

Name: \_\_\_\_\_

Government In America, Chapter 4

Big Idea Questions	Guided Notes	Areas of Concern
<p>Do you believe in absolute Freedom of Speech?</p>	<p style="text-align: center;"><b>The Bill of Rights</b></p> <ul style="list-style-type: none"><li>• Civil Liberties:<ul style="list-style-type: none"><li>• Protections against the _____</li><li>• Examples of Civil Liberties?<ul style="list-style-type: none"><li>• Bill of Rights</li></ul></li></ul></li><li>• Many Americans love the idea of rights in theory, but don't always follow through in practice<ul style="list-style-type: none"><li>• Example: _____, etc.</li></ul></li><li>• 1st Amendment - "Congress shall make no law" - known as the Establishment Clause<ul style="list-style-type: none"><li>• Originally in _____, the Supreme Court interpreted the Bill of Rights to only apply to the federal government, NOT THE STATES</li><li>• In 1925, the Supreme Court, in _____, ruled that through the 14th amendment, states must respect the 1st amendment</li></ul></li><li>• *** _____ *** - <i>Supreme Court has applied the Bill of Rights to states, through the 14th amendment</i></li></ul> <p style="text-align: center;"><b>Freedom of Religion</b></p> <ul style="list-style-type: none"><li>• Free Exercise Clause<ul style="list-style-type: none"><li>• The government cannot _____ (prohibit or limit) religion or worship</li><li>• This does not mean one can do something illegal under the guise of religion</li></ul></li><li>• Thomas Jefferson advocated the 1st amendment meant there was a "wall of separation" between church and state forbidding the government favoring a religion</li><li>• Can the government provide aid to religious schools?<ul style="list-style-type: none"><li>• _____ according to <i>Lemon v. Kurtzman</i>, however, aid must:<ul style="list-style-type: none"><li>• Not advance or inhibit religion</li><li>• Not _____ government with religion</li><li>• Have a _____ purpose</li></ul></li><li>• Aid can be used for textbooks, lunches, etc.</li></ul></li><li>• Equal Access Act (1984)<ul style="list-style-type: none"><li>• Schools cannot prohibit students from using school grounds for religious worship, provided the school allows for other meetings</li></ul></li><li>• The Ten Commandments cannot be posted on walls of public classrooms</li><li>• _____:<ul style="list-style-type: none"><li>• School-sponsored prayer in public schools is illegal</li><li>• Students CAN pray in school, it cannot be led by school officials</li></ul></li><li>• In 1960, the Supreme Court ruled that states cannot prohibit the teaching of evolution in public schools</li></ul>	

- The Supreme Court has ruled in favor of accommodation of religion and not favoring one
- \_\_\_\_\_ (1993):
  - Allowed people to practice certain religious rituals unless the government could show a compelling interest to regulate those rituals
  - Later declared \_\_\_\_\_

### Freedom of Expression

- Prior Restraint: (Government censorship)
  - The 1st amendment limits the ability of the government to censor material \_\_\_\_\_ it comes out
  - Does not apply to school newspapers or national security issues
- During times of war, or crisis, individual liberties decrease
  - \_\_\_\_\_ (1919)
    - Free speech could be limited if it poses a “clear and present danger”
    - Cannot yell “fire” in a theater
  - \_\_\_\_\_ (1940):
    - Made it illegal to teach or favor the violent overthrow of the \_\_\_\_\_
  - Roth v. US (1957)
    - Obscene material is not always protected by 1st amendment
  - Miller v. California (1973):
    - Supreme Court helped define obscene material:
      - It encourages an excessive interest in sex
      - It is “patently offensive” in terms of sexual conduct
      - Lacked “\_\_\_\_\_”
  - What is obscene has changed over time
- Libel and Slander
  - Libel - \_\_\_\_\_ malicious false statements intending to damage a reputation (\_\_\_\_\_)
  - \_\_\_\_\_ - public figures have a higher threshold than private individuals
  - Public figures have a harder time proving libel in court
  - Slander - making false statement intending to damage a reputation (\_\_\_\_\_)
- The 1st amendment also protects Symbolic Speech
  - \_\_\_\_\_ - burning the American flag
  - \_\_\_\_\_ - protesting the Vietnam War with armbands in a school was ok
- Commercial Speech (advertising) is much more regulated
  - Federal Trade Commission (\_\_\_\_\_) can regulate what can be advertised on TV (\_\_\_\_\_)
- Federal Communications Commission (FCC) can regulate what appears on TV and radio

### Freedom of Assembly

What is another example of rights conflicting?

