AMERICAN LEGAL SYSTEM & FIRE SERVICE

Supplement for my textbook: FIRE SERVICE LAW (2017; Waveland Press, Inc.)

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For use in National Fire Academy FESHE courses:
Political & Legal Foundations Of Fire Protection; and
Legal Aspects Of Emergency Services

I. U.S. CONSTITUTION / BILL OF RIGHTS / POST CIVIL WAR STATUTES
II. FEDERAL & STATE COURTS
III. FAMOUS U.S. SUPREME COURT DECISIONS
IV. OUR ELECTED OFFICIALS: U.S. CONGRESS / OHIO / HAMILTON COUNTY
I. U.S. CONSTITUTION / BILL OF RIGHTS / POST CIVIL WAR STATUTES

1607 – Jamestown, VA

“On May 14, 1607, a group of roughly 100 members of a joint venture called the Virginia Company founded the first permanent English settlement in North America on the banks of the James River. Famine, disease and conflict with local Native American tribes in the first two years brought Jamestown to the brink of failure before the arrival of a new group of settlers and supplies in 1610.” https://www.history.com/topics/colonial-america/jamestown

1619 - African Americans at Jamestown

“Arrival of “20 and odd” Africans in late August 1619, not aboard a Dutch ship as reported by John Rolfe, but an English warship, White Lion, sailing with a letters of marque issued to the English Captain Jope by the Protestant Dutch Prince Maurice, son of William of Orange. A letters of marque legally permitted the White Lion to sail as a privateer attacking any Spanish or Portuguese ships it encountered. The 20 and odd Africans were captives removed from the Portuguese slave ship, San Juan Bautista, following an encounter the ship had with the White Lion and her consort, the Treasurer, another English ship, while attempting to deliver its African prisoners to Mexico. Rolfe's reporting the White Lion as a Dutch warship was a clever ruse to transfer blame away from the English for piracy of the slave ship to the Dutch.” https://www.nps.gov/jame/learn/historyculture/african-americans-at-jamestown.htm

Dec. 7, 1736:

“On December 7, 1736 Benjamin Franklin co-founded the Union Fire Company, also known as the “Bucket Brigade”. It was the first formally organized all volunteer fire company in the colonies and was shaped after Boston’s Mutual Fire Societies. The difference between the fires societies of Boston and Franklin’s Union Fire Company was that the former protected its members only while the
“Franklin and his partner’s first coup was securing the printing of Pennsylvania’s paper currency. Franklin helped get this business by writing *A Modest Enquiry into the Nature and Necessity of a Paper Currency* (1729), and later he also became public printer of New Jersey, Delaware, and Maryland. Other moneymaking ventures included the Pennsylvania Gazette, published by Franklin from 1729 and generally acknowledged as among the best of the colonial newspapers, and *Poor Richard’s almanac*, printed annually from 1732 to 1757. Despite some failures, Franklin prospered. Indeed, he made enough to lend money with interest and to invest in rental properties in Philadelphia and many coastal towns. He had franchises or partnerships with printers in the Carolinas, New York, and the British West Indies. By the late 1740s he had become one of the wealthiest colonists in the northern part of the North American continent.”

https://www.britannica.com/biography/Benjamin-Franklin
1754-63 –French & Indian “Seven Years War”

“Also known as the Seven Years’ War, this New World conflict marked another chapter in the long imperial struggle between Britain and France. When France’s expansion into the Ohio River valley brought repeated conflict with the claims of the British colonies, a series of battles led to the official British declaration of war in 1756. Boosted by the financing of future Prime Minister William Pitt, the British turned the tide with victories at Louisbourg, Fort Frontenac and the French-Canadian stronghold of Quebec. At the 1763 peace conference, the British received the territories of Canada from France and Florida from Spain, opening the Mississippi Valley to westward expansion.”

https://www.history.com/topics/native-american-history/french-and-indian-war

1754 - George Washington, at age 21 – First Battle

George Washington (February 22, 1732 – December 14, 1799):

https://www.history.com/topics/us-presidents/george-washington

“Control of the expansive Ohio Valley region, especially near the joining of the Monongahela and Allegheny rivers (modern day Pittsburgh), was of great interest to both the British and their French rivals. Rivers like the Ohio, which connected to the Mississippi, were essential transit corridors for goods produced in this fertile region.

