

CONSTITUTIONAL LAW: Civil Liberties and Civil Rights

Political Science 411G

Spring Semester, 2021



"We hold these truths to be self-evident; that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

--The Declaration of Independence

"The Constitution . . . speaks of liberty and prohibits the deprivation of liberty without due process of law. In prohibiting that deprivation the Constitution does not recognize an absolute and uncontrollable liberty."

–Chief Justice Charles Evans Hughes

Professor

Dr. Richard J. (Rick) Hardy—Professor of Political Science

Class Hours: 11:00 – 11:50 a.m., MWF, Morgan Hall, Room 306

Office Hours: 2:00 - 3:30 p.m., MW, 8:00 – 8:50 F, or by Appointment*

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**We live in difficult times. Because I am in the “high risk” category regarding Covid-19, my physician strongly recommends that, if at all possible, we avoid one-on-one meetings in my office. I will still hold office hours and be available for phone calls during those times. And, of course I will return emails in a prompt manner. RJH*

Course Description

The purpose of this course is to provide a critical analysis of the United States Constitution relating to the development of our basic individual freedoms and rights. The course will focus on three general topics. First, we will examine in considerable detail "**Civil Liberties and the First Amendment**" and the body of case law involving the freedoms of religion, speech, press, association and assembly. Second, the course will analyze "**Due Process and the Rights of the Accused**" and the body of case law relating to the Fourth, Fifth, Sixth and Eighth Amendments as incorporated by the Due Process clause of the Fourteenth Amendment. Finally, the course will examine the concept of "**Civil Rights and Equal Protection of the Law**" with a sampling of cases pertaining the Fourteenth Amendment and efforts to eradicate unmitigated discrimination based on race and gender.

Themes

Three major themes will pervade this course. The first theme concerns the issue of **Politics versus Justice**. It will become apparent that the primary interpreter of the Constitution, the United States Supreme Court, is both a political body and a judicial institution. You will also quickly discover that Supreme Court justices are fallible, human beings. In resolving fundamental questions of law, justices are frequently torn between established legal principles and ever-changing societal values. The second theme entails the issue of **Liberty versus Authority**. The Supreme Court must often decide between these two competing principles of liberty and authority; too much individual freedom is harmful to the social order, yet excessive authority stifles individual freedoms. This will be especially evident in dealing with the various freedoms of expression and rights of accused. The final theme involves the issue of **Liberty versus Equality**. The Supreme Court must strike a careful balance between liberty and equality; abuse of freedom results in inequalities, while too much stress on achieving equality inhibits individual freedoms. This final issue will appear repeatedly in issues relating to equal opportunity and affirmative action.

Readings

The required readings will be drawn primarily from the following casebook: Ralph A. Rossum, G. Alan Tarr and Vincent Phillip Munoz. **American Constitutional Law: The Bill of Rights and Subsequent Amendments**. Routledge (Taylor & Francis Group, CRC Press). 11th Edition, 2020. Paperbound Edition. ISBN 9780367234003. **This casebook may be purchased from the University Book Store or from various vendors online.** Please note that not all of the cases studied this semester will be found in the casebook. Cases not found in your casebook will be covered in lecture or found on the internet.

Case Method

Although your professor will frequently lecture on key elements and cases, this course, as in law school, will primarily employ the case or **Socratic method** of study. **Each student is expected to read and brief the cases that appear in your text in advance of the class** (see "Briefing Cases" below). Then, during each class period, the professor will call upon students to **recite, analyze, and discuss** the cases assigned for that day. **Additionally, each student will be assigned to analyze and present one case that does not appear in your textbook.** Thus, your level of preparation and quality of discussion will be graded daily on a continuous basis.

The goal is to discuss and analyze approximately 4 to 5 landmark cases during each 50-minute class period. Some cases can be discussed in a just a few minutes. Others will require greater attention, depending on intensity of class discussion and the complexity of the issues. Of the assigned cases, about 140+ cases (or 500 manageable pages of reading) are found in the text. The remainder will be assigned by the professor. **Special Note:** In the event that we do not finish all of the cases on the syllabus, **you are only responsible for the cases discussed in class** by your professor.

