** and carefully, paying attention to how each document can serve as evidence to answer the central question.
 - a. As you read each document, **answer the document analysis questions** and define terms in the document. Legal writing is often complicated and uses specialized language. Answering the document analysis questions as you read will help you to craft your thesis statement and generate some preliminary writing on the central question.
 - b. **Annotate and take notes as you read**, connecting your reading of each document to the central question.
 - i. **Highlight** key phrases that stand out to you.

- ii. **Take notes** that show how a document supports or undermines a claim about individual freedom. Be careful not to be formulaic or repetitive.
- iii. **Revise** your notes and analysis of the documents into claims that help to answer the central question.

1. **For example:** Document _____ argues that a citizen's right to privacy includes the areas of _____, _____, _____
_____. This defines the scope of the right to include _____
_____. Therefore, the New York State Courts have understood the individual right of privacy as _____
_____. This is significant because _____

_____.

C. Dissenting Opinions: In certain of these cases there is also a "Dissenting Opinion" or a "Concurring Opinion." **Dissenting Opinions** are written by different Judges on the same panel of Judges deciding the case. Dissenting opinions disagree with the minority opinion, which means that although their opinions do not become law, they offer another important perspective which is important for posterity and should read along with the case. **Concurring Opinions** on the other hand, are opinions also written by different Judges deciding the case, who agree with the result reached by the Court, but offer a different argument in support of the Decision. **When you come across a dissenting or concurring opinion, consider the following questions:**

- a. What do you note about the dissenting and concurring opinions where they occur in these cases?
- b. What might dissenting and concurring opinions tell you about the nature of the Court in general, or of the matter under consideration?
- c. And how does the dissenting and the concurring opinion differ from the majority opinion?

Document A: Freedom of Expression in the *NYS Constitution* (Article 1, Sections 3 and 8)

Source: Article 1, Section 8 of the New York State Constitution

§8. Every citizen may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. (Amended by vote of the people November 6, 2001.)

Source: Article 1, Section 3 of the New York State Constitution

The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all humankind; and no person shall be rendered incompetent to be a witness on account of his or her opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Document Analysis Questions:

1. What are the rights of a citizen of New York State when it comes to freedom of expression?
2. How can we interpret the statement: “being responsible for the abuse of that right?”
3. What might the “good motives and for justifiable ends” clause mean for interpreting the right of freedom of expression?
4. What are the rights of a citizen of New York State when it comes to freedom of religion? What is significant about this freedom?

Case 2: "Stop and Frisk"

Document G: Security against unreasonable searches, seizures and interceptions in the *New York State Constitution, Section 12*

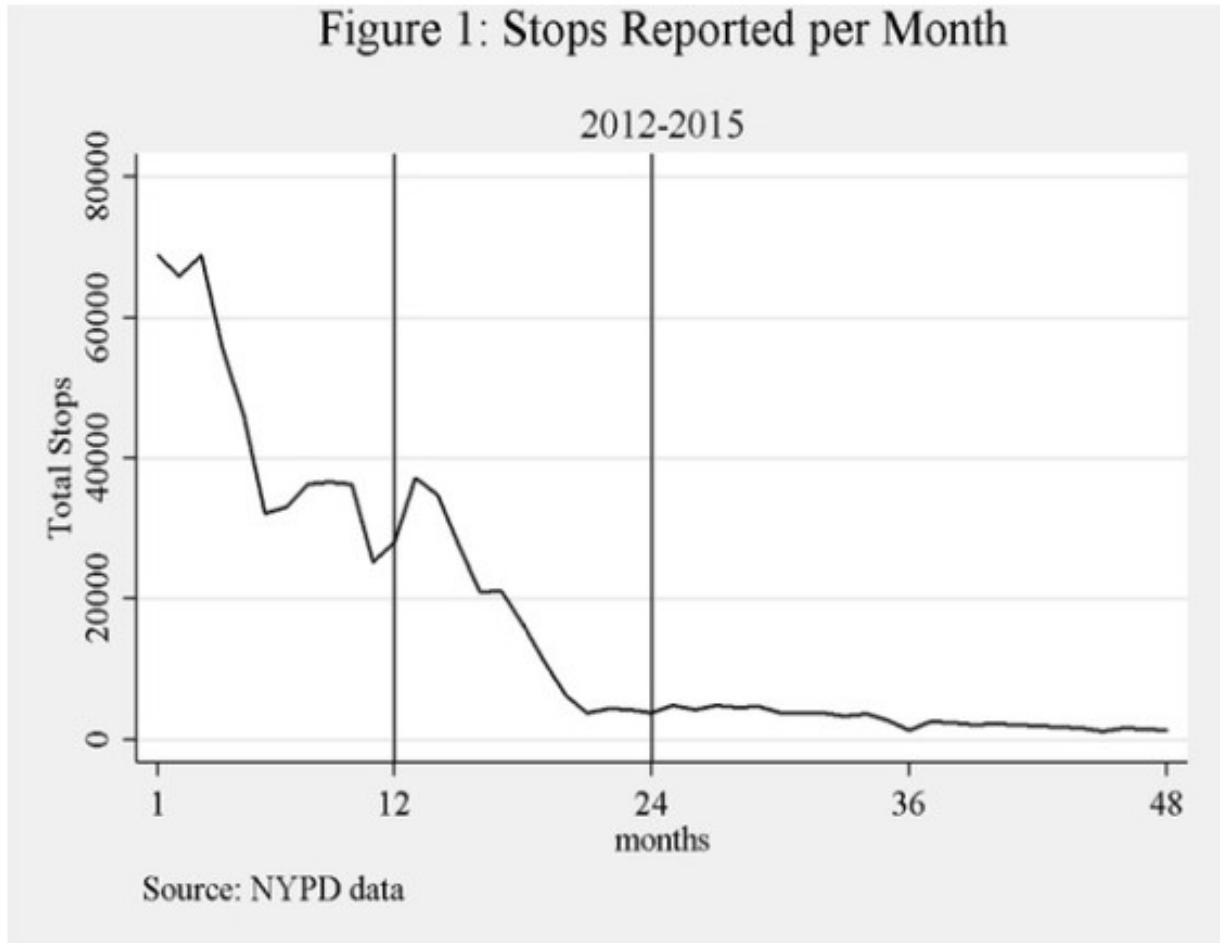
§12. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. The right of the people to be secure against unreasonable interception of telephone and telegraph communications shall not be violated, and ex parte orders or warrants shall issue only upon oath or affirmation that there is reasonable ground to believe that evidence of crime may be thus obtained, and identifying the particular means of communication, and particularly describing the person or persons whose communications are to be intercepted and the purpose thereof.

