

AMERICAN GOVERNMENT
AND POLITICS TODAY 2015-2016 EDITION



Chapter Four

Civil Liberties

Learning Outcomes

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- 4.1: Identify the protection of civil liberties in the Bill of Rights, and explain how these protections against government interference were applied to the states.
- 4.2 Give examples of how the Bill of Rights protects freedom of religion while maintaining a separation between the state and religion, thereby limiting the direct influence of religion in public life.
- 4.3 Locate the protections of political expression and dissent in the Constitution, and explain why freedom of expression is critical to people's participation in politics.
- 4.4 Discuss the constitutional protection of privacy rights in personal and public life and evaluate the threats to privacy rights posed by technology and security interests.
- 4.5 Identify the rights of the accused and discuss the role of the Supreme Court in defining criminal due process rights over time.
- 4.6 Evaluate modern threats to civil liberties posed by spy technology, the transfer of personal information through social media, and heightened security concerns following the September 11, 2001 terrorist attacks.

Civil Liberties and The Bill of Rights

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- Extending the Bill of Rights to State Governments
 - Bill of Rights originally limited only national government
- Incorporation of the Fourteenth Amendment
 - Incorporation theory

Incorporating the Bill of Rights into the Fourteenth Amendment

YEAR	ISSUE	AMENDMENT INVOLVED	COURT CASE
1925	Freedom of speech	I	<i>Gitlow v. New York</i> , 268 U.S. 652
1931	Freedom of the press	I	<i>Near v. Minnesota</i> , 283 U.S. 697
1932	Right to a lawyer in capital punishment cases	VI	<i>Powell v. Alabama</i> , 287 U.S. 45
1937	Freedom of assembly and right to petition	I	<i>De Jonge v. Oregon</i> , 299 U.S. 353
1940	Freedom of religion	I	<i>Cantwell v. Connecticut</i> , 310 U.S. 296
1947	Separation of church and state	I	<i>Everson v. Board of Education</i> , 330 U.S. 1
1948	Right to a public trial	VI	<i>In re Oliver</i> , 333 U.S. 257
1949	No unreasonable searches and seizures	IV	<i>Wolf v. Colorado</i> , 338 U.S. 25
1961	Exclusionary rule	IV	<i>Mapp v. Ohio</i> , 367 U.S. 643
1962	No cruel and unusual punishment	VIII	<i>Robinson v. California</i> , 370 U.S. 660
1963	Right to a lawyer in all criminal felony cases	VI	<i>Gideon v. Wainwright</i> , 372 U.S. 335
1964	No compulsory self-incrimination	V	<i>Malloy v. Hogan</i> , 378 U.S. 1
1965	Right to privacy	I, III, IV, V, IX	<i>Griswold v. Connecticut</i> , 381 U.S. 479
1966	Right to an impartial jury	VI	<i>Parker v. Gladden</i> , 385 U.S. 363
1967	Right to a speedy trial	VI	<i>Klopper v. North Carolina</i> , 386 U.S. 213
1969	No double jeopardy	V	<i>Benton v. Maryland</i> , 395 U.S. 784

Freedom of Religion

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- The Separation of Church and State—
The Establishment Clause
 - Aid to Church-Related Schools
 - A Change in the Court's Position
 - School Vouchers
 - The Issue of School Prayer – *Engel v. Vitale*
 - The Debate over School Prayer Continues
 - Prayer Outside the Classroom

Freedom of Religion

Journal-Courier/Valerie Berta/The Image Works



Freedom of Religion

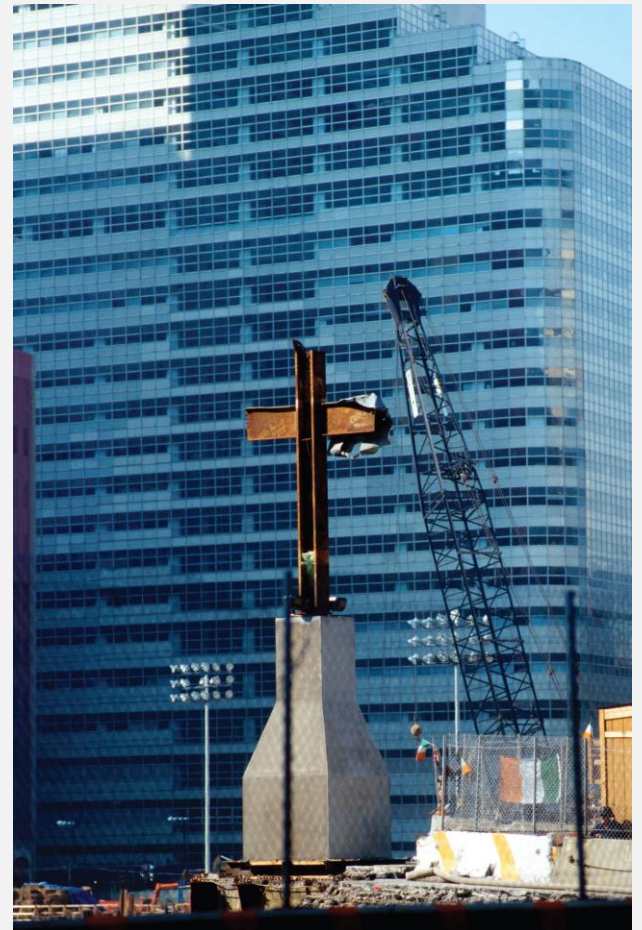
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- The Separation of Church and State—
The Establishment Clause (cont.)
 - The Ten Commandments
 - Forbidding the Teaching of Evolution
 - Religious Speech

