entire life. So yes, it is crucial to my sense of citizenship, to my ability to identify with the spirit and the interests of America, to know that this country, however imperfectly, recognizes its past sins and wishes to correct them.

Yet good intentions can blind us to the effects they generate when implemented. In our society affirmative action is, among other things, a testament to white good will and to black power, and in the midst of these heavy investments its effects can be hard to see. But after 20 years of implementation I think that affirmative action has shown itself to be more bad than good and that blacks—whom I will focus on in this essay—now stand to lose more from it than they gain.

In talking with affirmative-action administrators and with blacks and whites in general, I found that supporters of affirmative action focus on its good intentions and detractors emphasize its negative effects. It was virtually impossible to find people outside either camp. The closest I came was a white male manager at a large computer company who said, "I think it amounts to reverse discrimination, but I'll put up with a little of that for a little more diversity." But this only makes him a half-hearted supporter of affirmative action. I think many people who don't really like affirmative action support it to one degree or another anyway.

I believe they do this because of what happened to white and black Americans in the crucible of the 1960's, when whites were confronted with their racial guilt and blacks tasted their first real power. In that stormy time white absolution and black power coalesced into virtual mandates for society. Affirmative action became a meeting ground for those mandates in the law. At first, this meant insuring equal opportunity. The 1964 civil-rights bill was passed on the understanding that equal opportunity would not mean racial preference. But in the late 60's and early 70's, affirmative action underwent a remarkable escalation of its mission from simple anti-discrimination enforcement to social engineering by means of quotas, goals, timetables, set-asides and other forms of preferential treatment.

Legally, this was achieved through a series of executive orders and Equal Employment Opportunity Commission guidelines that allowed racial imbalances in the workplace to stand as proof of racial discrimination. Once it could be assumed that discrimination explained racial imbalances, it became easy to justify group remedies to presumed discrimination rather than the normal case-by-case redress.

Even though blacks had made great advances during the 60's without quotas, the white mandate to achieve a new racial innocence and the black mandate to gain power, which came to a head in the very late 60's, could no longer be satisfied by anything less than racial preferences. I don't think these mandates, in themselves, were wrong, because whites clearly needed to do better by blacks and blacks needed more real power in society. But as they came together in affirmative action, their effect was to distort our understanding of racial discrimination. By making black the color of preference, these mandates have reburdened

society with the very marriage of color and preference (in reverse) that we set out to eradicate.

When affirmative action grew into social engineering, diversity became a golden word. Diversity is a term that applies democratic principles to races and cultures rather than to citizens, despite the fact that there is nothing to indicate that real diversity is the same thing as proportionate representation. Too often the result of this, on campuses for example, has been a democracy of colors rather than of people, an artificial diversity that gives the appearance of an educational parity between black and white students that has not yet been achieved in reality. Here again, racial preferences allow society to leapfrog over the difficult problem of developing blacks to parity with whites and into a cosmetic diversity that covers the blemish of disparity—a full six years after admission, only 26 to 28 percent of blacks graduate from college.

Racial representation is not the same thing as racial development. Representation can be manufactured; development is always hard earned. But it is the music of innocence and power than we hear in affirmative action that causes us to cling to it and to its distracting emphasis on representation. The fact is that after 20 years of racial preferences the gap between median incomes of black and white families is greater than it was in the 1970's. None of this is to say that blacks don't need policies that insure our right to equal opportunity, but what we need more of is the development that will let us take advantage of society's efforts to include us.

I think one of the most troubling effects of racial preferences for blacks is a kind of demoralization. Under affirmative action, the quality that earns us preferential treatment is an implied inferiority. However this inferiority is explained—and it is easily enough explained by the myriad deprivations that grew out of our oppression—it is still inferiority. There are explanations and then there is the fact. And the fact must be borne by the individual as a condition apart from the explanation, apart even from the fact that others like himself also bear this condition. In integrated situations in which blacks must compete with whites who may be better prepared, these explanations may quickly wear thin and expose the individual to racial as well as personal self-doubt. (Of course whites also feel doubt, but only personally, not racially.)

What this means in practical terms is that when blacks deliver themselves into integrated situations they encounter a nasty little reflex in whites, a mindless, atavistic reflex that responds to the color black with negative stereotypes, such as intellectual ineptness. I think this reflex embarrasses most whites today and thus it is usually quickly repressed. On an equally atavistic level, the black will be aware of the reflex his color triggers and will feel a stab of horror at seeing himself reflected in this way. He, too, will do a quick repression, but a lifetime of such stabbings is what constitutes his inner realm of racial doubt. Even when the black sees no implication of inferiority in racial preferences, he knows that whites do, so that—consciously or unconsciously—the result is virtually the same. The

effect of preferential treatment—the lowering of normal standards to increase black representation—puts blacks at war with an expanded realm of debilitating doubt, so that the doubt itself becomes an unrecognized preoccupation that undermines their ability to perform, especially in integrated situations.

I believe another liability of affirmative action comes from the fact that it indirectly encourages blacks to exploit their own past victimization. Like implied inferiority, victimization is what justifies preference, so that to receive the benefits of preferential treatment one must, to some extent, become invested in the view of one's self as a victim. In this way, affirmative action nurtures a victim-focused identity in blacks and sends us the message that there is more power in our past suffering than in our present achievements.

When power itself grows out of suffering, blacks are encouraged to expand the boundaries of what qualifies as racial oppression, a situation that can lead us to paint our victimization in vivid colors even as we receive the benefits of preference. The same corporations and institutions that give us preference are also seen as our oppressors. At Stanford University, minority-group students—who receive at least the same financial aid as whites with the same need—recently took over the president's office demanding, among other things, more financial aid.

But I think one of the worst prices that blacks pay for preference has to do with an illusion. I saw this illusion at work recently in the mother of a middle-class black student who was going off to his first semester of college: "They owe us this, so don't think for a minute that you don't belong there." This is the logic by which many blacks, and some whites, justify affirmative action—it is something "owed," a form of reparation. But this logic overlooks a much harder and less digestible reality, that it is impossible to repay blacks living today for the historic suffering of the race. If all blacks were given a million dollars tomorrow it would not amount to a dime on the dollar for three centuries of oppression, nor would it dissolve the residues of that oppression that we still carry today. The concept of historic reparation grows out of man's need to impose on the world a degree of justice that simply does not exist. Suffering can be endured and overcome, it cannot be repaid. To think otherwise is to prolong the suffering.