Briefing Cases

Briefing is an essential tool for understanding constitutional law. As its name implies, a brief is a one- or two-page synopsis of each case studied. While there are many ways to brief a case, here is a suggested outline:

- 1) **Case.** Write the case name, year, and citation at the top of the page. While it is not necessary to memorize the dates, such information can help put each case in historical perspective. The citations are useful if you desire to scrutinize the entire opinion online.
- 2) **Background.** Whenever possible it is important to record the events leading up to the case. An historical setting will often add clarity to the decision.
- 3) **Facts.** Write a short paragraph or two about the events and how they unfolded. Who are the litigants? What relief is sought? It will have more meaning if you put it in your own words.
- 4) **Questions.** Identify the central question or questions of law raised in the case. Most often the questions are raised in the cases itself; sometimes you must phrase the question yourself. Also be aware that many cases involve multiple issues, so it is advisable to remember where the case fits the course outline.
- 5) **Ruling.** How did the Court decide the above questions? Was the vote (e.g., unanimous, 8 to 1, 5 to 4, etc.)? While it is not necessary to memorize the divisions, such splits can often portend future cases. For example, a badly split court may signal that this controversy will likely appear again. Conversely, a unanimous decision will send a strong message discouraging future litigation.
- 6) **Majority opinion.** Specify who wrote the majority opinion and succinctly note the reason. (Sometimes this is difficult to do, especially with the early decisions that rely upon a different style of writing.)
- 7) **Other opinions.** Are there any concurring or dissenting opinions? If so, identify who wrote them and summarize their arguments. It is not uncommon for a persuasive minority opinion in one decision to become the basis for a majority opinion at a later time.
- 8) **Importance.** Why is the case important? What doctrines or principles of law does the case establish? How does the decision fit into the outline of the course?
- 9) **Comments.** Your professor and fellow students will often inject relevant information. Therefore, be sure to leave some room for additional comments.
- 10) **Review.** Cramming will do you little good in this course; there is simply too much material to absorb and synthesize. It is therefore vitally important that you review or even rewrite your briefs on a regular basis, say every week to ten days. Some people use 5X7 note cards. Some students compile their cases in three-ring binders. And still others rely upon personal computers to study their cases. Perhaps you can get together with a classmate or two and form

a study group. Most importantly, make lots of outlines. Remember, anything is easy if you break it down into manageable parts.

In sum, a brief is merely a tool to help you learn the cases, and the better the tool, the easier your task will be.

Class Participation

Class participation will count for 100 total points or 20 percent of the course grade. More specifically, the class participation grade consists of four components: 1) Class Discussion, 2) Case Presentation, 3) Case Briefing, and 4) Class Attendance.

Class Discussion. "College is not a sanctuary from responsibility!" Every student is encouraged and expected to contribute to class discussion. As noted earlier, oral examinations occur daily and continuously. Hence, when called upon in class for input to the discussion, you are in fact being examined. Discussion grades, of course, are relative. A person who is always prepared and takes an active part in class discussion will obviously earn higher marks than a student who is ill prepared and rarely interacts with the class. **Class discussion will count for 25 points.**

Case Presentation. As noted above, each student will be assigned to present a Supreme Court case that is not found in the textbook. All assigned cases can be downloaded from the web. It is up to the student to read the entire case, present it to the entire class on the assigned day, and field questions concerning the assigned case. **Case presentation is worth 25 points.**

Written Case Brief/Analysis. In addition to the oral case presentation, each student will also submit a written case analysis of that case on the day that it is assigned. The written case brief and analysis should be at least one, but not more than two pages long. It must be typed, single-spaced, and follow the format described on page 3 of this syllabus. **The written analysis is worth 25 points.**

Attendance. This is NOT a correspondence course! Attendance is taken at 11:00 p.m. sharp! If you are not in your seat by that time, you will be counted absent. In the event that you are late, please write a note and slip it to the professor after class. Attendance grades are also relative; those who attend classes regularly will score higher than those who do not. Finally, those who do not attend classes regularly should not request a letter of recommendation, regardless of your final course grade. **Class attendance is worth 25 points.**

Examinations

There will be three written examinations, each covering roughly one-third of the materials covered in class. Because we have so much material to cover, **each examination will be a "take-home" test and count for 100 points.** Your professor will give you the exams at least one week before they are due. **All examinations will consist of hypothetical cases and general essays over the case law presented in class.** Your examinations are to be typed, using 12 pt. fonts, double-spaced, and grammatically correct. Here are the due-dates: **Examination #1 will be on Friday,**

