

**Princeton University  
Department of Politics**

**POL 423 – Free Speech and the Law  
Spring 2023**

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M 7:30-10:20pm

office hours: by appointment via <https://calendly.com/kewhitt>

This seminar will focus on the theory, law and politics of freedom of speech within the context of the American constitutional system. The course will draw primarily on court cases relating to the developing constitutional law surrounding the First Amendment. Judicial opinions will be supplemented with some broader theoretical and empirical works. Particular problems to be addressed will include dangerous speech, false speech, racist speech, censorship and secrecy, and protests.

Schedule:

1. Sept. 11: Theory
2. Sept. 18: Prior Restraint
3. Sept. 25: Sedition
4. Oct. 2: Fighting Words and True Threats
5. Oct. 9: False Speech  
Fall Break
6. Oct. 23: Obscenity
7. Oct. 30: Offensive and Racist Speech
8. Nov. 6: Time, Place, and Manner Regulations
9. Nov. 13: Expressive Conduct
10. Nov. 20: Protest
11. Nov. 27: Student Speech
12. Dec. 4: Faculty Speech

Materials:

All materials for the semester will be made available on the Canvas course website or via hyperlink (if indicated with “(web)” on the syllabus).

Students will be expected to have access to the readings during seminar discussions.

Requirements:

The requirements for the course include both written and oral components. All students are expected to come to class fully prepared to be active participants. A seminar cannot work unless all of its participants are prepared to make useful contributions, and you will not be able to take full advantage of the seminar if you are not prepared. Participation will be a significant component of your final grade.

There will be **two options** for written work. You may complete the written work with one short paper and one term paper, **or** you may complete three short papers. Each **short paper** (5-10 pages) will examine the issues in a given week's readings. The short paper is due by 1:00 pm on the day we cover the material that you will discuss. The short paper may examine any question you find of interest arising from the readings. They may focus on a single case or incorporate several of the cases. The papers should be argumentative, with a clear thesis and specific usage of the available material.

If you choose the **term paper** option, the bulk of your grade will be determined by the term paper. This research paper (20-25 pages) will focus on a topic of your own choosing, approved by me before October 1. Topics for the research paper should be emailed to me. An electronic copy of the paper will be due to my email by 4:00 pm, December 15 ("Dean's Date"). For the research paper, you will be expected to draw not only on the required readings but also on additional materials that you find outside of class or in the suggested readings.

Term Paper	50%
Short Paper	25% (each)
Class Participation	25%

### Readings:

#### 1. Theory

- John Trenchard and Thomas Gordon, *Cato's Letters* No. 15 and No. 32 (1721)
- John Stuart Mill, *On Liberty*, ch. 2 (1859)
- Frederick Douglass, A Plea for Free Speech in Boston (1860) ([web](#))
- Zechariah Chafee, *Freedom of Speech* (1920) ([web](#))
- Alexander Meiklejohn, *Free Speech and Its Relation to Self-Government* (1948)
- Thomas Scanlon, *A Theory of Freedom of Expression*, pp. 8-21 (1972)
- Frederick Schauer, *Free Speech*, pp. 154-163 (1982)

#### Suggested:

- John Milton, *Areopagitica* (1644)
- Benjamin Franklin, *An Apology for Printers* (1731)
- Immanuel Kant, *What is Enlightenment?* (1784)
- James Madison, *Virginia Report* (1800)
- Alexander Hamilton, argument in *People v. Crowell* (1804)
- Gerrit Smith, *The Crime of the Abolitionists* (1835)
- Elizabeth Cady Stanton, *Free Speech* (1861)
- James Fitzjames Stephen, *Liberty, Equality, Fraternity* (1873)
- Thomas Cooley, *A Treatise on Constitutional Limitations* (1883)

Henry Adams, Shall We Muzzle the Anarchists? (1886)  
Robert G. Ingersoll and F.D. Coudert, The Limits of Tolerance (1889)  
Theodore Schroeder, The Meaning of Unabridged “Freedom of Speech” (1909)  
Voltaire de Cleyre, On Liberty (1909)  
Walter Berns, Freedom, Virtue and the First Amendment (1957)  
Willmoore Kendall, The “Open Society” and Its Fallacies (1960)  
Herbert Marcuse, Repressive Tolerance (1965)  
Thomas Emerson, Toward a General Theory of the First Amendment (1966)  
Patrick Devlin, The Enforcement of Morals (1968)  
Martin H. Redish, Freedom of Expression (1984)  
Lee C. Bollinger, The Tolerant Society (1986)  
C. Edwin Baker, Human Liberty and Freedom of Speech (1989)  
Daniel A. Farber, “Free Speech without Romance: Public Choice and the First Amendment,” Harvard Law Review (1991)  
Curry Jansen, Censorship (1991)  
Stanley Fish, There is No Such Thing as Free Speech (1994)  
Owen Fiss, The Irony of Free Speech (1996)  
Allan Haworth, Free Speech (1998)  
Cass R. Sunstein, Why Societies Need Dissent (2003)  
Steven Heyman, Free Speech and Human Dignity (2008)

## 2. Prior Restraint

Near v. Minnesota (1931)  
Nebraska Press Association v. Stuart (1976)  
Landmark Communications v. Virginia (1978) ([web](#))  
New York Times v. United States (1971)  
In re National Security Letters (9<sup>th</sup> Cir., 2017) ([web](#))  
Trump v. Trump (N.Y.S. 3d 2020)