Concerned by reports of French expansion into the Ohio Valley, Virginia Lt. Governor Robert Dinwiddie sent 21-year-old Major George Washington of the Virginia Regiment on a mission to confront the French forces. Washington was to deliver a message from the governor demanding that the French leave the region and halt their harassment of English traders. Washington departed Williamsburg, Virginia in October 1753 and made his way into the rugged trans- Appalachian region with Jacob Van Braam, a family friend and French speaker, and Christopher Gist, an Ohio company trader and guide. On December 11, 1753, amidst a raging snowstorm, Washington arrived and was politely received by Captain Jacques Legardeur de Saint-Pierre at Fort LeBoeuf. After reviewing Dinwiddie's letter, Legardeur de Saint-Pierre calmly wrote a reply stating that the French king's claim to the Ohio Valley was "incontestable."
Washington's return to Virginia during the winter of 1753 was a perilous one, but the group safely returned to Williamsburg after traveling almost 900 miles in two and a half winter months.” [https://www.mountvernon.org/george-washington/french-indian-war/ten-facts-about-george-washington-and-the-french-indian-war/](https://www.mountvernon.org/george-washington/french-indian-war/ten-facts-about-george-washington-and-the-french-indian-war/)

**Washington's very first battle ignited a world war**

“Responding to the defiant French, Lt. Governor Dinwiddie ordered the newly promoted Lt. Col. George Washington and approximately 160 Virginia militia to return to the Ohio country in March of 1754. Dinwiddie wanted Washington to "act on the defensive," but also clearly empowered Washington to "make Prisoners of or kill & destroy…” all those who resisted British control of the region.

Eager to send their own diplomatic directive demanding an English withdrawal from the region, a French force of 35 soldiers commanded by Ensign Joseph Coulon de Villiers de Jumonville camped in a rocky ravine not far from Washington's encampment at the Great Meadows (now in Fayette County, Pennsylvania).

Accompanied by Tanacharison, a Seneca chief (also known as the Half-King) and 12 native warriors, Washington led a party of 40 militiamen on an all night march towards the French position. On May 28, 1754, Washington's party stealthily approached the French camp at dawn. Finally spotted at close range by the French, shots rang out and a vigorous firefight erupted in the wooded wilderness. Washington's forces quickly overwhelmed the surprised French force and killed 13 soldiers and captured another 21.

![Tanacharison](image)

**Washington surrendered to the French at Fort Necessity**

“After learning of the attack at Jumonville Glen, Claude-Pierre Pecaudy de Contrecoeur, the veteran French commander at Fort Duquesne, ordered Captain Louis Coulon de Villiers, Ensign Jumonville's brother, to assail Washington and his force near Great Meadows. De Villiers left Fort Duquesne with nearly 600 French soldiers and Canadian militiamen, accompanied by 100 native allies.

Aware of the onset of a powerful French column, Washington busily fortified his position at Great Meadows. Despite receiving additional reinforcements, Washington's bedraggled force of around 400 men remained outnumbered by the approaching French. Even more concerning, the small circular wooden fort – named Fort Necessity - built in the center of
the meadow was poorly situated and vulnerable to fire from the nearby wooded hills that circled the position.

On July 1, 1754, the large combined French and native forces reached the Great Meadows. Washington gathered his troops and retreated into Fort Necessity where on a rainy July 3rd the French began firing on the surrounded English. Sensing the hopelessness of his situation, Washington agreed to surrender to the French. The surrender terms, written in French, poorly translated, and soaking wet allowed Washington and his troops to return to Virginia in peace, but one clause in the document had Washington admitting that he had "assassinated" Ensign Jumonville – something that Washington hotly contested despite his signature on the document.

The Battle of Great Meadows proved to be the only time that Washington surrendered to an enemy in battle.”

George Washington first became a slave owner at the early age of eleven.

“Despite having been an active slave holder for 56 years, George Washington struggled with the institution of slavery and spoke frequently of his desire to end the practice. At the end of his life Washington made the bold step to free all his slaves in his 1799 will - the only slave-holding Founding Father to do so. ***

John Trumbull's 1780 painting of George Washington depicts William Lee, an enslaved man who was Washington's body servant during the Revolutionary War. William Lee remained enslaved by Washington until the conditions of Washington's will granted him freedom in 1799 (Metropolitan Museum of Art).”
At the time of George Washington’s death, the Mount Vernon enslaved population consisted of 317 people.

“Of the 317 enslaved people living at Mount Vernon in 1799, a little less than half (123 individuals) were owned by George Washington himself. Another 153 slaves at Mount Vernon in 1799 were dower slaves from the Custis estate. When Martha Washington's first husband, Daniel Parke Custis, died without a will in 1757, she received a life interest in one-third of his estate, including the slaves. Neither George nor Martha Washington could free these slaves by law and upon Martha’s death these individuals reverted to the Custis estate and were divided among her grandchildren.”