February 26—hardcopy due at the beginning of class. Examination #2 will be on Wednesday, March 31—hardcopy due at the beginning of class. Examination #3 will be on May 5 at 10:00 a.m. (university’s scheduled final)—email your final to RJ-Hardy@wiu on or before that date! Graded examinations #1 and #2 will be returned within approximately one week. You will then have an opportunity to review your tests *in class* and ask questions before turning in your examination. *Failure to return your graded midterm examinations at the close of the hour will result in an “F” grade for that examination.*

Makeup Examination Policy. If, for some valid reason (illness, death in the family, etc.) you cannot take an examination at the scheduled time, you must notify your professor in advanced. The makeup should be taken within one week after returning to classes. The makeup will cover the *same* materials as the regularly scheduled examination, but *different* questions will be substituted for the makeup examination.

Dates To Remember

- Examination #1--Friday, February 26 (Bring Hardcopy to Class)**
- Examination #2--Wednesday, March 31 (Bring Hardcopy to Class)**
- Examination #3--Wednesday, May 5 (Email Test to RJ-Hardy@wiu.edu)**

Class Curves

You professor demands excellence. Expect each examination be quite challenging but neither impossible nor unfair. This spreads out the scores and enables your professor to discriminate between those who do and do not study. Note, however, that each examination will be adjusted, if necessary, to approximate a "normal" or "bell" curve. Say, for example, that on Midterm Examination #1 the top score in the entire class was a 95/100. Your professor will then throw a curve of 5 points to assure that at least one person scores 100. All other students will then be given 5 additional points. The same process will apply to the Final Examination as well. In sum, class curves always work to the benefit of the students; I always assume that my examinations are not perfect, but that at least one student in a class of 30 is perfect.

Summary of Course Points

Participation.....	100 points
Class Discussion.....	.25 points
Oral Presentation....	.25 points
Written Case Brief...	25 points
Class Attendance.....	25 points
Examination #1.....	100 points
Examination #2.....	100 points
Examination #3	<u>100 points</u>
TOTAL POINTS	400 points

Grading for Undergraduate Credit

In sum, grades for undergraduate students will be based on 400 total points. Western Illinois University now uses plus-minus grading. Because all quizzes and examinations are adjusted or "normally curved" as the semester progresses here is a convenient method of calculating your grade: Students are required to earn at least 360 total points (90%) to get an "A-" grade, at least 360 total points (80%) to get a "B-" grade, at least 260 total points (65%) to get a "C-" grade, and at least 200 total points (50%) to get a passing "D-" grade. These are the standard "breaks" for determining letter grades. Of course, within each category there will also be additional grading. Final grades will range from A, A-, B+, B, B-, C+, C, C-, D+, D, D-, F. Over the years approximately 90 percent of the class has earned C or better in the course. Finally, while there may be some "extra credit" projects, do not expect to "negotiate" with your professor for a higher letter grade. The only justification for altering a final grade is an error in computation.

<u>Cutoff</u>	<u>Point Range</u>	<u>Final Grade</u>
97%	388-400	A+
94%	376-387	A
90%	360-375	A-

87%	348-359	B+
84%	336-347	B
80%	320-335	B-

75%	300-319	C+
70%	280-299	C
65%	260-279	C-

60%	240-259	D+
55%	220-239	D
50%	200-219	D-

49%	000-199	F

Since regular class attendance and participation will already be figured into your grade, do not expect to "negotiate" with your professor for a higher letter grade. The only justification for altering a final grade is an error in computation. All examinations will be kept on file for one semester, during which time you may appeal your grade to the Department Chair. Thereafter, all materials will be destroyed and you lose your right of appeal.

Grading for Graduate Credit

This course may be counted for graduate credit. **Graduate students are expected to complete all of the requirements of this course plus submit a 20 to 25-page research paper. This research paper is worth 100 points.** The paper may be based on either qualitative or quantitative research. The topic of this paper must be approved. Possible topic might include: analyses of cases relating to

civil liberties or civil rights, historical research on the Supreme Court justices, critical evaluations of judicial philosophies, statistical analyses of caseloads, to name just a few. The **topic should be approved by Friday, February 19**, and the **final paper is due on Wednesday, May 5**. The paper should be typed, double-spaced, grammatically correct, and contain appropriate references and bibliography.