### Suggested:

Brandreth v. Lance (NY 1839)  
Sherry v. Perkins (MA 1888)  
Shoemaker v. South Bend Spark Arrester Co. (IN 1893)  
Ex parte Neill (TX 1893)  
Corliss v. Walker (C.C.D.Ma. 1894)  
Beck v. Railway Teamsters’ Protective Union (MI 1898)  
Marlin Fire Arms Co. v. Shields (NY 1901)  
Howell v. Bee Publishing Co. (NE 1916)  
Ex parte Tucker (TX 1920)  
Alderman v. Philadelphia Housing Authority (3<sup>rd</sup> Cir. 1974)  
City of Lakewood v. Plain Dealer Publishing Co. (1976)  
United States v. Progressive Inc. (W.D. Wis. 1979)  
Central Intelligence Agency v. Sims (1985)  
Department of Justice v. Reporters Committee for Freedom of the Press (1989)  
Department of State v. Ray (1991)  
Junger v. Daley (6<sup>th</sup> Cir., 2000)

Boehner v. McDermott (D.C. Cir., 2007)  
Thomas Emerson, "Doctrine of Prior Restraint," *Law & Contemporary Problems* (1955)  
Vincenr Blasi, "Prior Restraints on Demonstrations," *Michigan Law Review* (1976)  
Frederick Schauer, "Fear, Risk & the First Amendment," *Boston U. Law Review* (1978)  
John Jeffries, "Rethinking Prior Restraint," *Yale Law Journal* (1982)  
Martin Redish, "Proper Role of Prior Restraint Doctrine," *Virginia Law Review* (1984)

### 3. Sedition

Abrams v. United States (1919) ([web](#))  
Gitlow v. New York (1925) ([web](#))  
Whitney v. California (1927)  
Dennis v. United States (1951)  
Brandenburg v. Ohio (1969)  
Rice v. Paladin Enterprises (4<sup>th</sup> Cir., 1997) ([web](#))  
Holder v. Humanitarian Law Project (2010) ([web](#))  
United States v. Miselis (4<sup>th</sup> Cir. 2020)

#### Suggested:

United States v. Cooper (C.C. Pa. 1800)  
People v. Crosswell (NY 1804)  
Congressional Debate on Incendiary Publications in the Mail (1833)  
States Debate Prohibiting Abolitionist Speech (1835)  
James Birney, Proceedings Against the Liberty of the Press (1836)  
John Keep, An Address Delivered in the Village of Lockport (1837)  
State v. Worth (NC 1860)  
Trial of Clement Vallandigham (1863)  
Hutchins' Executor v. George (NJ 1888)  
People v. Most (NY 1902)  
State ex inf. Crow v. Shepherd (MO 1903)  
State v. Fox (WA 1912)  
Masses Publishing Co. v. Patten (S.D. NY 1917)  
State v. Moilen (MN 1918)  
State v. Holm (MN 1918)  
Debs v. United States (1919)  
Frohwerk v. United States (1919)  
Schaefer v. United States (1920)  
People v. Lloyd (IL 1922)  
State v. Boloff (OR 1932)  
Hartzel v. United States (1944)  
Pennsylvania v. Nelson (1956)  
Yates v. United States (1957)  
Watkins v. United States (1957)  
Sweezy v. New Hampshire (1957)  
Uphaus v. Wyman (1959)  
Barenblatt v. United States (1959)  
Communist Party of Indiana v. Whitcomb (1974)

Hess v. Indiana (1973)  
In re Brown (CA 1973)  
North Carolina v. Brooks (NC 1975)  
People v. Chapman (MI 1978)  
Herceg v. Hustler Magazine (5<sup>th</sup> Cir., 1987)  
Land v. State (GA 1993)  
DOJ Report on the Availability of Bombmaking Information (1997)  
Gay Lesbian Bisexual Alliance v. Pryor (11<sup>th</sup> Cir., 1997)  
United States v. Rahman (2<sup>nd</sup> Cir., 1999)  
McCoy v. Stewart (9<sup>th</sup> Cir., 2002)  
Citizen Publishing Co. v. Miller (AZ, 2005)  
United States v. Fullmer (3<sup>rd</sup> Cir., 2009)  
Bible Believers v. Wayne County (6<sup>th</sup> Cir., 2015)  
United States v. Wheeler (10<sup>th</sup> Cir., 2015)  
Nwanguma v. Trump (6<sup>th</sup> Cir. 2018)  
Alexander Meiklejohn, “The First Amendment is an Absolute,” Supreme Court Review (1961)  
Laurent B. Frantz, “The First Amendment in the Balance,” Yale Law Journal (1962)  
Robert H. Bork, “Neutral Principles and Some First Amendment Problems,” Indiana Law Journal (1971)  
Vincent Blasi, “The Checking Value in First Amendment Theory,” Law & Social Inquiry (1977)  
Lillian R. BeVier, “The First Amendment and Political Speech: An Inquiry into Substance and Limits of Principle,” Stanford Law Review (1978)  
Alexander Aleinikoff, “Constitutional Law in the Age of Balancing,” Yale Law Journal (1987)  
Geoffrey R. Stone, Perilous Times (2004)

