C.2.5

• The student will Distinguish how the Constitution safeguards and limits individual rights.
Although the Constitution safeguards rights, it is reasonable and fair to place limits on most rights. This means that rights are not absolute and can be limited in certain situations. Over the years, courts in the United States have developed various guidelines for limiting individual rights. These guidelines are used to help decide when individual rights interfere with other important rights and interests, including the rights of other individuals. Citizens may not exercise their freedoms to the full extent that they might like because doing so would threaten the common good. Federal and state laws, and U.S. Supreme Court decisions, have all placed limitations on First Amendment freedoms in order to protect the public interest. Rights and freedoms have been safeguarded because they are a foundation of the system of government in the United States while they are also limited in order to insure that the government is stable.
C.2.5 Vocab.

**common good** - beliefs or actions that are seen as a benefit to the larger community rather than individual interests, also known as the public good

**ex post facto law** - a law that makes an act a crime after the crime has been committed

**federal government** - a system of government where power is shared between a central government and states, government of the United States

**First Amendment** – an amendment to the U.S. Constitution prohibiting Congress from establishing a religion, and from interfering with freedom of religious exercise, press, speech, assembly, or petition

**habeas corpus** - the principle that keeps the government from holding a citizen indefinitely without showing cause

**public interest** - common benefit, the general benefit of the public

**safeguard** - to protect
Freedom of expression includes the **First Amendment** rights of free speech, press, assembly, and petition. The unlimited right to free expression may be dangerous to public safety, national security, or other important interests. If the danger is great enough, the courts have allowed freedom of expression to be limited. Also, some rights may be limited when they conflict with other rights or with other important values and interests. In situations where the rights of one citizen may conflict with the rights of other citizens, limitations to protect everyone’s rights may be put into place.
SS.7.C.2.5 Benchmark Clarification 2: Students will examine rationales for limited individual rights.

In the landmark case *Schenck v. U.S.* (1919), the Supreme Court set the *precedent* of the “balancing test.” This balancing test focuses on the relationship between individual rights and the *public interest*. Rights may be limited when the public interest is threatened or at risk. The U.S. Supreme Court has ruled on different occasions that the government may be allowed to limit individual rights in order to protect the public interest. In these situations, there must be a balance of *individual rights*, the rights of others, and the *common good*. 
C.2.5 Vocab

common good - beliefs or actions that are seen as a benefit to the larger community rather than individual interests, also known as the public good

First Amendment - an amendment to the U.S. Constitution prohibiting Congress from establishing a religion, and from interfering with freedom of religious exercise, press, speech, assembly, or petition

individual rights - rights guaranteed or belonging to a person

precedent - a court decision in an earlier case with facts and legal issues similar to those in a case currently before a court

public interest - common benefit, the general benefit of the public
SS.7.C.2.5 Benchmark Clarification 3: Students will use scenarios to examine the impact of limits on individual rights on social behavior.

The U.S. Supreme Court has ruled that the government sometimes may be allowed to limit individual rights, specifically freedom of speech and freedom of the press. In general, there must be a balance of individual rights, the rights of others, and the common good.

Listed below are additional conditions used to limit freedom of speech and freedom of the press.

- Clear and Present Danger – Will this act of speech create a dangerous situation?
- Fighting Words – Will this act of speech create a violent situation?
- Libel – Is this information false or does it put true information appear false?
- Conflict with Government Interests – During times of war the government may limit acts of speech due to national security.
SS.7.C.2.5 Benchmark Clarification 4: Students will examine the role of the judicial branch of government in protecting individual rights.

The judicial branch plays an important role in how the government protects individual rights. The writers of the U.S. Constitution designed an independent judiciary where the judicial branch would have freedom from the executive and legislative branches. The U.S. Constitution guaranteed that judges would serve “during good behavior” and would be protected from any decrease in their salaries. Both of these features prevent the other two branches from removing judges or decreasing their salaries if they don’t like a judge’s opinion (decision) on a case. This gave the judicial branch the freedom to make decisions based on the law and not based on pressure from the other two branches.
SS.7.C.2.5 Benchmark Clarification 4: Students will examine the role of the judicial branch of government in protecting individual rights.

The writers of the U.S. Constitution wanted to create a federal government that was effective and powerful, but one that did not step on the rights of the individual. In Article 1, Section 9 of the U.S. Constitution, there are two key individual rights that are protected, or safeguarded:

The first is in this statement:

"The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

**Habeas corpus** is an important individual right. This statement from Article I, Section 9 means that an authority has to prove to a court why it is holding someone. If the government cannot show why a person is being held in jail, that person must be released.

The second is in this statement:

"No... *ex post facto* Law shall be passed."

An **ex post facto** law is one that makes an act a crime after it has been committed.

The appellate process in the federal and state court systems also protect the rights of the individual. The **appellate process** allows citizens to appeal a decision from a lower court to a higher court to make sure that the trial was conducted properly.
SS.7.C.2.5 Benchmark Clarification 4: Students will examine the role of the judicial branch of government in protecting individual rights.

By ensuring that the rights of individuals would be protected, this created a system where the powers of the federal government also became limited. The judicial branch interprets the U.S. Constitution and establishes guidelines and sets precedents on when and how individual rights are safeguarded and limited.
<table>
<thead>
<tr>
<th>Term</th>
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<td>habeas corpus</td>
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<td>independent judiciary</td>
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