In sum, grades for graduate students will be based on 500 total points. Graduate students are therefore required to earn at least 450 total points (90%) to get an "A" grade, at least 400 total points (80%) to get a "B" grade, at least 350 total points (70%) to get a "C" grade. These are the standard "breaks" for determining letter grades. Finally, there will be no "extra credit" projects, and, not expect to "negotiate" with your professor for a higher letter grade. The only justification for altering a final grade is an error in computation. All examinations will be kept on file for one semester, during which time you may appeal your grade. Thereafter, all materials will be destroyed.

Students' Rights and Responsibilities

Disabilities and Accommodations. "In accordance with University Policy and the Americans with Disabilities Act (ADA), academic accommodations may be made for any student who notifies the instructor or such need. For the instructor to provide the proper accommodation(s) you must obtain documentation of the need for such accommodation(s) through the Disability Resource Center and provide it to the instructor. It is imperative that you take the initiative to bring such needs to the instructor's attention, as he/she is not legally permitted to inquire about such particular student needs. Students who may require special assistance in emergency evacuations (i.e., fire, tornado, etc.) should contact the instructor as to the most appropriate procedures to follow in such an emergency. Contact the Disability Resource Center at 309-298-2512 for additional services." For more information on and current university policy on these situations, please consult a campus webpage at <http://www.wiu.edu/studentlife/> or <http://www.wiu.edu/drc>.

Academic Dishonesty. Academic dishonesty will not be tolerated! Anyone who plagiarizes (submitting work written by another person without proper attribution), cheats on an examination (looking off of another's answer sheet, copying someone else's words, writing answers on one's arms, glancing at notes under a coat or a seat, etc.), knowingly assists another student to cheat (writing answers boldly, passing notes, whispering answers, etc.), allows another to take his or her examination, sneaks any part of a test booklet out of the classroom or who has unauthorized possession of an examination will be dealt with severely. Academic dishonesty will result in disciplinary action, and all tainted examinations and assignments will adversely affect the student's grade. For more information on the university policy see <http://www.wiu.edu/provost/students/> and <http://www.wiu.edu/policies/acintegrity.php>.

Respect for Others' Opinions. This university is comprised of students from varied backgrounds and perspectives. You have a right to speak out on issues that you feel strongly about. And so do others who may disagree with you. *Again, please be respectful of others' opinions, even if those views do not comport with yours.* A university should be a marketplace of ideas.

Lecture Notes and Case Briefs

Students are solely responsible for taking good notes in class and crafting effective case briefs. Do not ask the professor for lecture notes or case briefs. At the outset of the course, you will have an opportunity to meet your fellow classmates and exchange contact information. If, for valid reasons (viz., illness or family emergency) you cannot come to class, then you should ask a classmate for notes. It is always a good practice to ask at least two fellow classmates for notes, since note-taking varies considerably. If, after securing class notes, you still have questions about the lectures or cases, then by all means email your professor to seek clarification (RJ-Hardy@wiu.edu).

Course Outline and Assignments

The study of Constitutional Law can be demanding; it requires considerable concentration and study. In this course, we are going to paint with a very broad brush to get the big picture of Constitutional law and Supreme Court decisions relating to Civil Rights and Civil Liberties. This outline will serve as your guide. Use it as your tool. Bring it to class every day. Learn to think about concepts in outline form. Some topics and cases will be dispensed with very quickly; others will require some attention to detail. Your professor will highlight and underscore key elements and cases of which you should be most familiar. Most likely, we will not cover everything in the outline. You are only responsible for the materials we actually cover.

I. Development of American Civil Rights and Liberties

A. Course Overview

1. Review of Syllabus—Read It!
2. Expectations—Attendance, Readings, Briefings, Participation, Testing, Grading
3. Standing Assignment—Always Bring Your Syllabus To Class!
 - a. Daily goal is to cover 4 to 6 cases per class period.
 - b. Cases in **BOLD** are found in your text, read them before class!
 - c. Cases in *ITALICS* are assigned for student presentations
 - d. Cases in REGULAR fonts are presented by your professor

B. Balancing Rights in the American Republic

1. The Nature of Civil Rights—*See Handout*
 - a. Enumerated Rights v. Unalienable Rights
 - b. Perspectives on Rights--Natural Law, Positive Law, Sociological Views
 - c. Changing Nature of Rights--Property, Liberty and Privacy Rights
 - d. Absolute Rights verses Relative Rights
2. Conflicting Principles
 - a. Politics v. Justice
 - b. Liberty v. Authority
 - c. Liberty v. Equality
 - d. Majority Rule v. Minority Rights

