

# Ap gov. chapter four study guide

[Politics](#)



## **Civil Liberties and Civil Rights Study Guide A. Chapter 4:**

### **Terms:**

- **Civil Liberties:** The legal constitutional protections against government. Although our civil liberties are formally set down in the Bill of Rights, the courts, police, and legislatures define their meaning.
- **Bill of Rights:** The first 10 amendments to the US Constitution, which define such basic liberties as freedom of religion, speech, and press and guarantee defendants' rights.
- **First Amendment:** The constitutional amendment that establishes the four great liberties: freedom of the press, of speech, of religion, and of assembly.
- **Fourteenth Amendment:** The constitutional amendment adopted after the Civil War that states, 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.
- **Due Process Clause:** Part of the Fourteenth Amendment guaranteeing that persons cannot be deprived of life, liberty, or property by the United States or state governments without due process of law.
- **Incorporation Doctrine:** The legal concept under which the Supreme Court has nationalized the Bill of Rights by making most of its provisions applicable to the states through the Fourteenth Amendment.

- Establishment Clause: Part of the First Amendment stating that, "Congress shall make no law respecting an establishment of religion. "
- Free Exercise Clause: A First Amendment provision that prohibits government from interfering with the practice of religion.
- ix. Prior Restraint: A government preventing material from being published.
- This is a common method of limiting the press in some nations, but is usually unconstitutional in the United States, according to the First Amendment and as confirmed in the 1931 Supreme Court case of *Near v. Minnesota*.
- Libel: The publication of false or malicious statements that damage someone's reputation.
- Symbolic Speech: Nonverbal communication, such as burning a flag or wearing an armband. The Supreme Court has accorded some symbolic speech protection under the First Amendment.
- Commercial Speech: Communication in the form of advertising. It can be restricted more than any other types of speech but has been receiving increased protection from the Supreme Court.
- Probable Cause: The situation occurring when the police have reason to believe that a person should be arrested. In making the arrest, police are allowed legally to search for and seize incriminating evidence.
- Unreasonable Searches and Seizures: Obtaining evidence in haphazard or random manner, a practice prohibited by the Fourth Amendment. Probably cause and/or a search warrant are required for a legal and proper search for an seizure of incriminating evidence.

- Search Warrant: A written authorization from a court specifying the area to be searched and what the police are searching for. xvi. Exclusionary Rule: The rule that evidence, no matter how incriminating, cannot be introduced into a trial if it was not constitutionally obtained. The rule prohibits use of evidence obtained through unreasonable search and seizure.
- Fifth Amendment: A constitutional amendment designed to protect the rights of persons accused of crimes, including protection against double jeopardy, self-incrimination, and punishment without due process of law.
- Self-Incrimination: The situation occurring when an individual accused of a crime is compelled to be a witness against himself or herself in court. The Fifth Amendment forbids self-incrimination. xix. Sixth Amendment: A constitutional amendment designed to protect individuals accused of crimes. It includes the right to counsel, the right to confront witnesses, and the right to a speedy and public trial.
- Plea Bargaining: A bargain struck between the defendant's lawyer and the prosecutor to the effect that the defendant will plead guilty to a lesser crime (or fewer crimes) in exchange for the state's promise not to prosecute the defendant for a more serious (or additional) crime.
- Eight Amendment: The constitutional amendment that forbids cruel and unusual punishment, although it does not define this phrase. Though the Fourteenth Amendment, this Bill of Rights provision applies to the states. xxii. Cruel and Unusual Punishment: Court sentences prohibited by the Eighth Amendment. Although the Supreme Court has rules that mandatory death sentences for certain offenses are

unconstitutional, it has not held that the death penalty itself constitutes cruel and unusual punishment.

- Right to Privacy: The right to a private personal life free from the intrusion of government.
- Marketplace of Ideas: the public forum in which beliefs and ideas are exchanged and compete xxv. Inevitable Discovery: exception to the exclusionary rule that allows the use of illegally obtained evidence at trial if the court determines that the evidence would eventually have been found by legal means
- The Smith Act: required fingerprinting and registering of all aliens in the u. s. and made it a crime to teach or advocate the violent overthrow of the u. s. government
- Hate Crimes: crimes that involve hate against people because of color, race, or ethnic origin xxviii. Obscenity: an offensive or indecent word or phrase xxix. Miranda Warnings: warnings that must be read to suspects prior to questioning. Suspects must be advised that they have the rights of silence and counsel

### **Cases:**

Schenck v. US: Speech is not constitutionally protected when the words used under the circumstances present a clear and present danger of bringing about the evil Congress has a right to prevent

Gitlow v. New York: State statutes are unconstitutional if they are arbitrary and unreasonable attempts to exercise authority vested in the state to protect public interests.

Dennis v. US: The First Amendment does not protect the right to free speech when the nature or circumstances are such that the speech creates a clear and present danger of substantial harm to important national interests.

- Yates v. US: v. New York Times v. US
- US v. O'Brien
- Tinker v. Des Moines:
- Mapp v. Ohio ix. US v. Eichman:
- Near v. Minnesota:
- New York Times v. Sullivan: xii. Miranda v. Arizona:
- Engle v. Vitale:
- Reynolds v. US: xv. Brandenburg v. Ohio:
- BSA v. Dale: xvii. Lemon v. Kurtzman:
- West Virginia v. Barnette:
- Gideon v. Wainwright:
- Smith v. Collins:
- Wallace v. Jaffree:
- Hazelwood v. Kuhlmeier:
- Santa Fe School Dist. V. Doe:
- Boy Scouts of America v. Dale:

### **Questions:**

Protections of the First Amendment were not originally extended to the states because every state had its own bill of rights. But if a state passes a law violating one of the rights protected by the Bill of rights and the state's constitution doesn't prohibit this then nothing happens. This is determined from the Barron v. Baltimore case that said it only restrains governments,

not states and cities. Later though, it was changed by the ruling of *Gitlow v. New York* that said that states had to respect some First Amendment rights.

Freedom of speech is the right to express opinions without censorship or restraint. There are many types of speech:

1. Libel: The publication of false or malicious statements that damage someone's reputation.
2. Symbolic Speech: Nonverbal communication, such as burning a flag or wearing an armband. The Supreme Court has accorded some symbolic speech protection under the First Amendment.
3. Commercial Speech: Communication in the form of advertising. It can be restricted more than any other types of speech but has been receiving increased protection from the Supreme Court.

Basic restrictions on speech include: prior restraint, government preventing material from being published; obscenity, inappropriate speech; libel, false statements being published; slander. The government can limit symbolic speech if the act was to intimidate.

Brief Explanations:

1. Search and Seizure: must have probable cause to search personal effects; can only take what they went into search for
2. Privilege Against Self-Incrimination: this fifth amendment right protects a defendant from being forced to testify against him or herself; it protects against compelled testimonial evidence
3. Right to Due Process: if people believe their rights are being violated, they have the right to a fair and impartial hearing

4. Right to Counsel: individual right found in the sixth amendment of the constitution that requires criminal defendants to have access to legal representation v. The three basics tests the courts use to determine the constitutionality of a law is the Lemon Test.

It states that:

1. the statute must have a secular legislative purpose
2. its principal or primary effect must be one that neither advances nor inhibits religion
3. the statute must not foster " an excessive government entanglement with religion. "