British Taxes On Colonies

1764 – Sugar Act [Colonists - sugar used to make Rum]

“On April 5, 1764, Parliament passed a modified version of the Sugar and Molasses Act (1733), which was about to expire. Under the Molasses Act colonial merchants had been required to pay a tax of six pence per gallon on the importation of foreign molasses. But because of corruption, they mostly evaded the taxes and undercut the intention of the tax — that the English product would be cheaper than that from the French West Indies. This hurt the British West Indies market in molasses and sugar and the market for rum, which the colonies had been producing in quantity with the cheaper French molasses.”

1765 – Stamp Act

“The Stamp Act of 1765 was the first internal tax levied directly on American colonists by the British government. The act, which imposed a tax on all paper documents in the colonies, came at a time when the British Empire was deep in debt from the Seven Years’ War (1756-63) and looking to its North American colonies as a revenue source. Arguing that only their own representative assemblies could tax them, the colonists insisted that the act was unconstitutional, and they resorted to mob violence to intimidate stamp collectors into resigning. Parliament repealed the Stamp Act in 1766, but issued a Declaratory Act at the same time to reaffirm its authority to pass any colonial legislation it saw fit. The issues of taxation and representation raised by the Stamp Act strained
relations with the colonies to the point that, 10 years later, the colonists rose in armed rebellion against the British.” [https://www.history.com/topics/american-revolution/stamp-act](https://www.history.com/topics/american-revolution/stamp-act)

1767 - Townshend Acts

“The Townshend Acts were a series of measures, passed by the British Parliament in 1767, that taxed goods imported to the American colonies. But American colonists, who had no representation in Parliament, saw it as an abuse of power. The British sent troops to America to enforce the unpopular new laws, further heightening tensions between Great Britain and the American colonies in the run-up to the American Revolutionary War.” [https://www.history.com/topics/american-revolution/townshend-acts](https://www.history.com/topics/american-revolution/townshend-acts)

3/5/1770 – “Boston Massacre”

“On March 5, 1770, a street brawl happened in Boston between American colonists and British soldiers. Later known as the Boston Massacre, the fight began after an unruly group of colonists – frustrated with the presence of British soldiers in their streets – flung snowballs at a British sentinel guarding the Boston Customs House. Reinforcements arrived and opened fire on the mob, killing five colonists and wounding six. The Boston Massacre and its fallout further incited the colonists’ rage towards Britain.” [https://www.history.com/topics/american-revolution/boston-tea-party](https://www.history.com/topics/american-revolution/boston-tea-party)

5/1773 – Tea Act

“In May 1773, British Parliament passed the Tea Act which allowed British East India Company to sell tea to the colonies duty-free and much cheaper than other tea companies – but still tax the tea when it reached colonial ports. Tea smuggling in the colonies increased, although the cost of the smuggled tea soon surpassed that of tea from British East India Company with the added tea tax.

Still, with the help of prominent tea smugglers such as John Hancock and Samuel Adams – who protested taxation without representation but also wanted to protect their tea smuggling operations – colonists continued to rail against the tea tax and Britain’s control over their interests.” [https://www.history.com/topics/american-revolution/boston-tea-party](https://www.history.com/topics/american-revolution/boston-tea-party)
12/16/1773 - “Boston Tea Party”

“The Boston Tea Party was a political protest that occurred on December 16, 1773, at Griffin’s Wharf in Boston, Massachusetts. American colonists, frustrated and angry at Britain for imposing “taxation without representation,” dumped 342 chests of British tea into the harbor. The event was the first major act of defiance to British rule over the colonists. It showed Great Britain that Americans wouldn’t take taxation and tyranny sitting down, and rallied American patriots across the 13 colonies to fight for independence.” [https://www.history.com/topics/american-revolution/boston-tea-party](https://www.history.com/topics/american-revolution/boston-tea-party)

1774 – Coercive Acts

“But despite the lack of violence, the Boston Tea Party didn’t go unanswered by King George III and British Parliament. In retribution, they passed the Coercive Acts (later known as the Intolerable Acts) which:

- closed Boston Harbor until the tea lost in the Boston Tea Party was paid for
- ended the Massachusetts Constitution and ended free elections of town officials
- moved judicial authority to Britain and British judges, basically creating martial law in Massachusetts
- required colonists to quarter British troops on demand, using their private homes if needed
- extended freedom of worship to French-Canadian Catholics under British rule, which angered the mostly Protestant colonists.” [https://www.history.com/topics/american-revolution/boston-tea-party](https://www.history.com/topics/american-revolution/boston-tea-party)
9/5/1774 – First Continental Congress – Philadelphia