Several blacks I spoke with said they were still in favor of affirmative action because of the "subtle" discrimination blacks were subject to once they were on the job. One photojournalist said, "They have ways of ignoring you." A black female television producer said: "You can't file a lawsuit when your boss doesn't invite you to the insider meetings without ruining your career. So we still need affirmative action." Others mentioned the infamous "glass ceiling" through which blacks can see the top positions of authority but never reach them. But I don't think racial preferences are a protection against this subtle discrimination; I think they contribute to it.

In any workplace, racial preferences will always create two-tiered populations composed of [the] preferred and unpreferred. In the case of blacks and whites, for instance, racial preferences imply that whites are superior just as they imply that

blacks are inferior. They not only reinforce America's oldest racial myth but, for blacks, they have the effect of stigmatizing the already stigmatized.

I think that much of the "subtle" discrimination that blacks talk about is often (not always) discrimination against the stigma of questionable competence that affirmative action marks blacks with. In this sense, preferences make scapegoats of the very people they seek to help. And it may be that at a certain level employers impose a glass ceiling, but this may not be against the race so much as against the race's reputation for having advanced by color as much as by competence. This ceiling is the point at which corporations shift the emphasis from color to competency and stop playing the affirmative-action game. Here preference backfires for blacks and becomes a taint that holds them back. Of course one could argue that this taint, which is after all in the minds of whites, becomes nothing more than an excuse to discriminate against blacks. And certainly the result is the same in either case—blacks don't get past the glass ceiling. But this argument does not get around the fact that racial preferences now taint this color with a new theme of suspicion that makes blacks even more vulnerable to discrimination. In this crucial yet gray area of perceived competence, preferences make whites look better than they are and blacks worse, while doing nothing whatever to stop the very real discrimination that blacks may encounter. I don't wish to justify the glass ceiling here, but only suggest the very subtle ways that affirmative action revives rather than extinguishes the old rationalizations for racial discrimination.

I believe affirmative action is problematic in our society because we have demanded that it create parity between the races rather than insure equal opportunity. Preferential treatment does not teach skills, or educate, or instill motivation. It only passes out entitlement by color, a situation that in my profession has created an unrealistically high demand for black professors. The social engineer's assumption is that this high demand will inspire more blacks to earn Ph.D's and join the profession. In fact, the number of blacks earning Ph.D's has declined in recent years. Ph.D's must be developed from preschool on. They require family and community support. They must acquire an entire system of values that enables them to work hard while delaying gratification.

It now seems clear that the Supreme Court, in a series of recent decisions, is moving away from racial preferences. It has disallowed preferences except in instances of "identified discrimination," eroded the precedent that statistical racial imbalances are prima facie evidence of discrimination, and, in effect, granted white males the right to challenge consent degrees that use preference to achieve racial balances in the workplace. Referring to this and other Supreme Court decisions, one civil-rights leader said, "Night has fallen . . . as far as civil rights are concerned." But I am not so sure. The effect of these decisions is to protect the constitutional rights of everyone, rather than to take rights away from blacks. Night has fallen on racial preferences, not on the fundamental rights of black Americans. The reason for this shift, I believe, is that the white mandate

for absolution from past racial sins has weakened considerably in the 1980's. Whites are now less willing to endure unfairness to themselves in order to grant special entitlements to blacks, even when those entitlements are justified in the name of past suffering. Yet the black mandate for more power in society has remained unchanged. And I think part of the anxiety many blacks feel over these decisions has to do with the loss of black power that they may signal.

But the power we've lost by these decisions is really only the power that grows out of our victimization. This is not a very substantial or reliable power, and it is important that we know this so we can focus more exclusively on the kind of development that will bring enduring power. There is talk now that Congress may pass new legislation to compensate for these new limits on affirmative action. If this happens, I hope the focus will be on development and anti-discrimination, rather than entitlement, on achieving racial parity rather than jerry-building racial diversity.

But if not preferences, what? The impulse to discriminate is subtle and cannot be ferreted out unless its many guises are made clear to people. I think we need social policies that are committed to two goals: the educational and economic development of disadvantaged people regardless of race and the eradication from our society—through close monitoring and severe sanctions—of racial, ethnic or gender discrimination. Preferences will not get us to either of these goals, because they tend to benefit those who are not disadvantaged—middle-class white women and middle-class blacks—and attack one form of discrimination with another. Preferences are inexpensive and carry the glamour of good intentions—change the numbers and the good deed is done. To be against them is to be unkind. But I think the unkindest cut is to bestow on children like my own an undeserved advantage while neglecting the development of those disadvantaged children in the poorer sections of my city who will most likely never be in a position to benefit from a preference. Give my children fairness; give disadvantaged children a better shot at development—better elementary and secondary schools, job training, safer neighborhoods, better financial assistance for college and so on. A smaller percentage of black high school graduates go to college today than 15 years ago; more black males are in prison, jail or in some other way under the control of the criminal-justice system than in college. This, despite racial preferences.

The mandates of black power and white absolution out of which preferences emerged were not wrong in themselves. What was wrong was that both races focused more on the goals of those mandates than on the means to the goals. Blacks can have no real power without taking responsibility for their own educational and economic development. Whites can have no racial innocence without earning it by eradicating discrimination and helping the disadvantaged to develop. Because we ignored the means, the goals have not been reached and the real work remains to be done.

Summary Questions

1. Can past discrimination against minorities be addressed by present policies that give preferences to these groups? Should such policies be adopted?
2. How do affirmative action policies affect the ways minorities view themselves? Do these alleged psychological injuries justify abandoning the entire notion of affirmative action?

The Frame Game

CRUZ on death row in Illinois in 1995

Illinois prosecutors are charged with falsifying evidence in a murder trial. And around the country, people wonder, Can cops and district attorneys be trusted?