- What is freedom of assembly?
  - Right to gather to make a statement or point - parade, protest, picket, etc.
  - Oftentimes, a \_\_\_\_\_ is needed to assemble in public places
- Rights may often conflict:
  - Right to an \_\_\_\_\_ and right to \_\_\_\_\_ abortions
- The right to assemble also includes the right to associate with other like-minded individuals
  - NAACP v. Alabama - NAACP membership list could not be turned over to authorities
- Right to bear arms:
  - \_\_\_\_\_ Amendment - A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed
  - District of Columbia v. Heller - ability to possess firearms are unconnected to \_\_\_\_\_ service; can use firearms for lawful purposes

### Defendants' Rights

- Interpreting Defendants' Rights:
  - The Bill of Rights can be vague: what is a "speedy trial?" What is "cruel and unusual punishment?"
- Searches and Seizures:
  - Probable cause - reasonable grounds that one is \_\_\_\_\_
  - 4th amendment forbids illegal searches and seizures - must have a warrant signed by a court
  - Police can enter homes without warrants if they believe: someone inside is seriously \_\_\_\_\_
  - \_\_\_\_\_
  - Over the years police have increased warrantless searches through "reasonable \_\_\_\_\_"
  - \_\_\_\_\_ Rule - prosecution cannot use illegally seized evidence in a case
    - Originally only applied to the federal government
  - \_\_\_\_\_ (1961)
    - While searching Dollree Mapp's for a fugitive, police seized pornographic material, which was illegal
    - The supreme Court declared that the evidence was seized \_\_\_\_\_ since police did not have a warrant
    - Critics of the exclusionary rule believe it is too lenient to criminals, supporters claim it supports those accused of crimes, not convicted of crimes
- The War on Terrorism:
  - \_\_\_\_\_ gave broad powers to the government
    - Government could wiretap and obtain doctor, library, and school records
  - In 2005, the Bush administration ordered the \_\_\_\_\_ to monitor international phone calls and emails of people in the US

What does double jeopardy mean?

- As of 2014, this practice is still occurring
- Foreign Intelligence Surveillance Act - gave the government the ability to eavesdrop on large foreign groups at once, instead of using individual wiretaps
- \_\_\_\_\_
- Self-Incrimination:
  - \_\_\_\_\_ Amendment - no self-incrimination (plead the 5th), no double jeopardy
    - Prohibits coerced, or forced confessions, protects against entrapment (law officials encourage an individual to commit a crime)
  - \_\_\_\_\_ (1966) - suspects MUST be read their rights at time of arrest
- The Right to Counsel:
  - \_\_\_\_\_ amendment - "In all criminal prosecutions, the accused shall enjoy the right to a speedy trial,.... and to have the Assistance of Counsel for his defence."
  - Until 1932, some individuals were tried for \_\_\_\_\_ crimes in states WITHOUT an attorney
  - \_\_\_\_\_ (1963) - right to an attorney was established for any individual accused of a felony in a state court; later applied to any charge where imprisonment could be a result
- Trials:
  - Most cases do NOT go to trial; \_\_\_\_\_% end with a guilty plea
  - Plea Bargaining - individuals will confess to a less serious crime
    - Ex: Speeding ticket -> paid a fine and attend a class
  - Almost all juries have \_\_\_\_\_ jurors and require unanimous votes to convict
- The War on Terrorism:
  - After 9/11, over 1,200 people deemed a threat to national security were held without trial and held in jail
    - US withheld their names
  - Hamdan v. Rumsfeld (2006) - President Bush procedures at \_\_\_\_\_ violated Uniform Code of Military Justice and the Geneva Conventions
  - Supreme Court ruled that detainees in Gitmo were allowed to challenge their holding before a judge or neutral decision maker
  - Again, **IN TIMES OF WAR AND CRISIS, INDIVIDUAL RIGHTS GO DOWN!**
- Cruel and Unusual Punishment:
  - \_\_\_\_\_ amendment - "Excessive \_\_\_\_\_ shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." - applies to states as well through the 14th amendment
  - Overturned Georgia's death penalty law; death penalty cannot be applied in a "freakish" and "random" way - *Furman v. Georgia* (1972)
  - \_\_\_\_\_ (1976) - Supreme Court upheld capital punishment
  - Death penalty cannot be applied to mentally ill, mentally retarded, those under 18, and those convicted of rape that did