“From 1774 to 1789, the Continental Congress served as the government of the 13 American colonies and later the United States. The First Continental Congress, which was comprised of delegates from the colonies, met in 1774 in reaction to the Coercive Acts, a series of measures imposed by the British government on the colonies in response to their resistance to new taxes.” [https://www.history.com/topics/american-revolution/the-continental-congress](https://www.history.com/topics/american-revolution/the-continental-congress)

“In response to the British Parliament’s enactment of the Coercive Acts in the American colonies, the first session of the Continental Congress convenes at Carpenter’s Hall in Philadelphia. Fifty-six delegates from all the colonies except Georgia drafted a declaration of rights and grievances and elected Virginian Peyton Randolph as the first president of Congress. Patrick Henry, George Washington, John Adams, and John Jay were among the delegates.

Peyton Randolph

Patrick Henry

John Adams

John Jay – 1st Chief Justice of United States
Non-Importation of British Goods

“On September 22, 1774, Charles Thomson, secretary to the Continental Congress in Philadelphia, entered into the minutes this resolution:

That the Congress request the Merchants and Others, in the several Colonies, not to send to Great Britain any Orders for Goods, and to direct the execution of all Orders already sent, to be delayed or suspended, until the sense of the Congress, on the means to be taken for the preservation of the Liberties of America, is made public.

On October 14, 1774 the Congress, chaired by President Peyton Randolph of Williamsburg, announced the result of its deliberations: a set of Declarations and Resolves. The delegates adopted the detailed articles of a non-importation association on October 22, 1774.

DECLARATION AND RESOLVES OF THE FIRST CONTINENTAL CONGRESS:

October 14, 1774

“To obtain redress of these grievances, which threaten destruction to the lives, liberty, and property of his Majesty's subjects in North-America, we are of opinion, that a non-importation, non-consumption, and non-exportation agreement, faithfully adhered to, will prove the most speedy, effectual, and peaceable measure: and therefore we do, for ourselves, and the inhabitants of the several Colonies, whom we represent, firmly agree and associate under the sacred ties of virtue, honour, and love of our country, as follows:

I. That from and after the first day of December next, we will not import into British America, from Great-Britain or Ireland, any goods, wares or merchandize whatsoever, or from any other place any such goods, wares or merchandize, as shall have been exported from Great-Britain or Ireland; nor will we, after that day, import any East India tea from any part of the world; nor any molasses, syrups, paneles, coffee, or piemento, from the British plantations, or from Dominica; nor wines from Madeira, or the Western Islands; nor foreign Indigo.

II. That we will neither import, nor purchase any slave imported, after the first day of December next; after which time, we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it. ***”

http://www.history.org/almanack/life/politics/resolves.cfm

4/18/1775 – “Midnight Ride” of Paul Revere
“With the other colonies watching intently, Massachusetts led the resistance to the British, forming a shadow revolutionary government and establishing militias to resist the increasing British military presence across the colony. In April 1775, Thomas Gage, the British governor of Massachusetts, ordered British troops to march to Concord, Massachusetts, where a Patriot arsenal was known to be located. On April 19, 1775, the British regulars encountered a group of American militiamen at Lexington, and the first shots of the American Revolution were fired.”

https://www.history.com/this-day-in-history/first-continental-congress-convenes

Paul Revere / William Dawes – rode from Boston to warn them. The “Midnight Ride”

4/19/1775 – Lexington – 8 colonists killed, but military supplies moved out of Cambridge

“After Revere conferred with Warren, he returned to his own neighborhood, where he contacted a “friend” (Revere was very careful not to identify anyone he did not need to, in case his deposition fell into the wrong hands) to climb up into the bell tower of Christ Church (today known as the Old North Church) to set the famous signals. The “friend” hung two lanterns, meaning the British planned to leave Boston “by sea” across the Charles River, as opposed to a single lantern, which would mean the troops planned to march entirely “by land,” by the same route William Dawes had taken. *** Narrowly
escaping capture by a British patrol just outside of Charlestown, Revere charged his
planned route somewhat and arrived in Lexington just past midnight. We do not know
what he said at each of the houses along the road. We do know exactly what he said when
he got to Lexington, however, as there was a sentry on duty outside the house where
Adams and Hancock lodged, and that sentry, a Sergeant Monroe, later wrote down what
happened. As Revere approached the house, Monroe told him not to make so much noise,
that everyone in the house had retired for the night. Revere cried “Noise! You’ll have
noise enough before long! The regulars are coming out!” Despite this, Revere still had
trouble convincing the sentry to let him pass until John Hancock, who was still awake
and heard the commotion, recognized Revere’s voice and said “Oh, you, Revere. We are
not afraid of you” after which Revere was allowed to enter the house and deliver his
news. ***

