
Life, Liberty, and the Pursuit of Happiness, Chapter 2: The Bill of Rights

OSHER 949-001**Dates:** Wednesdays, 1/18/17 - 2/22/17**Times:** 9:30 AM - 11:00 AM**Location:** Commander's House, Fort Douglas**Instructor:** Beth Whitsett**Email:** beth.whitsett@gmail.com **Mobile Phone:** 801-541-0869**Course Description**

This course will explore the first ten Amendments to the US Constitution. Why were they not part of the original Constitution adopted in 1787? What concerns and conditions led the founders to select the specific rights enumerated in those amendments? How do the federal courts analyze and interpret the language of these amendments to decide real world cases? We will focus on Amendment I (speech, assembly, press, and religion), IV (privacy) and V (due process), and will select a topic (preferably one currently under consideration by the Supreme Court) to analyze, argue, and decide as a class.

Each class session will center on one of the lecture topics described below, with substantial opportunity for discussion. My hope is that students will come away with a deeper understanding of and appreciation for this foundational legal document and the federal court system that stands as its principal guardian.

There will be no required reading, but there will be recommended readings as we move along for those who wish to dig deeper. There will also be handouts for each class session that will be e-mailed to students in advance or available in hard copy in class to aid in-class discussion.

Schedule**Week 1 (January 18): Introduction to the Bill of Rights and Judicial Review**

We will look at the debates during and after the Constitutional Convention of 1787 concerning whether there should be a national Bill of Rights at all. Then we consider the role and process of the Federal Courts in interpreting and applying the rights protects by the Bill of Rights.

Week 2 (January 25): Amendment I: Freedom of Speech, Press, and Association

We will look at the 14th Amendment and its role in extending the prohibitions on Congress set forth in the 1st Amendment (and elsewhere in the Bill of Rights) to the states. We will then look at some early speech cases addressing the definition of "speech", the nature of constitutional regulation of speech, libel and slander laws, and the concept of the public forum.

Week 3 (February 1): Amendment I: Religion – Free Exercise and Establishment

What is the meaning of free exercise and what kinds of regulations limiting exercise are constitutional? What exactly does the establishment clause prohibit: separation of church and state.

Week 4 (February 8): Amendments IV, V and IX: Right to Privacy

The prohibition against unreasonable searches and seizures and the requirements of probable cause and due process. We will address the development of expanded privacy rights (and the judicial recognition of more general rights of privacy (autonomy of self – freedom of thought, belief, expression and certain intimate conduct --the penumbra.)

Week 5 (February 15): Amendments V and VI: Due Process and Criminal Procedure

Double jeopardy, protection against self-incrimination, due process, impartial jury, and right to confront witnesses and to be represented by counsel. We will consider the reasons for these protections of persons accused of crimes, and why law-abiding citizens should care about these protections.

Week 6 (February 22): The Constitution into the 21st Century

We will argue and decide a hypothetical case based on a topic chosen by the class (preferably involving issues under consideration by the US Supreme Court in its 2016 Term). Time permitting, we will discuss “originalism”, “activist judges”, and whether the Bill of Rights is necessary today.