#### 4. Fighting Words and True Threats

Cantwell v. Connecticut (1940)  
Chaplinsky v. New Hampshire (1942) ([web](#))  
Terminello v. Chicago (1949) ([web](#))  
Feiner v. New York (1951) ([web](#))  
Watts v. United States (1969) ([web](#))  
Gooding v. Wilson (1977) ([web](#))  
Planned Parenthood v. American Coalition for Life Activists (9<sup>th</sup> Cir., 2002) ([web](#))  
Snyder v. Phelps (2011)  
Elonis v. United States (2015) ([web](#))  
Connecticut v. Baccala (CT 2017)

#### Suggested:

Commonwealth v. Hunt (MA 1842)  
Prentiss v. Shaw (ME 1869)  
People v. Green (CO 1883)  
State v. Goodwin (LA 1885)  
Vegeahn v. Guntner (MA 1896)

State v. Guilford (MN 1928)  
People v. Immonen (MI 1935)  
Johnson v. State (AR 1939)  
Lynch v. State (MD 1967)  
Livingston v. Garmire (5<sup>th</sup> Cir., 1971)  
Goguen v. Smith (1<sup>st</sup> Cir., 1972)  
State v. Mayhew (FL 1973)  
United States v. Kelner (2<sup>nd</sup> Cir., 1976)  
Skelton v. City of Birmingham (AL 1976)  
Collin v. Smith (7<sup>th</sup> Cir., 1978)  
Hill v. City of Houston (5<sup>th</sup> Cir., 1985)  
City of Whitefish v. O'Shaughnessy (MT 1985)  
People v. Dietze (NY 1989)  
Colorado v. Hickman (CO 1999)  
Montana v. Robinson (MT 2003)  
Commonwealth v. Welch (MA 2005)  
Purtell v. Mason (7<sup>th</sup> Cir., 2008)  
South Dakota v. Suhn (SD 2008)  
Nebraska v. Drahota (NE 2010)  
In re Nickolas S. (AZ 2011)  
United States v. Turner (2<sup>nd</sup> Cir. 2013)  
Faust v. State (TX 2015)  
State v. Tracy (VT 2015)  
Johnson v. Quattlebaum (4<sup>th</sup> Cir., 2016)  
Minnesota v. Hensel (MN 2017)  
State of Connecticut v. Parnoff (CT 2018)  
State v. Simon (ND 2018)  
Haughwout v. Tordenti (CT 2019)  
State v. Ross (TX 2019)  
State v. Taylor (NC 2020)  
John Hart Ely, "Flag Desecration: A Case Study in the Roles of Categorization and Balancing in First Amendment Analysis," Harvard Law Review (1975)  
Kent Greenawalt, Speech, Crime and the Uses of Language (1982)  
Kent Greenawalt, Fighting Words (1996)  
Jennifer Rothman, "Freedom of Speech and True Threats," Harvard Journal of Law and Public Policy (2001)  
Eugene Volokh, "Crime-Facilitating Speech," Stanford Law Review (2005)

## 5. False Speech

Commonwealth v. Blanding (MA 1825) ([web](#))  
New York Times v. Sullivan (1964)  
Curtis Publishing Co. v. Butts (1967) ([web](#))  
Gertz v. Robert Welch (1974) ([web](#))  
Hustler Magazine v. Falwell (1988) ([web](#))  
United States v. Alvarez (2012) ([web](#))  
Susan B. Anthony List v. Driehaus (6<sup>th</sup> Cir. 2016)

Suggested:

Alexander Addison, *Liberty of Speech and of the Press* (1798)  
Commonwealth v. Clap (MA 1808)  
Commonwealth v. Blanding (MA 1825)  
Negley v. Farrow (MD 1882)  
McAllister v. Detroit Free Press Co. (MI 1889)  
Atwater v. Morning News Co. (1896)  
Gilman v. McClatchy (CA 1896)  
United States v. Barrow (1915)  
Garrison v. Louisiana (1964)  
Farnsworth v. Tribune Co. (IL 1969)  
United States v. Irving (5<sup>th</sup> Cir., 1975)  
Hutchinson v. Proxmire (1979)  
Friedman v. Rogers (1979)  
Pring v. Penthouse International, Ltd. (10<sup>th</sup> Cir., 1982)  
Spiritual Psychic Science Church of Truth v. City of Azusa (CA 1985)  
Dun and Bradstreet v. Greenmoss Builders (1985)  
Scott v. News-Herald (OH 1986)  
Dworkin v. Hustler Magazine (9<sup>th</sup> Cir., 1989)  
Milkovich v. Lorain Journal Co. (1990)  
Cohen v. Cowles Media Co. (1991)  
Klasky v. Nike, Inc. (CA 2002)  
Pugel v. University of Illinois (7<sup>th</sup> Cir., 2004)  
Sult v. State (FL 2005)  
Rickert v. State of Washington (WA 2007)  
State v. Crawley (MN 2012)  
Greater Baltimore Center for Pregnancy Concerns v. City of Baltimore (4<sup>th</sup> Cir., 2012)  
Duc Tan v. Le (OR 2013)  
King v. New Jersey (3<sup>rd</sup> Cir., 2014)  
United States v. Tomsha-Miguel (9<sup>th</sup> Cir., 2014)  
281 Care Committee v. Arneson (8<sup>th</sup> Cir., 2014)  
Commonwealth v. Lucas (MA 2015)  
Serafine v. Branaman (5<sup>th</sup> Cir., 2016)  
Susan B. Anthony List v. Driehaus (6<sup>th</sup> Cir., 2016)  
First Resort Inc. v. Herrera (9<sup>th</sup> Cir., 2018)  
Dix Noel, "Defamation of Public Officers and Candidates," *Columbia Law Review* (1949)  
Harry Kalven, "The New York Times Case: A Note on the Central Meaning of the First Amendment," *Supreme Court Review* (1964)  
Melville Nimmer, "The Right to Speak from Times to Time: First Amendment Theory Applied to Libel and Misapplied to Privacy," *California Law Review* (1968)  
Joel Eaton, "The American Law of Defamation through *Gertz v. Robert Welch, Inc.* and Beyond: An Analytical Primer," *Virginia Law Review* (1975)  
Alfred Hill, "Defamation and Privacy under the First Amendment," *Columbia Law Review* (1976)

