**The Questions Before the U.S. Supreme Court:**

Student Handout

*Morales*

Is the City of Chicago’s Gang Congregation Ordinance violate the due process clause of the 14th amendment? Why or why not??

**To Prepare for the Case...**

**Attorneys for Chicago:** Create arguments to convince the justices that the ordinance is **not** unconstitutional or vague.

**Attorneys for Morales:** Create arguments to convince the justices that the ordinance **is** vague and unconstitutional.

**Justices of the U.S. Supreme Court:** Create at least three questions to ask each side to help you determine whether the Chicago’s ordinance violates the due process clause of the 14th amendment.

**Rules for the Oral Argument**

1. Attorneys representing Chicago appealed the case to the Supreme Court, they are *appellants*. They will present first.
2. Attorneys representing Morales are responding to the appeal, they are *respondents*. They will present second.
3. Justices will ask questions of both sides during the arguments.
4. After hearing both sides, justices deliberate out loud. Attorneys listen but do not interrupt.

* Justices, deliberate by discussing the arguments you heard. Share with each other the most persuasive and least persuasive arguments you heard.
* Justices, provide reasons why you thought arguments were most persuasive or least persuasive.
* After deliberating, vote whether your court rules in favor of the State of California or Greenwood.

**The Arguments of Chicago (Appellant):**

Attorneys representing Chicago argued the city ordinance was constitutional. To support their position they argued:

1. The ordinance is necessary to protect Chicago from criminal street gangs. Criminal street gangs congregate in public places, deal drugs, and terrorize neighborhoods. Our city has been afflicted with criminal street gangs, and these gangs terrorize the neighborhoods. Many residents feel that they are prisoners in their own homes.
2. The ordinance does nothing more than allow the police the power to maintain the public peace, and, when necessary, to disperse groups of individuals who threaten it.
3. There is nothing "vague" about this ordinance. When a police officer asks people to disperse and remove themselves from the area, the majority of people will know what that means and understand exactly how to comply.
4. The Gang Congregation Ordinance is not arbitrarily enforced. Police officers who have special skills and training in identifying known criminal street gang members.
5. The law is constitutional because it protects the rights of citizens against threats and criminal activities. “Loitering” is not a constitutional right.

**The Arguments of Morales (Respondent):**

Attorneys representing Morales argued Chicago’s ordinance was unconstitutional. To support their position they argued:

1. The freedom to loiter for innocent purposes is protected by the due process clause of the 14th Amendment and is part of our personal liberty.
2. The way the ordinance defines “loitering” is too vague. There are good reasons why a person might be standing on the street, and these good reasons might not be apparent to a police officer passing by.
3. The police should not have the authority to decide who is “loitering” and who has an apparent purpose for standing on the street.
4. If the loitering is in fact harmless and innocent, the dispersal order itself is an unjustified impairment of liberty.
5. The law is unconstitutional because it prohibits people who are not doing anything illegal to assemble in public areas.

**Justices**

1. Is the way the ordinance defines “loitering” too vague?
2. Under the ordinance, do the police have too much discretion in determining who is “loitering” and who is a member of a “criminal street gang.”
3. Does the ordinance violate the protections of the due process clause of the 14th Amendment?
4. To be valid, the ordinance cannot be vague or overbroad in its application. How much weight should the Court give to the fact that Officers were given absolute discretion to determine what activities constitute loitering? Is there a Constitutional right to loiter? Can a person standing on a street corner be there for innocent purposes? Can a person standing on a street corner be there for the purpose of criminal activity?
5. The police officers enforcing the Chicago ordinance were trained professionals in gang activity and had special skills in identifying gang members. Should this matter? Is it possible that the ordinance may be enforced against non-gang members? Should it matter that non-gang members could also be charged with violating the ordinance?
6. The term “gang” can mean different things to different people. A group of students from the same sports team may be labeled a gang, or a group of graffiti artists may also be called a gang. Is it reasonable for persons of common intelligence to differ in their interpretation and application of the term “street gang member”?
7. Criminal gang activity can is a serious problem in many communities. The Chicago ordinance was enacted to address this activity and protect citizens from dangerous criminal endeavors. Should residents give up certain freedoms to ensure safety in their community?

14th Amendment**:** No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws.

1st Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; **or the right of the people peaceably to assemble,** and to petition the Government for a redress of grievances.