C. Early Restrictions on the Governmental Power

1. Restrictions on the National Government, read **Art. I, Sec. 9, U.S. Constitution**
2. Restrictions on the State Governments, read **Art. I, Sec. 10, U.S. Constitution**
3. Defining and Re-Defining Early Restrictions
 - a. Calder v. Bull (1798)
 - b. **Stogner v. California (2003)**
 - c. **Smith v. Doe (2003)**
 - d. Fletcher v. Peck (1810)
 - e. Cummings. v. Missouri (1867)
 - f. United States v. Brown (1965)
 - g. Nixon v. G.S.A. (1977)

D. The Bill of Rights Checks the National Government

1. Founders Intentions
 - a. The Federalists and Anti-Federalists Debate
 - b. A Promise Made, A Promise Kept
 - c. Bill of Rights Ratified
 - d. What is the “Bill of Rights?”
2. Early Supreme Court Rulings
 - a. **Barron v. Baltimore (1833)**
 - b. Permoli v. First Municipality (1844)

E. Constitutional Issues and the Civil War

1. The Slavery Issue--International Law, Property Rights, States’ Rights
 - a. The Antelope (1825)
 - b. Prigg v. Pennsylvania (1824)
 - c. Dred Scott v. Sanford (1857)
2. The Civil War Amendments
 - a. 13th Amendment (1865)
 - b. 14th Amendment (1868)
 - c. 15th Amendment (1870)

II. Due Process and Incorporation

A. Early Rulings Weaken Civil War Amendments

1. Privileges and Immunities--**Slaughterhouse Cases (1873)**
2. Due Process--Hurtado v. California (1884)
3. Equal Protection—Pace v. Alabama (1883), **Plessy v. Ferguson (1896)**
4. Early Civil Rights Laws—Civil Rights Cases (1883)

B. Incorporation and the Due Process Clause

1. Expansion Through the Due Process Clause
 - a. C.B.&Q. RR v. Chicago (1897)
 - b. **Gitlow v. New York (1925)**
2. Theories of Incorporation
 - a. Selective Incorporation--Justice Benjamin Cardozo
 1. **Palko v. Connecticut (1937)**--What is Ordered Liberty?
 2. Benton v. Maryland (1969)
 - b. Total Incorporation--Justices John Harlan, Sr., Hugo Black
 1. Twining v. New Jersey (1908)--Harlan Dissent
 2. **Adamson v. California (1947)**--Black Dissent
 - c. Other Theories of Incorporation
3. Most Recent Provisions Incorporated
 - a. **McDonald v. Chicago (2010)**—Right to Bear Arms
 - b. Timbs v. Indiana (2019)—Excessive Fines
4. The Bill of Rights Today
 - a. Amendments Totally Absorbed--1st, 4th, 6th
 - b. Amendments Partially Absorbed--5th, 8th
 - c. Amendments Not Absorbed--2nd, 3rd, 7th, 9th, 10th

C. Substantive Due Process

1. Substantive Due Process Defined
2. Development of Substantive Due Process
 - a. **Slaughterhouse Cases (1873)**—Justice Field dissents
 - b. **Munn v. Illinois (1887)**—Private Property affected by Public Interest
 - c. Allgeyer v. Louisiana (1879)—Liberty of Contract
 - d. **Lochner v. New York (1905)**—Substantive Due Process trumps State
 - e. **Muller v. Oregon (1908)**—Brandeis Brief
 - f. **West Coast Hotel v. Parrish (1937)**—Curtails Substantive Due Process
3. Substantive Due Process and Equal Protection
 - a. **Brown v. Board of Education (1954, 1955)**
 - b. Bolling v. Sharp (1954)—Substantive Due Process in the 5th Amendment

D. Equal Protection and Judicial Standards/Tests

1. Origins—**U.S. v. Carolene Products (1938)**
2. Standards and Tests
 - a. Rational Basis Test
 - b. Fundamental Rights Test
 - c. Suspect Classification Test
 - d. Near Suspect Classification Test
3. Levels of Scrutiny
 - a. Ordinary Scrutiny
 - b. Strict Scrutiny
 - c. Heightened Scrutiny