Steven Shiffrin, “Defamatory Non-Media Speech and First Amendment Methodology,”  
UCLA Law Review (1978)  
Robert C. Post, “The Social Foundations of Defamation Law: Reputation and the  
Constitution,” California Law Review (1986)  
David Strauss, “Persuasion, Autonomy, and Freedom of Expression,” Columbia Law  
Review (1991)

## 6. Obscenity

United States v. Harmon (D.C.D. Kan., 1891) ([web](#))  
Roth v. United States (1957) ([web](#))  
Miller v. California (1973) ([web](#))  
Paris Adult Theatre I v. Slaton (1973) ([web](#))  
New York v. Ferber (1982) ([web](#))  
Ashcroft v. Free Speech Coalition (2002) ([web](#))  
United States v. Stevens (2010) ([web](#))  
In re S.K. (MD 2019)

### Suggested:

Commonwealth v. Sharpless (PA 1816)  
Commonwealth v. Landis (PA 1870)  
State v. McKee (CT 1900)  
State v. Pioneer Press Co. (MN 1907)  
Commonwealth v. Buckley (MA 1909)  
United States v. Kennerley (S.D.N.Y. 1913)  
United States v. One Book Called Ulysses (S.D.N.Y. 1933)  
Winters v. New York (1948)  
Commonwealth v. Gordon (PA 1949)  
Smith v. California (1959)  
Kingsley International Pictures Corp, v. Regents of University of State of New York  
(1959)  
Attorney General v. The Book Names “Tropic of Cancer” (Mass 1962)  
Jacobellis v. Ohio (1964)  
Ginzburg v. United States (1966)  
Redrup v. New York (1967)  
Stanley v. Georgia (1969)  
President’s Commission on Obscenity and Pornography (1970)  
Jenkins v. Georgia (1974)  
American Booksellers Association v. Hudnut (7<sup>th</sup> Cir., 1985)  
United States v. Salcedo (5<sup>th</sup> Cir. 2019)  
United States v. Courtade (4<sup>th</sup> Cir. 2019)  
In re S.K. (MD 2019)  
Meese Commission on Pornography (1986)  
Dworkin v. Hustler Magazine (9<sup>th</sup> Cir., 1989)  
Louis Henkin, “Morals and the Constitution: The Sin of Obscenity,” Columbia Law  
Review (1963)

William B. Lockhart and Robert C. McClure, "Censorship of Obscenity: The Developing Constitutional Standards," *Minnesota Law Review* (1960)  
Ronald Dworkin, "Lord Devlin and the Enforcement of Morals," *Yale Law Journal* (1966)  
Harry M. Clor, *Obscenity and Public Morality* (1969)  
Irving Kristol, "Pornography, Obscenity, and the Case for Censorship," *New York Times Magazine* (1971)  
David A.J. Richards, "Free Speech and Obscenity Law: Toward a Moral Theory of the First Amendment," *University of Pennsylvania Law Review* (1974)  
Catherine A. MacKinnon, "Pornography, Civil Rights, and Speech," *Harvard Civil Rights-Civil Liberties Law Review* (1985)  
Cass Sunstein, "Pornography and the First Amendment," *Duke Law Journal* (1986)

## 7. Racist and Offensive Speech

*Beauharnais v Illinois* (1952) ([web](#))  
*Cohen v. California* (1971) ([web](#))  
*Erznoznik v City of Jacksonville* (1975) ([web](#))  
*FCC v. Pacifica Foundation* (1978) ([web](#))  
*R.A.V. v. St. Paul* (1992) ([web](#))  
*Wisconsin v. Mitchell* (1993) ([web](#))  
*Reno v. ACLU* (1997) ([web](#))  
*Virginia v. Black* (2003) ([web](#))  
*State of Connecticut v. Liebenguth* (2020)