By ADAM COHEN

RICH HEIN—SUN-TIMES

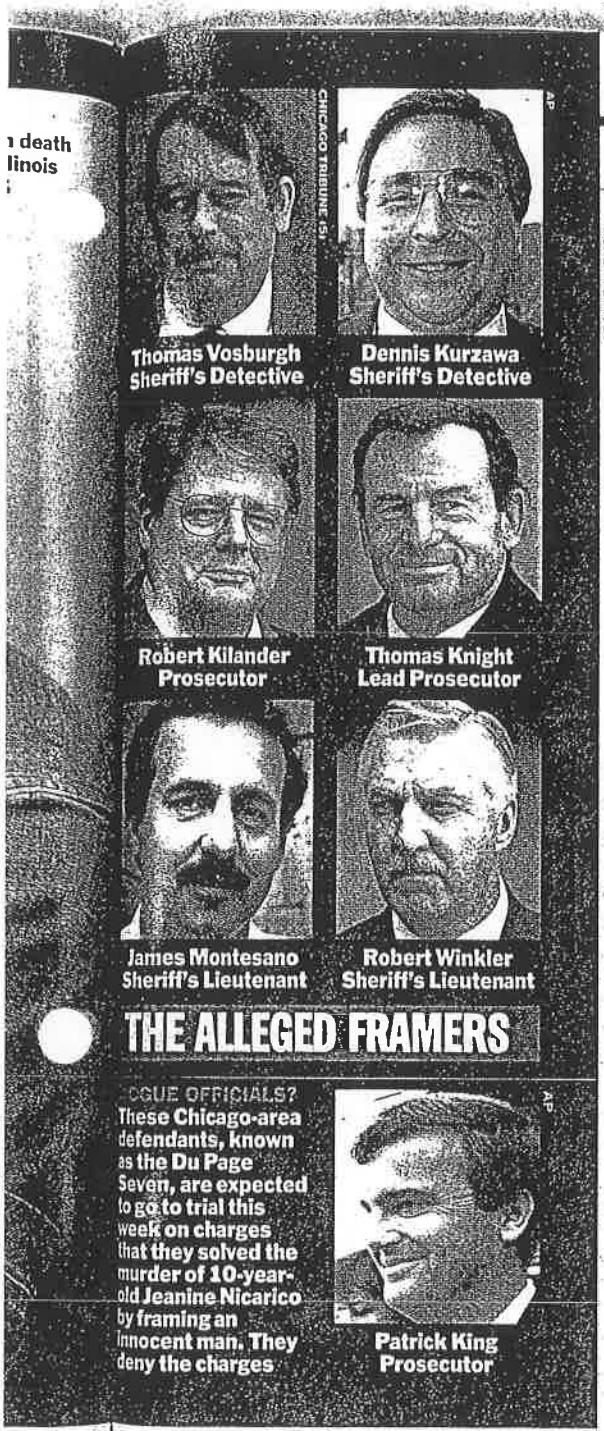
CRUZ at a recent press conference

IT WAS THE KIND OF crime that breaks a community's heart. Ten-year-old Jeanine Nicarico, home from school with a cold, was taken from her suburban Chicago house in broad daylight, raped and killed. Her badly beaten body was discovered two days later in a wooded area six miles away. The public demanded that the murder be solved, and the police obliged. Du Page County residents slept a little better after police arrested Rolando Cruz, a street tough from a nearby town. Local prosecutors finished the job, presenting a solid case that landed Cruz on Illinois' death row.

The only trouble was that Cruz didn't kill Jeanine Nicarico. A sheriff's officer later admitted that he testified inaccurately about a key piece of evidence used at Cruz's trial. Cruz was freed in 1995, after 11 years in jail. Another man—a convicted murderer and rapist whose earlier confession to the murder had been ignored—was linked to the crime by DNA. After an independent investigation, seven prosecutors and law-enforcement officials were indicted on charges of fabricating and suppressing evidence to frame Cruz.

The trial of the Du Page Seven, as they are known, is expected to start this week, and it could make history. If they are found guilty, the prosecutors in the group will be the first in the nation ever convicted of crimes for railroading an innocent man. The charges, which the defendants deny, have caused an uproar in Illinois. The state has freed two men from its death row this year after investigations supported their innocence.

The Illinois cases of errant prosecution bring a new element to the growing national debate about overzealous law-enforcement agents, a furor stoked by high-profile police shootings in New York and California as well as "racial profiling" by New Jersey state troopers. The question is whether law enforcement, amid its extraordinary suc-



cess in pushing the crime rate down, is showing too little regard for individual rights—especially those of blacks and Hispanics, who are most often targets of alleged misconduct. "We cannot have the kind of country we want if people are afraid of those folks who are trying to protect them," President Clinton said during his press conference last Friday, after promising to seek $40 million from Congress for improved police training and recruitment.

Even supporters admit Cruz went looking for trouble—and he found it. After the Nicarico slaying, police searched for leads in Aurora, the working-class town where Cruz lived. Perhaps prodded by a $10,000 reward, Cruz began telling wild stories. The police took him on as an informant, settling him in a witness-protection housing complex, while he told what one of his lawyers concedes were lies. "It was a big game," says Northwestern University law professor Lawrence Marshall, who represented Cruz on appeal. "Nobody's defending Rolando for playing that game, but it doesn't deserve a death sentence."

That's where it was headed. Investigators began to suspect that the talkative Cruz was involved in the killing, but they had no solid evidence linking him to it. Then the so-called vision statement materialized. Detectives say Cruz told them he had a vision of Nicarico's killing, including details only the killer could know. The statement was the most damning piece of evidence against Cruz when he was tried and convicted of the crime. Still, it was always a little fishy. Despite its importance, the detectives hadn't tape-recorded it or even taken notes about it. But a prosecutor, Thomas Knight, claimed that detectives had told him about the vision statement. Cruz was convicted and sentenced to death in 1985.