(New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

Document Analysis Questions:

1. Underline the words and phrases that best demonstrate the difference between these sections of the *New York State Constitution* and the *Federal Constitution*. Look back over the language you underlined and write to explain these differences.
2. In what ways does *Section 12* of the *New York State Constitution* differ from the 4th Amendment to the *United States (Federal) Constitution*?
3. Write to explore how concerns about privacy on the internet and in the social media age relate to these documents. Are the Amendments out of touch with our current time and place? What amendments to either the state or federal constitution would you propose that would make the document more relevant to our contemporary moment?

Document H: Stops and Searches of Citizens by the NYPD 2012-2015



Document Analysis Questions:

1. In 1-2 sentences, summarize the information being measured in this graph.
2. What is the argument the graph is making? What do you think motivated the author to create this graph?

Document I: Racial Distribution of Citizens Stopped by "Stop and Frisk" Policies in New York City, 2013-15

Table 1: Racial Distribution of Suspects Stopped, 2013-2015

Year	Stops (N=)	Black (%)	Hispanic (%)	White (%)	Asian/PI/NA (%)	Other (%)	Unknown (%)
2013	191,851	54.4	28.6	10.8	3.9	1.48	0.6
2014	45,787	53.1	27.2	11.9	5.4	1.6	0.6
2015	22,563	52.9	28.8	11.1	5.2	1.3	0.5

Note: PI=Pacific Islander; NA=Native American.

Document Analysis Questions:

1. In 1-2 sentences, summarize the information being conveyed in this table. What differences do you notice between 2013-2015 regarding "Racial Distribution of Suspects Stopped"?

2. How does this data compare to the information conveyed in the other documents. Do these numbers paint a portrait of the rights outlined in the excerpts from the State and Federal Constitutions? Why or why not? Be specific.

Working Towards Your Document-Based Essay in Miniature

Step One: Look over your answers to the Document Analysis Questions and your notes from the Case Law Jigsaw. Make a list of the common themes that you notice across your own writing.

- Which themes are shared by the most documents?
- What differences across documents do you notice?
- What relationship between state and federal documents when it comes to the protection of individual rights? Which is more protective of individual freedom?
- How does the information in these documents relate to the current moment? Are these rights still relevant?

Step Two: Return to the central question—How have the New York State Courts understood the scope of individual rights? Which of the themes you’ve listed speaks to this question? Write to explore how and why.

Step Three: Look over your writing from **Step Two**. Revise your ideas so that they read as a claim or thesis. In other words, you will craft a statement that takes a stance regarding how the New York State Courts understood the scope of individual rights by focusing on a common theme you’ve identified. Make sure to ask yourself:

- Why do I care about this?
- Why should others care about this?

Step Four: Return again to your responses to the documents (either through Document Analysis Questions, reading notes, or the Case Law Jigsaw).

- Star or recopy excerpts of your own writing that you think speak to the thesis you wrote in **Step Three**.
- **Highlight or underline evidence** in the documents that you think will help you to support and prove your thesis.
- Organize these pieces of writing and quotations into **an outline**:
 - Begin with your thesis
 - Each subsequent item in the outline should include evidence from the document(s) as well as a claim that helps to develop your central thesis.

Step Five: Now you are ready to draft your essay! A few helpful tips:

- Begin with a **hook**, writing that will grab your audience’s attention as you introduce your thesis statement.
- Make sure to use material from the primary documents as **evidence**. This should come in the form of **direct quotations with correct citations**. Your essay should include reference to at least five of the documents you’ve worked with.
- Make sure to **write around your evidence**—introduce your quotes and write to explain and analyze how and why the document supports or challenges your thesis.
- If you are interested in an extra challenge, try to end the essay with a new set of “central questions” that further complicate the idea of the scope of Individual Rights understood by the New York State Courts.