### Suggested:

*People v. Ruggles* (NY 1811)  
*The Case of Thomas Cooper, M.D., President of the South Carolina College* (1831)  
*State v. Warren* (NC 1893)  
*In re Banks* (KS 1895)  
*Commonwealth v. Herald Publishing Co.* (KY 1908)  
*Williams v. District of Columbia* (D.C. Cir., 1969)  
*Sable Communications v. FCC* (1989)  
*United States v. Hicks* (5<sup>th</sup> Cir., 1992)  
*National Endowment of the Arts v. Finley* (1998)  
*Brooklyn Institute of Arts and Sciences v. City of New York* (E.D.NY, 1999)  
*American Amusement Machine Association v. Kendrick* (7<sup>th</sup> Cir., 2001)  
*Ashcroft v. ACLU* (2004)  
*Brown v. Entertainment Merchants Association* (2011)  
*Matal v. Tam* (2017)  
*Turner v. Commonwealth* (VA 2016)  
*Packingham v. North Carolina* (2017)  
*New Jersey v. Burkert* (NJ 2017)  
*Freeman v. State* (GA 2017)  
*Lipp v. State* (MD 2020)  
*Joel Feinberg, Offense to Others* (1985)

Robert C. Post, "Cultural Heterogeneity and the Law: Pornography, Blasphemy, and the First Amendment," *California Law Review* (1988)  
Franklyn S. Haiman, "Speech Acts" and the First Amendment (1993)  
*Bryant v. Zimmerman* (1928)  
*National Socialist Party v. Skokie* (1977)  
*Doe v. University of Michigan* (E.D. MI, 1989)  
*State v. T.B.D.* (FL 1995)  
*Johnson v. Mayo Yarns* (NC 1997)  
*Coleman v. Miller* (11<sup>th</sup> Cir. 1997)  
*West v. Derby Unified School District* (10<sup>th</sup> Cir. 2000)  
*Nuxoll v. Indian Prarie School* (7<sup>th</sup> Cir., 2008)  
*Walker v. Texas Division of the Sons of Confederate Veterans* (2015)  
*Turner v. Commonwealth* (VA 2016)  
*New Jersey v. Burkert* (NJ 2017)  
*Marquardt v. Carlton* (6<sup>th</sup> Cir. 2020)  
David Riesman, "Democracy and Defamation: Control of Group Libel," *Columbia Law Review* (1942)  
Marvin Glass, "Anti-Racism and Unlimited Freedom of Speech," *Canadian J. of Phil.* (1978)  
Richard Delgado, "Words that Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling," *Harvard Civil Rights-Civil Liberties Law Review* (1982)  
Mari J. Matsuda, "Public Response to Racist Speech: Considering the Victim's Story," *Michigan Law Review* (1989)  
Charles R. Lawrence III, "If He Hollers Let Him Go: Regulating Racist Speech on Campus," *Duke Law Journal* (1990)  
Nadine Strossen, "Regulating Racist Speech on Campus: A Modest Proposal," *Duke Law Journal* (1990)  
Robert Post, "Racist Speech, Democracy, and the First Amendment," *William & Mary Law Review* (1992)  
Catharine A. MacKinnon, *Only Words* (1993)  
Steven Shiffrin, "Racist Speech, Outsider Jurisprudence, and the Meaning of America," *Cornell Law Review* (1994)  
Laura Beth Nielsen, *License to Harass* (2004)  
Jeremy Waldron, *The Harm in Hate Speech* (2012)  
Tim Garton Ash, *Free Speech* (2016)

#### 8. Time, Place, and Manner Regulations

*In re Anderson* (NE 1903) ([web](#))  
*Lovell v. City of Griffin* (1938) ([web](#))  
*Kovacs v. Cooper* (1949) ([web](#))  
*Metromedia Inc. v. San Diego* (1981) ([web](#))  
*Forsyth County v. National Movement* (1992) ([web](#))  
*City of Ladue v. Gilleo* (1994) ([web](#))

Suggested:

*Cox v. New Hampshire* (1941)

Jones v. City of Opelika (1942)  
Talley v. State of California (1960)  
Glasson v. City of Louisville (6<sup>th</sup> Cir., 1975)  
Young v. American Mini Theatres Inc. (1976)  
Collin v. Smith (1978)  
City Council v. Taxpayers for Vincent (1984)  
City of Renton v. Playtime Theater (1986)  
Boos v. Barry (1988)  
Frisby v. Schultz (1988)  
City of Lakewood v. Plain Dealer Publishing Co. (1988)  
Ward v. Rock against Racism (1989)  
Burson v. Freeman (1992)  
McIntyre v. Ohio Elections Commission (1995)  
Schenck v. Pro-Choice Network of Western New York (1997)  
Buckley v. American Constitutional Law Foundation Inc. (1999)  
Hill v. Colorado (2000)  
Watchtower Bible & Tract Society v. Stratton (2002)  
City of Los Angeles v. Alameda Books (2002)  
Bl(a)ck Tea Society v. City of Boston (1<sup>st</sup> Cir., 2004)  
Menotti v. City of Seattle (9<sup>th</sup> Cir., 2005)  
Reed v. Town of Gilbert (2015)  
Rideout v. Gardner (1<sup>st</sup> Cir., 2016)  
Fields v. City of Philadelphia (3<sup>rd</sup> Cir. 2017)  
United States v. Johnson (7<sup>th</sup> Cir. 2017)  
McCraw v. City of Oklahoma City (10<sup>th</sup> Cir. 2020)