While Cruz was on death row, another young girl was killed. The man who confessed to that murder, Brian Dugan, was the man who had admitted killing Nicarico. When Marshall and a team of prominent lawyers stepped in, they collected DNA evidence proving Cruz couldn't have committed the rape. They also hammered away at the vision statement. At Cruz's third trial, Lieutenant James Montesano testified that he was on vacation in Florida on the day his detectives claimed they had called him about Cruz's vision. The judge angrily dismissed the case and set Cruz free.

Under pressure to find out what went wrong, Du Page County appointed a special prosecutor, William Kunkle, who had made his name putting serial killer John Wayne Gacy on death row. Kunkle concluded that the vision statement was fabricated and that Cruz had been framed. He filed charges against three former Du Page prosecutors (two of them later became a sitting judge and an assistant U.S. Attorney) and four sheriff's deputies. The defendants all insist they are innocent, and the Nicarico family has rallied to their defense. The trial, likely to last more than a month, may be tough going for prosecutors. They will need to persuade a jury that a phalanx of law officers tried their best to send an innocent man to the electric chair. Such a thing should be unthinkable. Sadly, it is not.

The Du Page Seven trial comes at a moment of extraordinary soul-searching for the Illinois justice system. Earlier this month Anthony Porter, who has an IQ of 51, was freed from death row after serving 16 years for a double murder he did not commit. At the time of his trial, Por could not afford an investigator to work on his case, and his lawyer called a grand total of three defense witnesses. Porter was freed when a Northwestern University journalism class investigated his case and obtained a confession from another man. A key prosecution witness, who later recanted, now says police threatened him into testifying against Porter.

In another Illinois case this month, four men who served up to 18 years for a double murder they did not commit reached a $36 million settlement with Cook County. In their suits, the so-called Ford Heights Four charged that the sheriff's office fabricated evidence and ignored or hid leads pointing to the four men who actually committed the crime. In the past dozen years, Illinois has freed 11 men from death row—one less than it has executed since 1977. Nine of the freed men were black or Latino.

BRIAN DUGAN had been ignored when he confessed to killing Jeanine Nicarico

The frame game some Illinois authorities have allegedly been playing hits the headlines at a time of heightened national concern over aggressive law-enforcement practices. In New York City, authorities have been on the defensive since last month, when a West African street peddler named Amadou Diallo was killed by police. He died in a barrage of 41 bullets as he entered his Bronx apartment building. The police say the officers fired on Diallo because they thought he was reaching for a gun. He was unarmed.

The Diallo killing has prompted a v. of protests and civil disobedience. More than 140 demonstrators, including Con-

gressman Charles Rangel, former Mayor David Dinkins and N.A.A.C.P. president Kweisi Mfume, have been arrested in front of New York's police headquarters in the past two weeks. The protests are designed to pressure the police department—and especially Mayor Rudolph Giuliani—into addressing racism and brutality in the ranks. And New York City public advocate Mark Green last week called on Police Commissioner Howard Safir to resign, saying Safir has failed to deal adequately with the allegations against his department.

The officers who shot Diallo were members of the élite street-crimes unit, a plainclothes force charged with getting guns off the street. The unit makes up 1% of the police department but seizes 40% of guns recovered in New York. Critics say the unit, whose unofficial motto is "We own the night," cuts legal corners and is too quick to resort to force. "You have to have a new paradigm of policing," says Ron Daniels, executive director of the Center for Constitutional Rights. "This gung-ho, military-type, fraternity-style policing has got to change."

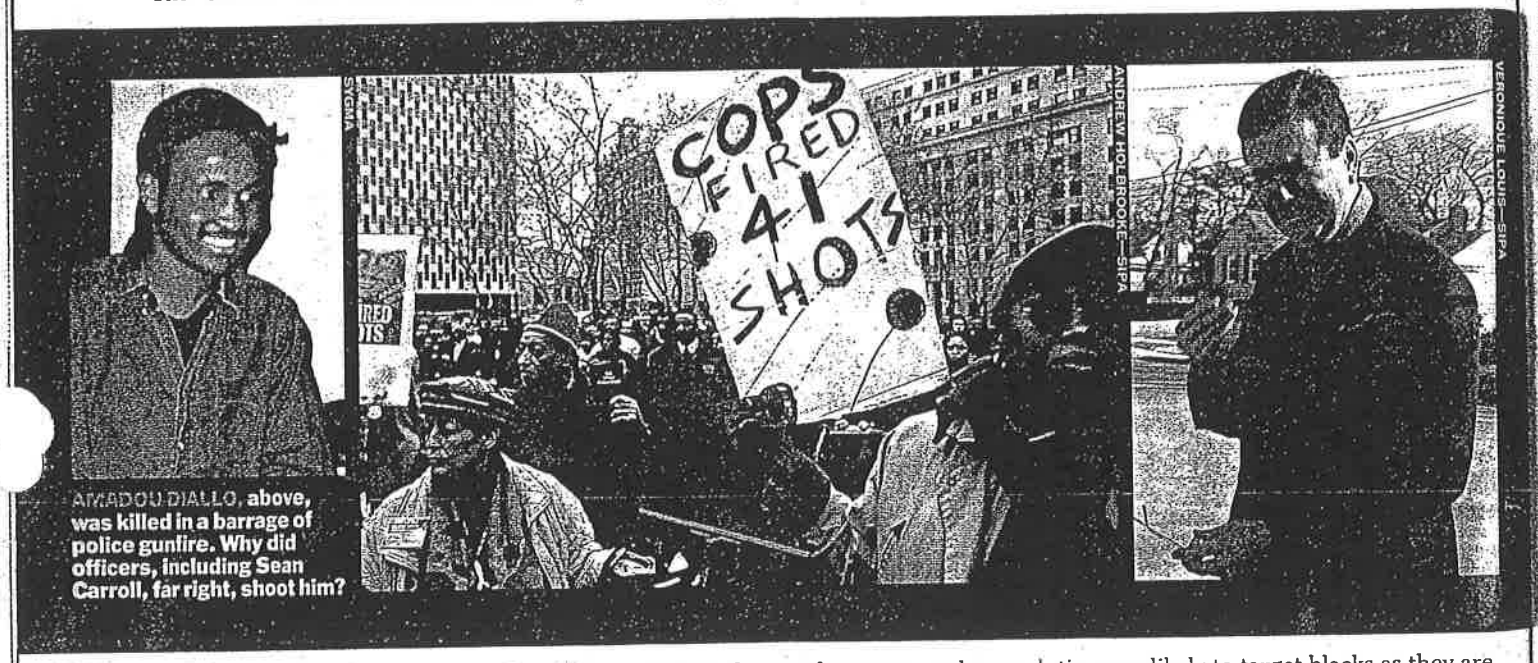
A particular sore point is the unit's aggressive use of "stop and frisk" tactics. Of the 27,061 people its officers frisked last year, more than 80% were unarmed, which suggests that the cops felt they needed little in the way of probable cause to stop someone. Critics say the frisks are overly intrusive and unequally applied. "They will shake you down because of the color of your skin or the way you dress," charges Dinkins. Federal prosecutors in Manhattan last week launched a probe of N.Y.P.D. tactics.