III. Civil Liberties Under the First Amendment

A. The Establishment Clause

1. Separation of Church and State
 - a. Brief History of Religion the Early Colonies/States
 - b. Bradfield v. Roberts (1899)
 - c. **Everson v. Board of Education (1947)**
2. Religion and Taxes
 - a. Gibbons v. D.C. (1886)
 - b. Walz v. Tax Commission (1970)
 - c. Swaggart Ministries v. Bd. of Equalization (1990)
3. Prayers and Government Sanctioned Religious Activities
 - a. Engel v. Vitale (1962)
 - b. **Abington School District v. Schempp (1963)**
 - c. Marsh v. Chambers (1983)
 - d. **Wallace v. Jaffree (1985)**
 - e. **Lee v. Weisman (1992)**
 - f. Town of Greece v. Galloway (2014)
4. Public Aid to Faith-Based Institutions
 - a. **Lemon v. Kurtzman (1971)**
 - b. Mitchell v. Helms (1999)
 - c. **Zelman v. Simmons-Harris (2002)**
 - d. **Trinity Lutheran v. Comer (2017)**
5. Religious Displays
 - a. Lynch v. Donnelly (1984)
 - b. Allegheny County v. ACLU (1989)
 - c. Capitol Square Review and Advisory Bd. v. Pinette (1995)
 - d. **McCreary County v. ACLU (2005)**
 - e. **Van Orden v. Perry (2005)**

B. The Free Exercise Clause

1. Scope and Definition of Religion
 - a. Reynolds v. U.S. (1879)
 - b. Pierce v. Society of Sisters (1925)
 - c. **Cantwell v. Connecticut (1940)**
 - d. Torcaso v. Watkins (1961)
 - e. United States v. Seeger (1965)

2. Flag Salute Cases
 - a. *Minersville School District v. Gobitis* (1940)
 - b. **West Virginia v. Barnette** (1940)

3. Government Regulation v. Free Exercise
 - a. *Bunn v. North Carolina* (1949)
 - b. *Wisconsin v. Yoder* (1972)
 - c. *Wooley v. Maynard* (1977)
 - d. *Goldman v. Weinberger* (1986)
 - e. **Boerne v. Flores** (1997)
 - f. **Masterpiece Cakeshop v. Colorado Civil Rights Com.** (2018)

4. Employment Security and Religion Freedom
 - a. **Sherbert v. Verner** (1963)
 - b. **Employment Division v. Smith** (1925)

C. The Free Speech Clause

1. Clear and Present Danger/Seditious Speech
 - a. **Schenck v. United States** (1919)
 - b. **Gitlow v. New York** (1925)
 - c. **Dennis v. United States** (1951))
 - d. **Brandenburg v. Ohio** (1969)

2. Fighting Words/Offensive Speech/Hate Crimes
 - a. *Chaplinsky v. New Hampshire* (1942)
 - b. **R.A.V. v. City of St. Paul** (1992)
 - c. *Wisconsin v. Mitchell* (1993)
 - d. *Virginia v. Black* (2003)
 - e. *Snyder v. Phelps* (2011)

3. Symbolic Speech
 - a. *Cohen v. California* (1971)
 - b. **Texas v. Johnson** (1989)

4. Government Regulation of Speech
 - a. *Rust v. Sullivan* (1991)
 - b. *Board of Regents, University of Wisconsin v. Southworth* (2000)
 - c. **Citizens United v. Federal Elections Commission** (2010)

D. The Free Press Clause

1. Prior Restraint, Security, Authority
 - a. **Near v. Minnesota** (1931)
 - b. **New York Times v. United States** (1971)
 - c. **United States v. Progressive Inc.** (1979)

- d. **Holder v. Humanitarian Law Project (2010)**
- 2. Defamation/Libel and Slander
 - a. **New York Times v. Sullivan (1964)**
 - b. Hustler Magazine v. Falwell (1988)
 - c. Masson v. The New Yorker Magazine (1991)
- 3. Student Rights and Free Expression
 - a. Tinker v. Des Moines School Dist. (1969)
 - b. Bethel School District v. Fraser (1986)
 - c. Hazelwood School District v. Kuhlmeier (1988)
 - d. Morse v. Frederick (2007)
 - e. **Brown v. Entertainment Merchants Association (2011)**

E. The Freedom of Assembly/Association Clause

- 1. Association Rights
 - a. NAACP v. Alabama (1958)
 - b. Keyishian v. New York Board of Regents (1967)
- 2. Regulating Assembly on Public Places
 - a. Edwards v. South Carolina (1963)
 - b. Adderley v. Florida (1966)
 - c. Hutchins v. District of Columbia (1999)
- 3. Peaceful Assembly/Heckler's Veto
 - a. Feiner v. New York (1951)
 - b. Gregory v. Chicago (1969)
- 4. Parades and Freedom of Association
 - a. Boos v. Barry (1988)
 - b. Forsyth County v. Nationalist Movement (1992)
 - c. Hurley et al. v. Irish-American G, L, and B (1995)