#### 9. Expressive Conduct

United States v. O'Brien (1968)  
Village of Schaumburg v. Citizens for a Better Environment (1980) ([web](#))  
Texas v. Johnson (1989)  
Barnes v. Glen Theatre (1991) ([web](#))  
City of Erie v. Pap's A.M. (2000) ([web](#))  
Universal City Studios v. Corley (2<sup>nd</sup> Cir., 2001) ([web](#))  
Anderson v. City of Hermosa Beach (9<sup>th</sup> Cir., 2010) ([web](#))  
Defense Distributed v. Department of State (5<sup>th</sup> Cir., 2016) ([web](#))

#### Suggested:

Mutual Film Corp. v. Industrial Commission of Ohio (1915)  
Stromberg v. California (1931)  
Joseph Burstyn Inc. v. Wilson (1952)  
NAACP v. Alabama (1958)  
NAACP v. Button (1963)  
Freedman v. Maryland (1965)  
Schacht v. United States (1970)  
Spence v. Washington (1974)  
South Florida Free Beaches v. City of Miami (S.D. Fla. 1982)

Roberts v. United States Jaycees (1984)  
People v. Hollman (NY 1986)  
Boy Scouts of America v. Dale (2000)  
Tunick v. Safir (2<sup>nd</sup> Cir., 2000)  
Doe v. Reed (2010)  
Anderson v. City of Hermosa Beach (9<sup>th</sup> Cir., 2010)  
Tagami v. City of Chicago (7<sup>th</sup> Cir. 2017)  
Fort Lauderdale Food Not Bombs v. City of Fort Lauderdale (11<sup>th</sup> Cir. 2018)  
McGraw v. City of Oklahoma City (10<sup>th</sup> Cir. 2020)  
Dean Alfange Jr., “Free Speech and Symbolic Conduct: The Draft-Card Burning Case,”  
Supreme Court Review (1968)  
Melville B. Nimmer, “The Meaning of Symbolic Speech under the First Amendment,”  
UCLA Law Review (1973)  
John Hart Ely, “Flag Desecration: A Case Study in the Roles of Categorization and  
Balancing in First Amendment Analysis,” Harvard Law Review (1975)  
Lawrence B. Solum, “Freedom of Communicative Action: A Theory of the First  
Amendment Freedom of Speech,” Northwestern University Law Review (1988)  
Jed Rubinfeld, “The First Amendment’s Purpose,” Stanford Law Review (2000)  
Jack M. Balkin, “Digital Speech and Democratic Culture: A Theory of Freedom of  
Expression for the Information Society,” NYU Law Review (2004)

#### 10. Protest

Schneider v. State of New Jersey (1939) ([web](#))  
Hague v. CIO (1939) ([web](#))  
Martin v. City of Struthers (1943) ([web](#))  
Edwards v. South Carolina (1963) ([web](#))  
Frisby v. Schultz (1988)  
International Society for Krishna Consciousness v. Lee (1992) ([web](#))

#### Suggested;

In re Frazee (MI 1886)  
State v. Butterworth (NJ 1928)  
Thornhill v. Alabama (1940)  
Giboney v. Empire Storage & Ice Co. (1949)  
Cox v. Louisiana I (1963)  
Cox v. Louisiana II (1965)  
Adderley v. Florida (1966)  
Gregory v. City of Chicago (1969)  
Shuttlesworth v. Birmingham (1969)  
Coates v. City of Cincinnati (1971)  
Clark v. Committee for Creative Non-Violence (1984)  
Frisby v. Schultz (1988)  
Bay Area Peace Navy v. United States (9<sup>th</sup> Cir., 1990)  
Madsen v. Women’s Health Center (1994)  
Hill v. Colorado (2000)

Bl(a)ck Tea Society v. City of Boston (1<sup>st</sup> Cir., 2004)  
Scheidler v. National Organization of Women (2006)  
Citizens for Peace in Space v. City of Colorado Springs (10<sup>th</sup> Cir., 2010)  
Amnesty International v. Battle (11<sup>th</sup> Cir. 2009)  
McCullen v. Coakley (2014)  
Cleveland v. McCardle (OH 2014)  
State v. E.J.J. (WA 2015)  
Survivors Network of those Abused by Priests, Inc. v. Joyce (8<sup>th</sup> Cir. 2015)  
Weed v. Jenkins (8<sup>th</sup> Cir. 2017)  
Edrei v. Maguire (2<sup>nd</sup> Cir. 2018)  
Brindley v. City of Memphis, Tennessee (6<sup>th</sup> Cir. 2019)  
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#### 11. Student Speech

Tinker v. Des Moines Independent Community School District (1969)  
Norton v. Discipline Committee of East Tennessee State University (6<sup>th</sup> Cir., 1969)  
Healy v. James (1972) ([web](#))  
Papish v. University of Missouri (8<sup>th</sup> Cir., 1972)  
Gay Alliance of Students v. Matthews (4<sup>th</sup> Cir., 1976)  
Pro-Life Cougars v. University of Houston (S.D. Tex., 2003)  
Axson-Flynn v. Johnson (10<sup>th</sup> Cir., 2004)  
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American Association of University Professors, Declaration of Principles (1915)  
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Bayless v. Martine (5<sup>th</sup> Cir., 1970)  
Report of the Committee on Freedom of Expression at Yale (1974)  
Kleinienst v. Mandel (1972)  
Bazaar v. Fortune (5<sup>th</sup> Cir., 1973)  
Cooper v. Ross (E.D. Ark, 1979)  
State of New Jersey v. Schmid (NJ 1980)  
Widmar v. Vincent (1981)  
Perry Education Association v Perry Educators' Association (1983)  
Bethel School District No. 403 v. Fraser (1986)  
Hazelwood School District v. Kuhlmeier (1988)  
Parate v. Isibor (6<sup>th</sup> Cir. 1989)  
Westside Community Board of Education v. Mergens (1990)  
Bishop v. Aronov (11<sup>th</sup> Cir., 1991)  
Rosenberger v. University of Virginia (1995)  
Dambrot v. Central Michigan University (6<sup>th</sup> Cir. 1995)  
Edwards v. California University of Pennsylvania (3<sup>rd</sup> Cir., 1998)