About 30 minutes later William Dawes arrived. The two messengers “refreshed
themselves” (probably got something to eat and drink) and then decided to continue on to
the town of Concord, to verify that the military stores had been properly dispersed and
hidden away. Along the road they were joined by a third man, a Dr. Samuel Prescott, who
they recognized as a “High Son of Liberty.” Soon afterwards they were all stopped by a
British patrol. Dawes, who had probably turned aside to alarm a house, noticed what was
going on and made his escape. The British herded Prescott and Revere into a nearby
meadow, when Prescott suddenly said “Put on!” (meaning scatter) and the two patriots
suddenly rode off in different directions. Prescott, a local man, successfully eluded
capture, and alarmed the militia in Lincoln and Concord; Revere chose the wrong patch
of woods to head for and was recaptured by more British soldiers. Held for a while,
questioned, and even threatened, Revere was eventually released, although his horse was
confiscated. Making his way back into Lexington on foot, Revere assisted Adams and
Hancock to leave for Woburn, Massachusetts.” [https://www.biography.com/news/paul-

**REVOLUTIONARY WAR (Apr 19, 1775 – Sep 3, 1783)**

**5/10/1775 – Second Continental Congress in Philadelphia – established the Continental Army**

Benjamin Franklin – age 69, returns from London
“Franklin returned [from London] to Philadelphia in May 1775, shortly after the Revolutionary War (1775-83) had begun, and was selected to serve as a delegate to the Second Continental Congress, America’s governing body at the time. In 1776, he was part of the five-member committee that helped draft the Declaration of Independence, in which the 13 American colonies declared their freedom from British rule. That same year, Congress sent Franklin to France to enlist that nation’s help with the Revolutionary War. In February 1778, the French signed a military alliance with America and went on to provide soldiers, supplies and money that proved critical to America’s victory in the war.”

https://www.history.com/topics/american-revolution/benjamin-franklin

“When the Second Continental Congress convened in Philadelphia, delegates—including new additions Benjamin Franklin and Thomas Jefferson—voted to form a Continental Army, with Washington as its commander in chief. On June 17, in the Revolution’s first major battle, colonial forces inflicted heavy casualties on the British regiment of General William Howe at Breed’s Hill in Boston. The engagement (known as the Battle of Bunker Hill) ended in British victory, but lent encouragement to the revolutionary cause. Throughout that fall and winter, Washington’s forces struggled to keep the British contained in Boston, but artillery captured at Fort Ticonderoga in New York helped shift the balance of that struggle in late winter. The British evacuated the city in March 1776, with Howe and his men retreating to Canada to prepare a major invasion of New York.

https://www.history.com/topics/american-revolution/american-revolution-history

5/10/1775 - Ethan Allen and his Green Mountain Boys surprised British garrison at Fort Ticonderoga, NY – British surrendered

Ethan Allen

Benedict Arnold (later a “Traitor”)
“By the end of 1779, Arnold had begun secret negotiations with the British to surrender the American fort at West Point, New York, in return for money and a command in the British army. Arnold’s chief intermediary was British Major John André (1750-80). André was captured in September 1780, while crossing between British and American lines, disguised in civilian clothes. Papers found on André incriminated Arnold in treason. Learning of André’s capture, Arnold fled to British lines before the Patriots could arrest him. West Point remained in American hands, and Arnold only received a portion of his promised bounty. André was hanged as a spy in October 1780. ***

After fleeing to the enemy side, Arnold received a commission with the British army and served in several minor engagements against the Americans. After the war, which ended in victory for the Americans with the Treaty of Paris in 1783, Arnold resided in England. He died in London on June 14, 1801, at age 60. The British regarded him with ambivalence, while his former countrymen despised him. Following his death, Arnold’s memory lived on in the land of his birth, where his name became synonymous with the word “traitor.” “

https://www.history.com/topics/american-revolution/benedict-arnold

6/16/1775 - Colonel George Washington, from Virginia, accepts post of Commander In Chief of Continental Army – at age 43

![Portrait of George Washington](image)

6/17/1775 – Battle of Bunker Hill

“On June 17, 1775, early in the Revolutionary War (1775-83), the British defeated the Americans at the Battle of Bunker Hill in Massachusetts. Despite their loss, the inexperienced colonial forces inflicted significant casualties against the enemy, and the battle provided them with an important confidence boost. Although commonly referred to as the Battle of Bunker Hill, most of the fighting occurred on nearby Breed’s Hill.

https://www.history.com/topics/american-revolution/battle-of-bunker-hill
8/1775 – King George III issued proclamation that colonists were engaged in “rebellion” – Parliament passed American Prohibitory Act – American vessels / cargo can be seized

1/1776 – Thomas Payne publishes a pamphlet, “Common Sense” – calling for independence

5/23/1776 – British hiring German mercenaries

George Washington obtained of treaties that King George negotiated with German states to hire mercenaries – “Hessians” - to fight Americans.