Last Friday, Safir appointed a black officer to the No. 2 position in the street-crimes unit. (Black leaders dismiss the move as window dressing.) Both Safir and Giuliani have emphatically denied that the police are guilty of misconduct or racial bias. The Diallo controversy, Giuliani says, has been stirred up by political activists and the scandal-hungry press. In fact, he points out, fatal shootings by police are at their lowest level in 13 years. The police department is controversial, its supporters say, because it has been doing its job vigorously. And they note that it has been phenomenally effective. Robberies are down 50% in the past four years, and murders are down 60%. The real danger, some New Yorkers say, is that the criticism will cause the crime rate to rise once again. "We need to be careful," says former New York City Police Commissioner William Bratton. "We don't want to oversensationalize it so the cops play turtle and decide not to get involved."

In California, Riverside remains torn by the shooting of Tyisha Miller last December. Miller, 19, a black woman, was waiting in a car with a flat tire for a cousin to bring help. When the cousin arrived, Miller seemed to be unconscious in the locked car with a gun on her lap. The cousin, fearing Miller was sick, called 911, and when the police arrived, they yelled at her to open the door and smashed a car window. Suddenly they fired 24 bullets into the car, striking Miller at least 12 times and killing her. Miller's family accuses the police of murder. But police say Miller was reaching for the gun despite their orders not to. The explanation hasn't satisfied many people in Riverside's black community. Last week more than 1,200 people crowded into a Baptist church for a protest meeting led by the Rev. Jesse Jackson.

Complaints about law enforcement aren't confined to sensational police shootings. Day in and day out, minority communities around the country feel unfairly burdened by America's tough new policing strategies. In an illegal tactic called racial profiling, blacks and Latinos charge, New Jersey police pull over a disproportionate number of minority drivers, then look for a crime or violation to charge them with. A study found that the troopers are five times as likely to target blacks as they are whites. Governor Christine Todd Whitman fired the state-police superintendent this month for defending his officers by saying minorities are more involved than whites in drug trafficking.

When crime rates are high—or when there is a horrific crime, like the Nicarico murder—the pressure on law enforcement is immense. But get-tough policies can mean getting tough on innocent people—even sending them to death row. With crime rates falling, Americans don't want to go soft on crime, but their sense of fairness is being sorely tested. Communities are beginning to ask how prosecutors and police can be effective while still respecting citizens' rights. Now it's time for law-enforcement officials to start taking the question seriously too. "The criminal-justice system works," says Jed Stone, who represented Rolando Cruz in an early trial, "only if the ordinary citizen believes in the integrity of the system." *—Reported by Julie Grace/Chicago, Corliss M. Duncan/Los Angeles, Dion Nissenbaum/Riverside and Elaine Rivera/New York*



AMADOU DIALLO, **above, was killed in a barrage of police gunfire. Why did officers, including Sean Carroll, far right, shoot him?**

AP GOVERNMENT

NAME _____

Ch18 & 19 True and False Review

1.The writers of the Constitution intended to list those restrictions that government was refrained from placing on speech and the press. T F

2.The Framers readily understood the need to list specifically those things that the government could not do concerning freedom of speech or freedom of the press. T F

3.Included in the original Constitution was a bill of rights. T F

4.The Bill of Rights was not part of the original Constitution but was added later. T F

5.The underlying principle of the Bill of Rights is the sovereignty of majority rule. T F

6.The Bill of Rights is an important restriction on popular rule. T F

7.Issues involving civil liberties are typically the result of either interest-group or entrepreneurial politics. T F

8.Civil liberties issues generally fall into the area of majoritarian politics. T F

9.If one accepts the American political culture, one accepts certain contradictions that can give rise to civil-liberties controversies. T F

10.The Constitution and the Bill of Rights contain a list of competing rights. T F

11.The Supreme Court ruled that the New York Times did not have the right to publish government secrets contained in the Pentagon Papers. T F

12.Policy entrepreneurs who would restrict the freedom of some minorities have usually been motivated by poor economic conditions. T F

13.Passage of the Sedition Act of 1798 was secured by the Jeffersonians. T F

14.Under the Espionage and Sedition acts of 1917_1918, thousands of individuals were prosecuted, imprisoned, or deported. T F

15.The Smith Act of 1940 respected the right of Americans to join the political party of their choice. T F

16.No federal legislative action was taken in the 1960s to restrict antiwar and civil-rights activists. T F

17.The earliest schools in the United States were religious ones that received no state support. T F

18.The objection by some citizens to civic displays of creches at Christmas time is that they violate the free exercise of religion. T F

19.Thomas Jefferson pardoned only a few of those who had been convicted under the Sedition Act. T F

20.Charles T. Schenck was ultimately cleared of sedition charges by the Supreme Court. T F

21.The Sedition Act was ruled unconstitutional by the Supreme Court in 1901 and was replaced by the Alien Laws. T F

22.The Smith Act of 1940 made it illegal to be a member of a group that advocated the forceful overthrow of the government. T F

23.The Framers intended the protection of speech, press, and religion contained in the Bill of Rights to apply to the states as well as to the federal government. T F