Urofsky v. Gilmore (4<sup>th</sup> Cir., 2000)  
Brister v. Faulkner (5<sup>th</sup> Cir., 2000)  
Good News Club v. Milford Central School (2001)  
Brown v. Armenti (3<sup>rd</sup> Cir., 2001)  
Saxe v. State College Area School District (3<sup>rd</sup> Cir., 2001)  
Bonnell v. Lorenzo (6<sup>th</sup> Cir., 2001)  
Bauer v. Sampson (9<sup>th</sup> Cir., 2001)  
Kincaid v. Gibson (6<sup>th</sup> Cir., 2001)  
Brown v. Li (9<sup>th</sup> Cir., 2002)  
Rumsfeld v. Forum for Academic and Institutional Rights Inc. (2006)  
Morse v. Frederick (2007)  
McCauley v. University of the Virgin Islands (3<sup>rd</sup> Cir., 2010)  
Christian Legal Society Chap. of Hastings v. Martinez (2010)  
B.H. v. Easton Area School District (3<sup>rd</sup> Cir., 2013)  
Hardwick v. Heyward (4<sup>th</sup> Cir., 2013)  
People v. Marquan M. (NY 2014)  
Report of the Committee on Freedom of Expression at the University of Chicago (2015)  
Lyons v. Vaught (8<sup>th</sup> Cir. 2015)  
Keefe v. Adams (8<sup>th</sup> Cir., 2016)  
Brown v. Chicago Board of Education (7<sup>th</sup> Cir. 2016)  
V.A. v. San Pasqual Unified School District (S.D.Ca. 2017)  
Freeman v. State (GA 2017)  
Abbott v. Pastides (4<sup>th</sup> Cir. 2018)  
Buchanan v. Alexander (5<sup>th</sup> Cir. 2019)  
Wozniak v. Adesida (7<sup>th</sup> Cir. 2019)  
Turning Point USA v. Rhodes (8<sup>th</sup> Cir. 2020)  
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Keyishian v. Board of Regents of University of State of New York (1967)  
Pickering v. Board of Education (1968)  
Adamian v. Jacobsen (9<sup>th</sup> Cir. 1975)  
Hardy v. Jefferson Community College (6<sup>th</sup> Cir., 2001)  
Adams v. University of North Carolina-Wilmington (4<sup>th</sup> Cir., 2011)  
Demers v. Austin (9<sup>th</sup> Cir., 2014)  
Pernell v. Florida Board of Governors (ND Florida, 2022)

## Other Topics of Interest:

### Compelled Speech

Atchinson, Topeka & Santa Fe Railway Co. v. Brown (KS 1909)  
Commonwealth v. Boston Transcript Co. (MA 1924)  
Minersville School District v. Gobitis (1940)  
West Virginia State Board of Education v. Barnette (1943)  
Wooley v. Maynard (1977)  
Abood v. Detroit Board of Education (1977)  
Robins v. PruneYard Shopping Center (CA 1979)  
PruneYard Shopping Center v. Robins (1980)  
Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston (1995)  
Board of Regents University of Wisconsin v. Southworth (2000)  
Knox v. Service Employees International Union (2012)  
Friedrichs v. California Teachers Association (C.D. Cal., 2013)  
Harris v. Quinn (2014)  
Elane Photography v. Willock (NM 2014)

### Free Press and Judicial Process

Respublica v. Oswald (PA 1788)  
Stuart v. People (IL 1842)  
State v. Morrill (AR 1855)  
State v. Galloway (TN 1868)  
State ex rel. Haskell v. Faulds (MT 1895)  
Dailey v. Superior Court (CA 1896)  
State ex rel. Attorney General v. Circuit Court of Eau Claire Co. (WI 1897)  
Bridges v. California (1941)  
Shepherd v. Florida (1951)  
Irwin v. Dowd (1961)  
Rideau v. Louisiana (1963)  
Estes v. Texas (1965)  
Sheppard v. Maxwell (1966)  
Branzburg v. Hayes (1972)  
Nebraska Press Association v. Stuart (1976)  
National Labor Relations Board v. Robbins Tire & Rubber Co. (1978)  
Zurcher v. Stanford Daily (1978)  
Herbert v. Lando (1979)  
Richmond Newspapers v. Virginia (1980)  
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Globe Newspaper Co. v. Superior Court (1981)  
John Doe Agency v. John Doe Corp. (1989)  
Gentile v. State Bar of Nevada (1991)