Freedom of Religion

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- The Separation of Church and State—
The Establishment Clause (cont.)
- Public Expression of Religion



mak/Alamy

Freedom of Religion

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- The Free Exercise Clause
 - The Religious Freedom Restoration Act
 - *Sebelius v. Hobby Lobby*
 - *Conestoga Wood Specialties Corp. v. Sebelius*

Freedom of Expression

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- No Prior Restraint
 - Pentagon Papers
- WikiLeaks, Edward Snowden, and Classified Information on the Internet



FLORIAN SCHUH/AFP/Getty
Images/Newscom

Freedom of Expression

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- The Protection of Symbolic Speech
 - *Tinker v. Des Moines School District*
 - *Texas v. Johnson*
- The Protection of Commercial Speech
 - *Citizens United v. FEC*

Freedom of Expression

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Clay Good/Zuma Press

Do you think banning such speech is a violation of student's free speech rights? Should colleges be able to implement such a ban as well?

Freedom of Expression

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- Permitted Restrictions on Expression
 - Clear and Present Danger
 - Modifications to the Clear and Present Danger Rule
 - *Brandenburg v. Ohio*
 - Westboro Baptist Church

Freedom of Expression

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- Unprotected Speech: Obscenity
 - Definitional Problems
 - Protecting Children
 - Pornography on the Internet
 - Should “Virtual” Pornography Be Deemed a Crime?

Freedom of Expression

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- Unprotected Speech: Slander
 - Defamation of character
 - Slander
- Campus Speech
 - Student Activity Fees
 - Campus Speech and Behavior Codes
- Hate Speech on the Internet

Freedom of Expression

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A “designated free speech area” in Modesto California raises questions about our First Amendment Rights.

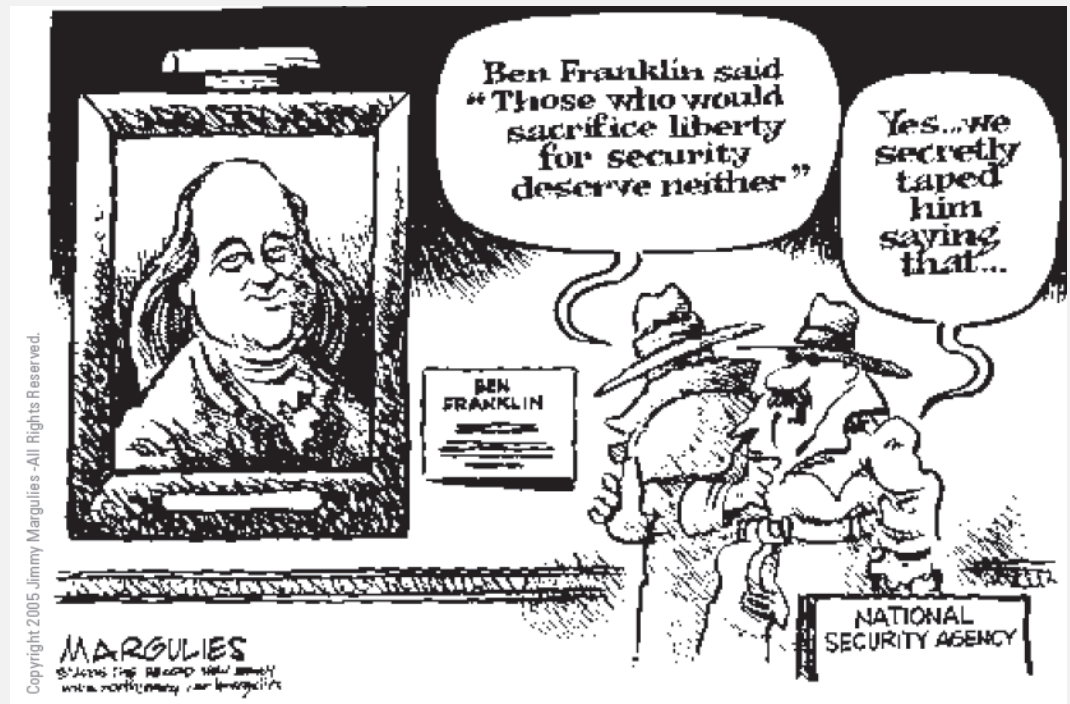
Freedom of the Press

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- Defamation in Writing
 - Libel
 - Actual malice
- A Free Press versus a Fair Trial: Gag Orders
- Films, Radio, and TV

The Right to Assemble and to Petition the Government

- First Amendment
- Online Assembly



More Liberties under Scrutiny: Matters of Privacy

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- Information Privacy
 - Privacy Act (1974)
- Privacy Rights and Abortion
 - *Roe v. Wade*
 - The Controversy Continues