24.The Bill of Rights was originally intended to limit the powers of the federal government only. T F

25.At first, the Supreme Court held that the Bill of Rights applied only to the actions of the federal government and not to those of individual states. T F

26.The Supreme Court decided in 1925 that fundamental personal rights had to be respected by the federal government. T F

27.The clear-and-present-danger test was meant to balance the demands of religious expression and religious establishment. T F

28.After the 1950s, the Supreme Court began to grow more vigilant in protecting the nation against the danger of communism. T F

29.In the Brandenburg case, the Supreme Court ruled that any speech that does not call for illegal action is protected. T F

30.The Supreme Court regularly protects all forms of political speech, including those that may give rise to illegal action. T F

31.To be punished for a hate crime your bigotry must result in some direct and physical harm. T F

32.The display of odious symbols liable to cause alarm or resentment is a punishable hate crime. T F

33.Constitutionally, all forms of speech-even obscenity and libel-are protected by law. T F

34.Libel is a form of speech that can be punished by law. T F

35.Public figures cannot win libel suits simply by proving what someone said about them was false and damaging. T F

36.The Supreme Court has imposed uniform national standards to determine obscenity. T F

37.The Supreme Court has been unable to establish uniform national standards in the matter of obscenity. T F

38.For materials to be ruled obscene, they must offend the majority of Americans. T F

39.For materials to be ruled obscene, they must lack literary, artistic, political, or scientific value. T F

40.Limiting access to pornography by zoning statutes has been ruled constitutionally acceptable. T F

41.The Supreme Court has allowed the burning of draft cards as a form of protected symbolic speech. T F

42.The Supreme Court considered the burning of draft cards "symbolic speech" and therefore protected by the Constitution. T F

43.The Supreme Court has allowed the burning of the American flag as a form of protected symbolic speech. T F

44.The Supreme Court has agreed, by and large, that corporations have the same rights of free speech as individuals do. T F

45.Since corporations have some First Amendment rights, the government cannot place limits on commercial speech. T F

46.The First Amendment protects advertisements for cigarettes, liquor, and gambling from restrictions. T F

47.Advertisements for lawyers or accountants soliciting clients is protected by the First Amendment. T F

48.The Supreme Court has ruled that high school students have the same rights as adults in expressing their beliefs. T F

49.Of the two clauses in the First Amendment regarding religion, the less ambiguous of the two is the free-exercise clause. T F

50.The free-exercise clause of the First Amendment requires the separation of church and state. T F

51.The free-exercise clause of the First Amendment prohibits state interference in religion. T F

52.The due-process clause of the Fourteenth Amendment extended the prohibition of government interference in religion to states. T F

53.The Supreme Court has ruled that Amish people can be required by law to send their children to high school. T F

54.Draft laws exempt a conscientious objector from service on religious, moral, or ethical grounds. T F

55.The Supreme Court has been consistent in maintaining a "wall of separation" between church and state. T F

56.Government aid to parochial schools is prohibited under the establishment clause of the First Amendment. T F

57.The establishment clause of the First Amendment prohibits public schools from sanctioning such religious activities as school prayer and equal time for creationism. T F

58.Government may be involved in a religious activity if that activity neither advances nor inhibits religion. T F

59.Government is prohibited by the First Amendment from involvement in any religious activities. T F

60.The exclusionary rule is the only effective means of preventing unreasonable searches and questioning. T F

61.The exclusionary rule is not used by most Western nations to prevent police misconduct. T F

62.The Fourth Amendment grants individuals the freedom from unreasonable searches and seizures. T F

63.The exclusionary rule was originally applied only to states. T F

64.A judge can issue a search warrant only when probable cause exists that evidence of a crime will be found. T F

65.Judges determine whether a search warrant is or is not merited. T F

66.If police with a search warrant arrest you in your living room, they may search your bathroom for evidence. T F

67.The court's position regarding what a law officer may search while arresting an individual in an automobile has been generally inconsistent. T F

68.Private employers have less freedom than states to search the work space of their employees. T F

69.The Supreme Court has ruled that some forms of drug testing are permissible. T F

70.The Supreme Court ruled that random sobriety testing of drivers is unconstitutional. T F

71.The key to the Supreme Court rulings on drug testing is whether it is justified by a concern for national security or public health. T F

72.Ernesto Miranda's confession was excluded from evidence in his trial because he had not been informed of his right to remain silent. T F

73.Your Miranda rights include the right to a lawyer when you appear in a police lineup. T F

74.Your Miranda rights include your right to make one telephone call after being arrested. T F

75.In the 1980s, the Supreme Court dramatically reduced due-process restrictions on law-enforcement officers. T F

76.In the 1980s, the Supreme Court marginally reduced due-process restrictions on law enforcement. T F

77.Taken together, the desire to find and announce rules, the language of the Constitution, and the personal beliefs of judges have led to a general contraction of civil liberties. T F

78.Blacks have traditionally been able to use client politics to promote their interests. T F

79.Client politics traditionally worked less well for blacks than for other small groups with common interests. T F

80.The costs of many policies demanded by blacks are not widely distributed among the public at large but instead are concentrated in some relatively small groups. T F

81.The costs to others of granting blacks their demands would be widely dispersed throughout the nation rather than heavily concentrated in some groups. T F

82.Gains made by blacks in both the North and the South have been at the expense of upper-status whites. T F

83.Traditionally, majoritarian politics worked to the disadvantage of blacks. T F

84.By the early 1950s, majority white sentiment in both the North and the South favored racial integration in the schools. T F

85.Before the 1950s, most whites in both the North and the South opposed racial integration. T F

86.Instrumental to black civil-rights gains in the 1960s was the publicizing of their grievances. T F

87.The battle for black civil rights in the 1970s focused on their gaining entry into the political system. T F

88.Whether or not the Fourteenth Amendment was intended to outlaw racial segregation in schools depends on how it is interpreted. T F

89.The Fourteenth Amendment, read broadly, was intended by Congress to require integrated schools. T F