Simon & Schuster Inc. v. Members of the New York State Crime Victims Board (1991)  
Republican Party of Minnesota v. White (2002)  
Detroit Free Press v. Ashcroft (6<sup>th</sup> Cir., 2002)

## Commercial Speech

Hart v. People (NY 1882)  
Valentine v. Chrestensen (1942)  
Thomas v. Collins (1945)  
Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations (1973)  
Bigelow v. Virginia (1975)  
Virginia State Board of Pharmacy v. Virginia Citizen's Consumer Council (1976)  
Carey v. Population Services International (1977)  
Linmark Associates, Inc. v. Township of Willingboro (1977)  
Bates v. State Bar of Arizona (1977)  
Friedman v. Rogers (1979)  
Central Hudson Gas & Electricity v. Public Service Commission (1980)  
NAACP v. Claiborne Hardware Co. (1982)  
Bolger v. Youngs Drugs Prods. Corp. (1983)  
Lowe v. Securities and Exchange Commission (1985)  
Posadas de Puerto Rico Associates v. Tourism Co. of Puerto Rico (1986)  
City of Cincinnati v. Discovery Network (1993)  
Rubin v. Coors Brewing Co. (1995)  
Florida Bar v. Went for It., Inc. (1995)  
44 Liquormart v. Rhode Island (1996)  
Greater New Orleans Broadcasting Association v. United States (1999)  
Lorillard Tobacco Co. v. Reilly (2001)  
United States v. United Foods (2001)  
Lorillard Tobacco Co. v. Reilly (2001)  
Procter & Gamble Co. v. Amway Corp. (5<sup>th</sup> Cir., 2001)  
Hoffman v. Capital Cities/ABC, Inc. (9<sup>th</sup> Cir., 2001)  
Thompson v. Western States Medical Center (2002)  
Conant v. Walters (9<sup>th</sup> Cir., 2002)  
Mattel, Inc. v. MCA Records, Inc. (9<sup>th</sup> Cir., 2002)  
Kasky v. Nike, Inc. (CA 2002)  
United States v. Caronia (2<sup>nd</sup> Cir., 2012)  
Pickup v. Brown (9<sup>th</sup> Cir., 2013)  
American Meat Institute v. USDA (DC Cir., 2014)  
Wollschlaeger v. Florida (11<sup>th</sup> Cir., 2014)  
Expressions Hair Design v. Schneiderman (2017)  
Centro de la Comunidad Hispana de Locust Valley v. Town of Oyster Bay (2<sup>nd</sup> Cir. 2017)

## Mass Media

Lewis Publishing Co. v. Morgan (1913)  
Grosjean v. American Press Co. (1936)

Associated Press v. National Labor Relations Board (1937)  
Red Lion Broadcasting v. FCC (1969)  
Miami Herald v. Tornillo (1974)  
Smith v. Daily Mail Publishing Co. (1979)  
Minneapolis Star and Tribune v. Minnesota Commissioner of Revenue (1983)  
Turner Broadcasting System v. FCC (1994)  
Denver Area Educational Telecommunications Consortium Inc. v. FCC (1996)  
FCC v. Fox Television (2009)  
United States Telecom Association v. FCC (2004)

#### Government Property

Anderson v. City of Wellington (KS 1888)  
United States v. Newton (SCDC 1891)  
Commonwealth v. Davis (MA 1895)  
Davis v. Massachusetts (1897)  
Marsh v. Alabama (1946)  
Saia v. New York (1948)  
Amalgamated Employees Union v. Logan Valley Plaza (1968)  
Police Department of City of Chicago v. Mosley (1972)  
Saxbe v. Washington Post (1974)  
Southeastern Promotions v. Conrad (1975)  
Hudgens v. NLRB (1976)  
Greer v. Spock (1976)  
Houchins v. KQED (1978)  
United States v. Grace (1983)  
Regan v. Taxation with Representation (1983)  
Cornelius v. NAACP Legal Defense Fund (1985)  
Board of Airport Commissioners of City of Los Angeles v. Jews for Jesus (1987)  
Board of Trustees of the State University of New York v. Fox (1989)  
United States v. Kokinda (1990)  
State of Iowa v. Lacey (IA 1991)  
International Society for Krishna Consciousness v. Lee (1992)  
New Jersey Coalition against War in the Middle East v. J.M.B. Realty Corp. (NJ 1994)  
Lebron v. National Railroad Passenger Corp. (1995)  
New York Magazine v. Metropolitan Transportation Authority (2<sup>nd</sup> Cir., 1998)  
State of Minnesota v. Wicklund (MN 1999)  
Hawkins v. City and County of Denver (10<sup>th</sup> Cir., 1999)  
Virginia v. Hicks (2003)  
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#### Government Employees

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Broadrick v. Oklahoma (1973)  
Mt. Healthy School District v. Doyle (1977)  
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Yniguez v. Arizonians for Official English (9<sup>th</sup> Cir., 1994)  
Garcetti v. Ceballos (2006)  
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## Government Speech

Board of Education v. Pico (1982)  
Rust v. Sullivan (1991)  
Legal Services Corp. v. Velazquez (2001)  
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## Privacy

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Commonwealth v. Clapp (MA 1808)  
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Schuyler v. Curtis (NC 1895)  
State v. McCabe (MO 1896)  
Pasevich v. New England Life Insurance Co. (GA 1904)  
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## Campaign Finance

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