At Second Continental Congress

6/7/1776 – Richard Henry Lee, from Virginia, proposed Resolution for Independence – but vote on Resolution was delayed.

6/11/1776 – Appointment of Committee of 5 to prepare Declaration of Independence:

Thomas Jefferson – Virginia: principal draftsman
7/2/1776 – 12 Colonies voted for Independence; New York did not cast vote, until NY Convention approved on July 9.

7/4/1776 – Declaration of Independence passed

“[O]riginal draft document written by Thomas Jefferson, with additions-deletions by John Adams and Benjamin Franklin. Below: Presentation of the finished Declaration of Independence by Thomas Jefferson in Philadelphia, July 4, 1776. The Declaration was then signed and copies of the text were transported to key cities such as New York and Boston to be read aloud.”

http://www.historyplace.com/unitedstates/revolution/decindep.htm

Declaration:

“In Congress, July 4, 1776,
THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

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. That, to secure these rights, Governments are instituted among Men, deriving their just Powers from the consent of the governed. That, whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such Principles and organizing its Powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same Object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world. ***
http://www.historyplace.com/unitedstates/revolution/decindep.htm


"General George Washington’s army crossed the icy Delaware on Christmas Day 1776 and, over the course of the next 10 days, won two crucial battles of the American Revolution. In the Battle of Trenton (December 26), Washington defeated a formidable
garrison of Hessian mercenaries before withdrawing. A week later he returned to Trenton to lure British forces south, then executed a daring night march to capture Princeton on January 3. “https://www.history.com/topics/american-revolution/battles-of-trenton-and-princeton

6/13/1777 – Marquis de Lafayette – 19 years old, gallant - arrives from France

France secretly supplying military stores to Americans.

“He landed near Charleston, South Carolina, June 13, 1777, then travelled to Philadelphia, where he was commissioned a Major General on July 31. This reflected his wealth and noble social station, rather than years of battlefield experience — he was only 19 years old. The newly commissioned young general was soon introduced to his commander-in-chief, General George Washington, who would become a lifelong friend. Lafayette was wounded during the September 11, 1777 Battle of the Brandywine. In December, 1777, he camped with Washington and the army at Valley Forge. http://www.ushistory.org/valleyforge/served/lafayette.html

September 19, 1777, and October 7, 1777: Battles of Saratoga – convinced France to support American

“Fought eighteen days apart in the fall of 1777, the two Battles of Saratoga were a turning point in the American Revolution. On September 19th, British General John Burgoyne achieved a small, but costly victory over American forces led by Horatio Gates and Benedict Arnold. Though his troop strength had been weakened, Burgoyne again attacked the Americans at Bemis Heights on October 7th, but this time was defeated and forced to retreat. He surrendered ten days later, and the American victory convinced the French government to formally recognize the colonist’s cause and enter the war as their ally.” https://www.history.com/topics/american-revolution/battle-of-saratoga
Dec. 19, 1777 – Valley Forge, PA

“On December 19, 1777, 11,000 Continental Army regulars marched into Valley Forge, Pennsylvania, to set up winter quarters during the Revolutionary War. By December 1777, Washington was well aware that some members of the Continental Congress were questioning his leadership abilities. The Valley Forge site—located along trade routes and near farm supplies—was an attempt to balance Congress’ demands for a winter campaign against Philadelphia with the needs of his troops. It was common for armies at the time to withdraw to fixed camps during the winter, as the harsh weather made transportation of troops, arms and supplies extremely difficult. The soldiers who marched to Valley Forge on December 19, 1777 were not downtrodden or desperate. Though they had been defeated in two key battles, and had lost Philadelphia to the British, Continental troops had often put themselves on the offensive, and proved themselves as skilled fighters against professional soldiers with superior numbers. They were certainly tired, and lacking in supplies, but these were not unusual circumstances in the life of a Continental soldier. Once the troops arrived at their winter camp site, military engineers directed the construction of some 2,000 huts laid out in parallel lines, forming a kind of city, along with miles of trenches, five earthen redoubts and a bridge over the Schuylkill River. Raw winter weather made things difficult for the tired troops, while a mismanaged commissary and Congress’ failure to provide the army with sufficient funds for fresh supplies led to widespread hunger and lack of clothing, shoes and other supplies among the men. Yet cold and starvation were not the most dangerous threats to soldiers at Valley Forge: Diseases like influenza, dysentery, typhoid and typhus killed two-thirds of
the nearly 2,000 soldiers who died during the encampment.