More Liberties under Scrutiny: Matters of Privacy

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- Privacy Rights and the “Right to Die”
 - What If No Living Will Exists?
 - Physician-Assisted Suicide
- Privacy Rights versus Security Issues
 - The USA PATRIOT Act
 - Civil Liberties Concerns

The Great Balancing Act: The Rights of the Accused versus the Rights of Society

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- Extending the Rights of the Accused
 - *Miranda v. Arizona*
 - Exceptions to *Miranda* Rule
 - Video Recording of Interrogations
- The Exclusionary Rule

Basic Rights of Criminal Defendants

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LIMITS ON THE CONDUCT OF POLICE OFFICERS AND PROSECUTORS

No unreasonable or unwarranted searches and seizures (Amend. IV)

No arrest except on probable cause (Amend. IV)

No coerced confessions or illegal interrogation (Amend. V)

No entrapment

On questioning, a suspect must be informed of her or his rights

DEFENDANT'S PRETRIAL RIGHTS

Writ of *habeas corpus* (Article I, Section 9)

Prompt arraignment (Amend. VI)

Legal counsel (Amend. VI)

Reasonable bail (Amend. VIII)

To be informed of charges (Amend. VI)

To remain silent (Amend. V)

TRIAL RIGHTS

Speedy and public trial before a jury (Amend. VI)

Impartial jury selected from a cross section of the community (Amend. VI)

Trial atmosphere free of prejudice, fear, and outside interference

No compulsory self-incrimination (Amend. V)

Adequate counsel (Amend. VI)

No cruel and unusual punishment (Amend. VIII)

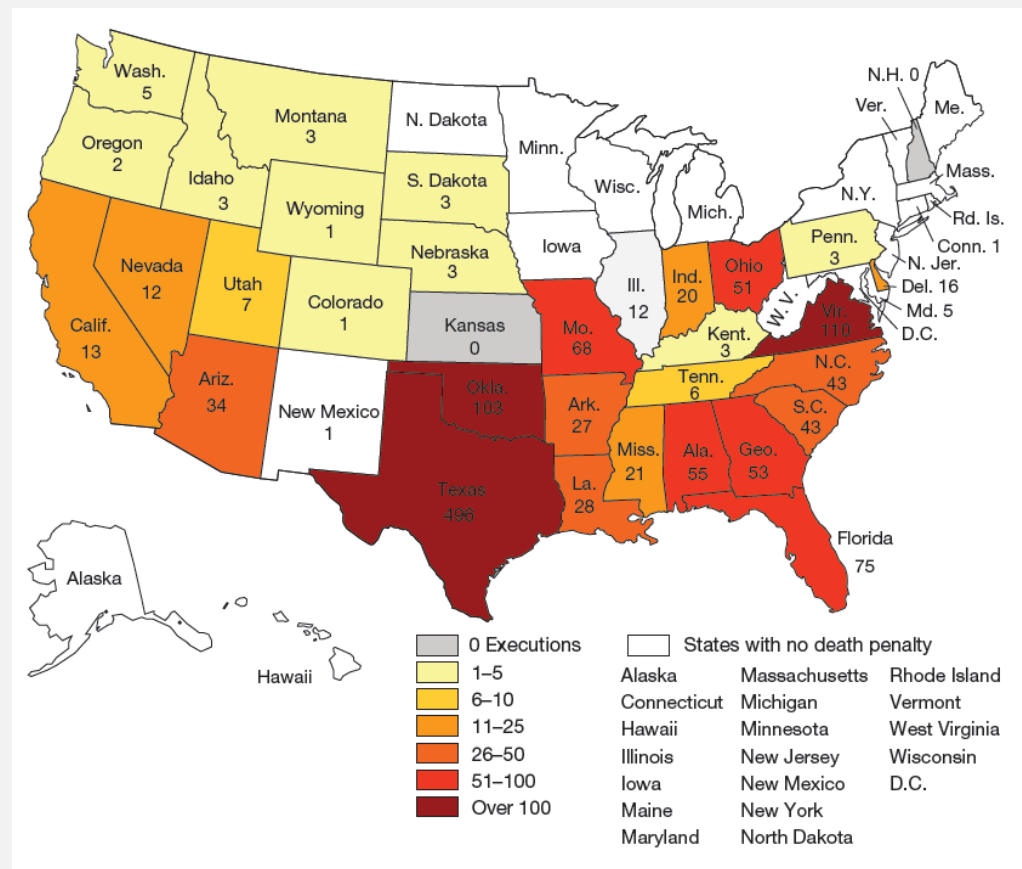
Appeal of convictions

No double jeopardy (Amend. V)

The Death Penalty

- Cruel and Unusual Punishment?
- The Death Penalty Today

Executions by State: 1977-2013



Muslims Surveillance Lawsuit

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Click picture to view video



Video Discussion Questions

1. Which rights, if any, appear to be violated in this case?
2. What expectations of privacy can be assumed when entering a place of worship? What about during a student gathering?
3. Do security concerns justify NYC government actions in this case? Why or why not?