***CASE STUDY 3: WAR VS. INDIVIDUAL RIGHTS*** Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This case study focuses on the following civics vocabulary term:

* **forced internment** - the confinement of a group of people, especially during a war

**Directions:** You may work in groups of 2 to 3 for this assignment. Answer the following questions in the space provided.

1. What do you think when you hear the term “individual rights"?
2. Are individual rights important to you? Why?
3. Do you have a specific individual right that is important to you? Why is it important?
4. What would you do if someone attempted to take that right away from you or break it up in some way?
5. What if the U.S. was at war? Would you be willing to have that right taken away from you? Why or why not?
6. Under what circumstances do you think the U.S. government has the right to take away or limit individual rights during wartime?

Read the following summary of an executive order that was given by President Roosevelt during World War Two and answer the questions in the chart that follows.

Executive Order *From The President*

Authorizing the Secretary of War to Prescribe Military Areas

The successful prosecution of the war requires every possible protection against sabotage to national-defense bases, materials and unites used to defend the nation.

As Commander and Chief of the United States, I hereby authorize and direct the Secretary of War, and the Military Commanders to take any action necessary to keep the country safe, including creating military areas where by citizens or anyone living within the jurisdiction of the United States may be required to remain in or otherwise not be permitted to leave the United States on the grounds of protecting the United States from any and all threats. This means that the Secretary of War is hereby authorized to provide all residents within military areas any transportation, food, shelter, and other accommodations that may be necessary, to accomplish the purpose of this order.

I hereby further authorize and direct the Secretary of War and all Military Commanders to take any steps that may be necessary to accomplish the goals of this order and request the assistance of state and local agencies in order to carry out the goals of this order including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

Franklin D. Roosevelt

The White House,

February 19, 1942.

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| **Question** | **Evidence from Text**  | **Answer** |
| What will this Executive Order do? |  |  |
| What reasons are used to justify this order?  |  |  |
| To whom did President Roosevelt give authority to carry out the evacuation? |  |  |
| What are two things in this order that the president authorized his military to do? |  |  |

**Background Information to this Executive Order**

Read **the following article and answer the questions that follow.**

The Japanese attacked the port of Pearl Harbor, Hawaii, on December 7th 1941.  After this, the American government was worried that the West Coast of the United States would also be attacked.  Many Americans were angered by the bombing of Pearl Harbor and blamed Japanese Americans who were living in the United States.  Some people thought that the many Japanese Americans who lived there would help the Japanese military.  But at the time, there was no known case of spying from any person of Japanese descent.

1. **What happened on December 7th 1941?**

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1. **What were some Americans worried about following the attack on Pearl Harbor?**

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In February, 1942, President Franklin D. Roosevelt signed an executive order allowing the military to use curfews and to move Japanese and Japanese Americans to special camps.  Japanese Americans were only allowed to bring very basic items with them.  Moving people to camps is called **forced internment.**

1. **What does forced internment mean**?

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**Fred Korematsu** was an American citizen.  He was born in America and had Japanese parents. He wanted to be in the United States military, but he was not healthy enough. Korematsu did not want to go to the internment camps. He moved away and changed the way he looked to avoid the order. But he was arrested later and sent to a camp.

1. **Who was Fred Korematsu? What happened to him?**

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Korematsu took his case to the courts. He said that Congress, the President, and the military authorities did not have the power to send people to internment camps. He also said that the government was discriminating against him because of his race.

The government argued that the evacuation of all Japanese Americans was necessary because there was evidence that some were working for the Japanese government.  The government said that because there was no way to tell the loyal from the disloyal, all Japanese Americans had to be treated as though they were disloyal. The federal appeals court agreed with the government. Korematsu appealed this decision, and the case came before the U.S. Supreme Court.

1. **Do you agree that what happened to Korematsu was wrong? Why or why not?**

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1. **Look at a copy of the Constitution.  *Which part (Article and Section) describes the war power of the President?  Which Article and Section describe the war powers of the Congress? What are the war powers of the President and Congress?***

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1. **Do the powers of the president and or Congress allow the government to do what it did? Why or why not?**

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The United States was also at war with Germany and Italy. People of German and Italian descent were also interned in the United States, but there were fewer people interned from these groups than who had Japanese ancestors.

1. **Why do you think people whose ancestors were from Japan were treated differently?**

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1. **In times of war, governments have to balance the safety of the country with citizens’ rights**. **In your opinion, did internment of Japanese descendants strike a good balance?**

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1. . The following table lists arguments in the *Korematsu*v.*United States* U.S. Supreme court case. Read through each argument and decide whether it supports **Korematsu’s side against internment** (K), **the United States’ side in favor of internment** (US), **both sides** (BOTH), or **neither side** (N). *In the column labeled “Decision” decide if the argument supports Korematsue, supports the government, supports both sides or “neither*”.

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| **Argument** | **Decision**  |
| The Fifth Amendment of the Constitution states: No person shall…be deprived of life, liberty, or property, without due process of law….* By subjecting Japanese and Japanese Americans to internment as a group, the United States has denied them due process of law.  Proper due process requires individuals to be proven guilty through individual, established procedures.
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| The Fourteenth Amendment of the Constitution states: No State shall…deny to any person within its jurisdiction the equal protection of the laws.* Though the Fourteenth Amendment refers to states, it also applies (through the Fifth Amendment) to the federal government.  The government is obliged to provide equal rights; if the rights of a particular racial group are taken away, the reason for doing so must pass the highest possible standards.
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| Article II, Section 2 of the Constitution gives the President the power as commander in chief of the military.  Commanding the military includes issuing orders as necessary to help the military carry out its duties to protect the nation.  Such orders include Executive Order 9066, which specifically allowed restrictions on the movement and presence of groups of people in certain areas of the country. |  |
| German Americans and Italian Americans were treated differently from the Japanese during World War II.  Though some were interned and suffered discrimination, they were not gathered up as a group without hearing or evidence as the Japanese were. |  |
| In *Hirabayashi* v.*United States (1943)*, the Supreme Court supported the conviction of a Japanese American who violated a curfew order imposed through the same presidential Executive Order and Congressional Act at issue in this case. |  |
| No Japanese or Japanese American had been accused of or convicted for espionage or sabotage in the months between the attack on Pearl Harbor and the beginning of internment. |  |
| There was no evidence that Fred Korematsu engaged in any spying or criminal activity. |  |
| The armed services must protect a society, not merely its Constitution. |  |
| We may not be able to keep military actions within the boundaries of the Constitution, but that does not mean that the Constitution should be misused to approve of everything the military thinks is necessary. |  |
| If the Supreme Court issues a ruling supporting racial discrimination in this case, it becomes a principle for supporting racial discrimination in any case where an urgent need is claimed. |  |

**11**. Discuss in your group how you think you would rule on the case. You may come to a consensus, or you may take a vote and have a split decision. What is the reason for your opinion?