IV. Due Process and Rights of the Accused

A. Fourth Amendment Search and Seizure

- 1. Warrants and the Exclusionary Rule **Read:**
 - a. Weeks v. United States (1914)
 - b. Wolf v. People of Colorado (1949)
 - c. **Mapp v. Ohio (1961)**
 - d. Illinois v. Gates (1983)
 - e. Ferguson v. Charleston (2001)
 - f. Hudson v. Michigan (2006)
 - g. Georgia v. Randolph (2006)

- h. Herring v. United States (2008)
 - i. **Maryland v. King** (2013)
2. Warrantless Searches--Problem Areas
 - a. *Stop and Frisk*
 - 1) Terry v. Ohio (1968)
 - 2) Illinois v. Wardlow (2000)
 - b. *Search Incident to Arrest*
 - 1) Chimel v. California (1969)
 - 2) Coolidge v. New Hampshire (1971)
 - c. *Hot Pursuit*
 - 1) Warden v. Hayden (1967)
 - d. *Automobiles/Public Transportation/Consent*
 - 1) Carroll v. U.S. (1925)
 - 2) Schneckloth v. Bustamonte (1973)
 - 3) Pennsylvania v. Mimms (1977)
 - 4) Delaware v. Prouse (1979)
 - 5) Michigan Dept. of State Police v. Sitz (1990)
 - 6) City of Indianapolis v. Edmond (2000)
 - 7) Knowles v. Iowa (1998)
 - 8) Wyoming v. Houghton (1999)
 - 9) Maryland v. Pringle (2003)
 - 10) Illinois v. Caballes (2005)
 - 11) Arizona v. Gant (2009)
 3. Inspections/Plain Sight/Anonymous Tips
 - a. U.S. v. Rabinowitz (1950)
 - b. California v. Ciraolo (1986)
 - c. California v. Greenwood (1988)
 4. Schools--Drugs/Contraband
 - a. New Jersey v. T.L.O. (1985)
 - b. Veronia School Dist. v. Acton (1995)
 - c. Bd. of Education--Pottawatomie County v. Earls (2002)
 5. Employment--Drugs
 - a. Skinner v. Railway Labor Executives Association (1989)
 - b. National Treasury Employees Union v. Von Raab (1989)
 - c. Chandler v. Miller (1997)
 6. Profiles
 - a. United States v. Sokolow (1989)
 - b. Wilkins v. Maryland State Police (1993)
 7. Wiretapping and Electronic Surveillance
 - a. **Olmstead v. United States** (1928)

- b. **Katz v. United States (1967)**
- c. Kyllo v. United States (2001)
- d. **Carpenter v. United States (2018)**

B. Fifth and Sixth Amendment Rights and Due Process

1. Assistance of Counsel
 - a. **Powell v. Alabama (1932)**
 - b. **Gideon v. Wainwright (1963)**

2. Self-Incrimination
 - a. Rochin v. California (1952)
 - b. Malloy v. Hogan (1964)
 - c. Schmerber v. California (1966)

3. Police Interrogation/Confessions
 - a. Escobedo v. Illinois (1964)
 - b. **Miranda v. Arizona (1966)**
 - c. **Nix v. Williams (1984)**
 - d. Dickerson v. U.S. (2000)

4. Trial by Jury/Fair Trial/Confrontation of Witnesses
 - a. Sheppard v. Maxwell (1966)
 - b. Duncan v. Louisiana (1968)
 - c. Batson v. Kentucky (1986)
 - d. **Georgia v. McCollum (1992)**
 - e. **Michigan v. Bryant (2011)**

5. Double Jeopardy
 - a. Benton v. Maryland (1969)
 - b. Kansas v. Hendricks (1997)
 - c. Monge v. California (1998)

C. Eighth Amendment Rights Read:

1. Excessive Bail or Fines
 - a. U.S. v. Bajakajian (1998)
 - b. Timbs v. Indiana (2018)

2. Cruel and Unusual Punishment
 - a. Weems v. United States (1910)
 - b. Robinson v. California (1962)
 - c. Powell v. Texas (1968)
 - d. Rummel v. Estelle (1980)
 - e. **Harmelin v. Michigan (1991)**
 - f. **Ewing v. California (2003)**

g. **Miller v. Alabama** (2012)