90.Jim Crow is a term used to describe northern politicians who operated in the South after the Civil War. T F

91.Jim Crow is a slang expression for the laws and policies that segregated blacks from whites. T F

92.In Plessy v. Ferguson, the Supreme Court ruled that the equal-protection clause of the Fourteenth Amendment guaranteed social and political but not legal equality. T F

93.The separate-but-equal doctrine began with the Supreme Court's ruling Plessy v. Ferguson. T F

94.In Gaines and Sipuel, the Supreme Court ruled that racially separate schools were inherently unequal. T F

95.In Sweatt and McLaurin, the Supreme Court declared that rules supporting schools that were separate but unequal in not-so-obvious ways were unconstitutional. T F

96.The Brown v. Board of Education decision in 1954 essentially upheld the Plessy v. Ferguson decision of 1896. T F

97.In Brown v. Board of Education, the Supreme Court ruled that racially separate schools were inherently unequal. T F

98.In Brown v. Board of Education, the Supreme Court overthrew the separate-but-equal doctrine. T F

99.In 1955, the Supreme Court decided that it would let state courts oversee the implementation of Brown v. Board of Education. T F

100.In the aftermath of Brown v. Board of Education, southern resistance to school integration quickly collapsed. T F

101.The Supreme Court's ruling in Brown was based on a broad reading of the Fourteenth Amendment. T F

102.The rationale for the Supreme Court's Brown ruling came from social-science studies on black children. T F

103.De jure segregation refers to segregation maintained by law. T F

104.De jure segregation occurs because of segregated housing patterns rather than as a result of deliberate government policy. T F

105.The Supreme Court's ruling in New Kent County suggested that the Constitution required actual racial mixing in schools. T F

106.In 1971, Swann v. Charlotte-Mecklenburg established the precedent for court-ordered school busing for racial integration. T F

107.In 1971, the Supreme Court ruled that court-ordered busing in Charlotte, North Carolina, was unconstitutional. T F

108.In recent years the Supreme Court has consistently upheld city-suburb busing plans. T F

109.The Supreme Court has ordered city-suburban school busing in some places but not in others. T F

110.The majority of Americans support mandatory busing to achieve school desegregation. T F

111.Both the House and Senate fought vigorously to overturn mandatory busing laws. T F

112.A 1992 Supreme Court decision reaffirmed the necessity of busing to achieve full school integration regardless of housing patterns. T F

113.The civil-rights movement first attracted national attention in Selma, Alabama, with a boycott of segregated bus lines. T F

114.The civil-rights movement became increasingly violent during the 1960s. T F

115.Prior to the 1960s, the Senate Judiciary Committee had been one of the few forums in Congress sympathetic to black concerns. T F

116.Before the 1960s, the Senate Judiciary Committee forestalled much civil-rights legislation. T F

117.Media coverage of certain violent reactions by white segregationists helped mobilize public resistance to black civil rights. T F

118.The Kennedy assassination provided a major boost to civil-rights legislation. T F

119.The 1964 election proved a setback for civil-rights forces. T F

120.The Civil Rights Act of 1964 passed the House and Senate by narrow margins. T F

121.Since the 1960s, congressional support for civil-rights legislation has grown. T F

122.By 1984, over two-thirds of all blacks in the South were registered to vote. T F

123.Laws putting women in a special category, like those putting blacks in a special category, have traditionally been perceived as disadvantageous to women. T F

124.Laws treating men and women differently have traditionally been perceived as protective of, rather than harmful to, women. T F

125.The courts have declined so far to put laws that treat men and women differently to the suspect classification test. T F

126.Sex is now a suspect category for the federal courts. T F

127.Employers cannot require women to take pregnancy leaves. T F

128.Business and service clubs cannot exclude women from membership. T F

129.States must give property-tax exemptions to both widows and widowers. T F

130.Laws cannot be passed that punish men but not women for statutory rape. T F

131.Only ground-troop positions are still reserved for men. T F

132.In 1993 the secretary of defense opened air and sea combat to all persons, regardless of gender. T F

133.By 1987, enough votes were obtained in Congress to resubmit ERA to state ratification. T F

134.Within the first year after its passage by Congress, the Equal Rights Amendment was ratified by twenty-two states. T F

135.To have been passed, the ERA needed to be ratified by three-fourths of the nation's fifty state legislatures. T F

136.Many opponents of the ERA feared that it would eliminate laws that protected women in the workplace. T F

137.Until 1973, a women's right to abortion was decided by the individual states. T F

138.Roe v. Wade gave women an unconditional right to abortion. T F

139.Roe v. Wade ruled that a woman's right to privacy included her right to certain abortions. T F

140.In the 1980s, the Right-to-Life lobby was successful in getting enough votes in Congress to propose its amendment to the Constitution. T F

141.Attempts to amend the Constitution to limit abortions have so far been unsuccessful. T F

142.The Hyde Amendment approved the use of federal funds for abortions. T F

143.The "gag rule" was a short-lived victory for opponents of the freedom to choose abortion. T F

144.In 1989, in the Webster case, the Supreme Court overturned a state law that restricted abortions. T F

145.Feminists have been united in the belief that women's legal rights are more important then their economic rights in this country. T F

146.Between 1960 and 1980, the proportion of married mothers in the labor force rose from one-sixth to one-half. T F

147.Congress has failed so far to pass legislation requiring the withholding of overdue child-support payments from the paychecks of noncustodial divorced parents. T F

148.The 1987 Supreme court ruling upholding state laws requiring parental leave to women has not been followed by a federal parental-leave law. T F

149.During the Clinton administration a law was passed requiring employers to allow parental leave. T F

150.The doctrine of comparable worth extends substantially beyond the concept of paying men and women the same rate for the same job. T F

151.Equality of results suggests that the burdens of racism and sexism can be overcome only by taking race or sex into account when designing remedies. T F

152.Equality of opportunity suggests that the burdens of racism and sexism can be overcome only by taking race or sex into account when designing remedies. T F

153.Giving preferential treatment to blacks or other minorities is known as reverse discrimination. T F

154.Reverse discrimination is discrimination practiced by powerful black institutions against individual whites. T F