2/6/1778 – France joins war; signed treaties with Americans, with approval of King Louis XVI

King Louis XVI sends General Comte de Rochambeau (professional Army), and Admiral de Grasse (professional Navy).

Louis XVI – [note: guillotined in French Revolution; Died: January 21, 1793, Place de la Concorde, Paris, France; Spouse: Marie Antoinette (m. 1770–1793)]

9/5/1778 – Battle of the Chesapeake – victory for French / Americans

“Battle of the Chesapeake, also called the Battle of the Virginia Capes or the Battle of the Capes, (5 September 1781), critical naval battle in the Chesapeake Bay (off the coast of Maryland and Virginia) and strategic French victory in the American Revolution. It prevented the British from reinforcing or evacuating the army of Charles Cornwallis the following month at the Siege of Yorktown, Virginia, the last major land battle of the war and the defeat that led the British to sue for peace.”
https://www.britannica.com/event/Battle-of-the-Chesapeake-1781

10/17/1781 – Battle of Yorktown – Lord Cornwallis surrenders; General Washington, with help of Admiral deGrasse’s French fleet that blockaded Chesapeake Bay
“In the fall of 1781, a combined American force of Colonial and French troops laid siege to the British Army at Yorktown, Virginia. Led by George Washington and French General Comte de Rochambeau, they began their final attack on October 14th, capturing two British defenses and leading to the surrender, just days later, of British General Lord Cornwallis and nearly 9,000 troops. Yorktown proved to be the final battle of the American Revolution, and the British began peace negotiations shortly after the American victory.”

https://www.history.com/topics/american-revolution/siege-of-yorktown

9/3/1783 – Treaty of Paris signed by Great Britain and Americans
U.S. gets all territory westward to Mississippi River, and south to Florida, and north to Canada [Britain also signed treaties ending their battles with Spain and Netherlands.]

Benjamin Franklin
John Adams
John Jay

1/14/1784 – Treaty of Paris ratified by Congress

5/14/1787 – THE FIRST CONSITUTIONAL CONVENTION
Philadelphia – 12 states participated [Rhode Island refused]

George Washington – elected President of the Convention

Benjamin Franklin – age 81

Roger Sherman – Connecticut [only delegate signed Declaration of Independence, Articles of Confederation, and later the Constitution

“With George Washington presiding, the Constitutional Convention formally convenes on this day in 1787. The convention faced a daunting task: the peaceful overthrow of the new American government as it had been defined by the Article of Confederation. The process began with the proposal of James Madison’s Virginia Plan. Madison had dedicated the winter of 1787 to the study of confederacies throughout history and arrived in Philadelphia with a wealth of knowledge and an idea for a new American government. Virginia’s governor, Edmund Randolph, presented Madison’s plan to the convention. It featured a bicameral legislature, with representation in both houses apportioned to states based upon population; this was seen immediately as giving more power to large states, like Virginia. The two houses would in turn elect the executive and the judiciary and would possess veto power over the state legislatures. Madison’s conception strongly resembled Britain’s parliament. It omitted any discussion of taxation or regulation of trade, however; these items had been set aside in favor of outlining a new form of government altogether.”

7/16/1787 – THE GREAT COMPROMISE

Legislature – Upper House, states equally represented; Lower House, based on population in a decennial census

“According to the Great Compromise, there would be two national legislatures in a bicameral Congress. Members of the House of Representatives would be allocated according to each state’s population and elected by the people. In the second body—the Senate—each state would have two representatives regardless of the state’s size, and state legislatures would choose Senators. (In 1913, the Seventeenth Amendment was passed, tweaking the Senate system so that Senators would be elected by the people.)”

9/17/1787 – Constitution adopted by unanimous consent

The Constitution was adopted by a convention of the States on September 17, 1787, and was subsequently ratified by the several States, on the following dates: Delaware,
December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788. Ratification was completed on June 21, 1788.