3. Death Penalty

a. Furman v. Georgia (1972)

b. **Gregg v. Georgia** (1976)

c. Atkins v. Virginia (2002)

d. **Roper v. Simmons** (2005)

V. Privacy Rights, Political Rights and Equal Protection

A. Privacy Rights Read:

1. Birth Control and Abortion Rights

a. Buck v. Bell (1927)

b. **Griswold v. Connecticut** (1965)

c. **Roe v. Wade** (1973)

d. Webster v. Reproductive Services (1989)

e. **Planned Parenthood v. Casey** (1992)

f. Women of Minnesota v. Gomez (1995)

g. **Gonzales v. Carhart** (2007)

h. Whole Woman's Health Care v. Hellerstadt (2016)

2. Right to Die and Assisted Suicide

a. In re Quinlan (1976)

b. **Cruzan v. Director, Missouri Dept. of Health** (1990)

c. **Washington v. Glucksberg** (1997)

d. **Vacco v. Quill** (1997)

3. Privacy and Sexuality

a. **Bowers v. Hardwick** (1986)

b. **Lawrence v. Texas** (2003)

c. **Obergefell v. Hodges** (2015)

B. Political Rights Equal Protection

1. Literacy Tests, White Primaries and Poll Taxes

a. Guinn v. United States (1915)

b. Smith v. Allwright (1944)

c. South Carolina v. Katzenbach (1966)

d. **Harper v. Virginia Board of Elections** (1966)

2. Reapportionment and Redistricting

a. **Westberry v. Sanders** (1964)

b. **Reynolds v. Sims** (1964)

c. U.S. Department of Commerce v. U.S. House of Representatives (1998)

3. Racial and Political Gerrymandering
 - a. *Gomillion v. Lightfoot* (1960)
 - b. *Davis v. Bandemer* (1986)
 - c. **Shaw v. Reno (1993)**
 - d. **Vieth v. Jubelirer (2004)**
4. Other Voting Rights Issues—Age, Residency, Identification
 - a. *Oregon v. Mitchell* (1970)
 - b. *Kramer v. Union Free School District* (1969)
 - c. *Rice v. Hawaii* (1999)
 - d. **Crawford v. Marion County Election Board (2008)**
 - e. **Shelby County v. Holder (2013)**

C. Equal Protection and Remedies—Race and Gender

1. The Nature of Discrimination and Remedies
 - a. Purposeful Discrimination and Structural Discrimination
 - b. Equal Opportunity and Affirmative Action
2. Legislative Remedies—Key Provisions
 - a. The Civil Rights Act of 1964
 - b. The Voting Rights Act of 1965
 - c. Title IX of the Education Amendments Act of 1972
 - d. Civil Rights Act of 1991
3. Racial Discrimination in Education
 - a. *Missouri ex rel Gaines v. Canada* (1938)
 - b. *Sweatt v. Painter* (1950)
 - c. *Brown v. Board of Education/Bolling v. Sharp* (1954)
 - a. **Swann v. Charlotte-Mecklenburg School District (1971)**
 - b. **U.S. v. Fordice (1992)**
 - c. **Missouri v. Jenkins (1995)**
 - d. **Grutter v. Bollinger (2003)**
 - e. **Gratz v. Bollinger (2003)**
 - f. *Fisher v. University of Texas* (2016)
4. Equal Protection and Gender/LGTBQ Discrimination
 - a. *Reed v. Reed* (1971)
 - b. **Frontiero v. Richardson (1973)**
 - c. **Rostker v. Goldberg (1981)**
 - d. *Grove City College v. Bell* (1984)
 - e. **United States v. Virginia (1996)**
 - f. *Altitude Express, Inc. v. Zarda* (2020)
5. Housing Discrimination Based on Race
 - a. The Civil Rights Act of 1866

- b. Shelly v. Kraemer (1948)
- c. Jones v. Mayer (1968)
- d. Housing Act of 1968
- e. Seif v. Chester Residents (1998)

6. Affirmative Action and Equal Protection in Employment

- a. Griggs v. Duke Power Company (1971)
- b. **City of Richmond v J.A. Croson Co.** (1989)
- c. **Adarand Constructors v. Pena** (1995)