155.Those who favor a policy of equal rights to remedy past denials of racial equality believe that the Constitution must be interpreted as color-blind. T F

156.Those who favor equal opportunity to remedy past racial discrimination would opt for school busing for racial integration. T F

157.Most civil-rights and feminist organizations believe that the burdens of racism and sexism can be overcome only by taking race or sex into account in designing remedies. T F

158.The Reagan administration opposed a broad interpretation of affirmative action. T F

159.The Bakke ruling put an end to certain types of explicit numerical quotas. T F

160.The Supreme Court has consistently ruled against quota systems in college admissions and work-hiring practices. T F

161.Recent Supreme Court rulings suggest that state and local quota systems must correct an actual past or present pattern of discrimination. T F

162.Recent Supreme Court rulings suggest that preference systems affecting who gets laid off are more likely to be allowed than those affecting who is hired. T F

163.Public opinion in this country is clearly in favor of using racial quotas in hiring to remedy past discrimination against blacks. T F

164.The public is apparently in greater sympathy with preference systems than with compensatory action. T F

Ch18&19 T&F Review

ANSWER KEY:

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AP American Government

Legislation which could show up on the AP test

Americans with Disabilities Act (1990) - Requires businesses, state, and local governments to provide the disabled with equal access to services, employment, buildings, and transportation systems.

Campaign Finance Reform (1974) - A result of Watergate which established the FEC, encouraged PACs, and set limits on contributions to campaigns.

Civil Rights Act (1964) - Most far reaching civil rights legislation; dealt with voting (ending Jim Crow), employment, schools, and public accommodations.

Economic Opportunity Act (1964) - Better known as Johnson's war on poverty.

Gramm-Rudman Balanced Budget Act (1985) - Created a plan whereby the budget would be automatically cut until there was no deficit. Between 1985 and 1991 the deficit could not exceed a certain declining amount.

NAFTA (1993) - North American Free Trade Agreement. Eliminated most tariff and other trade barriers among the United State, Canada, and Mexico. Beneficial to the United States in the long run but detrimental for jobs in the short run where Mexico or Canada have a comparative economic advantage.

Pendleton Act (1883) - Created a steady transfer of jobs from political patronage to the merit system; established Civil Service system.

Sherman Antitrust Act (1890) - Legislation designed to regulate monopolistic business behavior (trusts).

Social Security Act (1935) - Majoritarian attempt to provide a minimal social benefits safety net for Americans.

Taft-Hartley Act (1947) - Made illegal certain union practices such as closed shop and secondary boycotts. The president could obtain a court order blocking a strike for up to 80 days (cooling off period) in any area that imperiled national health or safety. Interest group politics and a win for big business.

War Powers Act (1973) - Fallout from Vietnam. Placed restrictions on president's ability to use military force. President must notify Congress within 48 hours and Congress must authorize support for the use of military force if it lasts longer than 60 days.

Advanced Placement Government
Test Taking Tips

Multiple Choice Questions

A. Before answering any questions, read the directions thoroughly and carefully. You have 45 minutes to answer 60 questions and this is more than enough time.

B. Read each question carefully. See if you can predict the answer before looking at the options.

C. Read **ALL** of the multiple choice options in their entirety before choosing an answer. Avoid the temptation to mark the first option that looks good (sometimes a "good" option will be listed before the "best" option).

D. If you cannot select the correct answer after several seconds of thought, cross out any options that you are sure are wrong, put a mark next to the question, and move on to the next question. Since you have skipped a question, **pay close attention** to where you mark your next answer on the answer sheet!

E. **Skip questions that stump you. Skip graph and table questions that are time consuming.** The goal is to do all the relatively easy questions first, then come back later to the difficult ones, but don't rush. Be sure to give each question some thought before moving on.

F. When you have gone through the entire test once, go back to the items you have marked. This time concentrate on eliminating as many options as you can.

G. Be wary of options that include extreme words, such as "always," "never," "all," "best," "worst," "none."

H. Read each option as if it were a true-false question. Cross out all the options that are false.

I. However, pay close attention to words such as **not** or **except**. (e.g., "Which of the following is **not** true about the Civil War?"). Circle words like **not** and **except** whenever you see them in a question to make them stand out. (Usually these words are a signal that all of the options are true except one, and your task is to pick out the **FALSE** option). **The AP test is as much about reading ability as it is content knowledge.**

J. If you have no idea what the correct answer is, guess (as long as you are not completely clueless). Some tips that may improve your guessing accuracy include:

1. If two options look similar, except for 1 or 2 words, usually one of these is the correct answer.
2. If two options have the same meaning, usually both are wrong.

3. If two options consist of words that look or sound the same (e.g., "interference" vs. "interferon") one of these is often the correct answer.
4. If the options cover a wide range of numerical values, a value at or near the middle is often a good guess.
5. An option that is longer or more detailed than the other options is often the correct answer.
6. The option "all of the above" is frequently correct.

K. If time permits, recheck your answers for accuracy before turning in your exam.

Essay Questions

A. Analyze the question. What type of response is requested?

1. A traditional essay (you are asked to take a position or express an opinion).
   a) A thesis statement will be necessary. Place it in the first paragraph.
   b) One way to get a thesis statement is to restate the question.
   c) Write three paragraphs.
   d) A sharp conclusion can save a bad essay.

2. A direct response (i.e. graph interpretation).
   a) Answer the asked questions. No thesis statement necessary.

B. Jot down any authors/articles that seem appropriate to the question. This serves two purposes:

1. It eliminates the intellectual baggage of trying to remember them while you're writing.

2. It may provide insight on how to attack the question.

C. **OUTLINE YOUR ANSWER!** This helps to prevent you from forgetting to answer all portions of the question and focuses you on a precise and concise essay.

D. Pace yourself. Remember, you have only 100 minutes to answer 4 essay questions. Do not spend so much time on a brilliant answer to one essay that you have no time to answer the other three.

E. Use black ink.

Last but not least: Get plenty of sleep the night before the test. A sharp mind is always a better option than a tired mind crammed with last minute minutia.