The Constitution of the United States of America
https://www.law.cornell.edu/constitution

- **Preamble** ["We the people"] (see explanation)
- **Article I** [The Legislative Branch] (see explanation)
  - Section 1. [Legislative Power Vested] (see explanation)
  - Section 2. [House of Representatives] (see explanation)
  - Section 3. [Senate] (see explanation)
  - Section 4. [Elections of Senators and Representatives] (see explanation)
  - Section 5. [Rules of House and Senate] (see explanation)
  - Section 6. [Compensation and Privileges of Members] (see explanation)
  - Section 7. [Passage of Bills] (see explanation)
  - Section 8. [Scope of Legislative Power] (see explanation)
  - Section 9. [Limits on Legislative Power] (see explanation)
  - Section 10. [Limits on States] (see explanation)
- **Article II** [The Presidency] (see explanation)
  - Section 1. [Election, Installation, Removal] (see explanation)
  - Section 2. [Presidential Power] (see explanation)
  - Section 3. [State of the Union, Receive Ambassadors, Laws Faithfully Executed, Commission Officers]
  - Section 4. [Impeachment] (see explanation)
- **Article III** [The Judiciary] (see explanation)
  - Section 1. [Judicial Power Vested] (see explanation)
  - Section 2. [Scope of Judicial Power] (see explanation)
  - Section 3. [Treason] (see explanation)
- **Article IV** [The States] (see explanation)
  - Section 1. [Full Faith and Credit] (see explanation)
  - Section 2. [Privileges and Immunities, Extradition, Fugitive Slaves] (see explanation)
  - Section 3. [Admission of States] (see explanation)
  - Section 4. [Guarantees to States] (see explanation)
- **Article V** [The Amendment Process] (see explanation)
- **Article VI** [Legal Status of the Constitution] (see explanation)
- **Article VII** [Ratification] (see explanation)
- **Signers**

2/4/1789 – FIRST PRESIDENTIAL ELECTION
Each State selected “electors”

4/30/1789 – George Washington, at age 57, sworn in as 1st President

Congress met in New York City; unanimous (69 to 0) in Senate for George Washington as President – letter taken to Mount Vernon [took 7 days]

John Adams elected Vice President

Took Oath of Office on balcony of Federal Hall, Wall Street, New York City

Inaugural Address given

9/25/1789 – BILL OF RIGHTS https://www.law.cornell.edu/constitution

- Amendment I [Religion, Speech, Press, Assembly, Petition (1791)] (see explanation)
- Amendment II [Right to Bear Arms (1791)] (see explanation)
- Amendment III [Quartering of Troops (1791)] (see explanation)
- Amendment IV [Search and Seizure (1791)] (see explanation)
- Amendment V [Grand Jury, Double Jeopardy, Self-Incrimination, Due Process (1791)] (see explanation)
- Amendment VI [Criminal Prosecutions - Jury Trial, Right to Confront and to Counsel (1791)] (see explanation)
- Amendment VII [Common Law Suits - Jury Trial (1791)] (see explanation)
- Amendment VIII [Excess Bail or Fines, Cruel and Unusual Punishment (1791)] (see explanation)
- Amendment IX [Non-Enumerated Rights (1791)] (see explanation)
- Amendment X [Rights Reserved to States or People (1791)] (see explanation)

12/15/1791 – Bill of Rights becomes part of Constitution
“On this day in 1791, Virginia becomes the last state to ratify the Bill of Rights, making the first ten amendments to the Constitution law and completing the revolutionary reforms begun by the Declaration of Independence. Before the Massachusetts ratifying convention would accept the Constitution, which they finally did in February 1788, the document’s Federalist supporters had to promise to create a Bill of Rights to be amended to the Constitution immediately upon the creation of a new government under the document.”
https://www.history.com/this-day-in-history/the-bill-of-rights-becomes-law

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II

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.

Amendment III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which
district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

**Amendment VII**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

**Amendment VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Amendment IX**

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

**Amendment X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

**1795 – 11th Amendment**

Later Amendments to Constitution: [https://www.law.cornell.edu/constitution](https://www.law.cornell.edu/constitution)

- Amendment XI [Suits Against a State (1795)] (see explanation)

**1804 – 12th Amendment**

- Amendment XII [Election of President and Vice-President (1804)] (see explanation)
1857 – U.S. Supreme Court – Dred Scott decision [worst decision in history of Supreme Court]

“Dred Scott decision, formally Dred Scott v. John F.A. Sandford, legal case in which the U.S. Supreme Court on March 6, 1857, ruled (7–2) that a slave (Dred Scott) who had resided in a free state and territory (where slavery was prohibited) was not thereby entitled to his freedom; that African Americans were not and could never be citizens of the United States; and that the Missouri Compromise (1820), which had declared free all territories west of Missouri and north of latitude 36°30’, was unconstitutional. The decision added fuel to the sectional controversy and pushed the country closer to civil war.

Dred Scott was a slave who was owned by John Emerson of Missouri. In 1834 Emerson undertook a series of moves as part of his service in the U.S. military. He took Scott from Missouri (a slave state) to Illinois (a free state) and finally into the Wisconsin Territory (a free territory). During this period, Scott met and married Harriet Robinson, who became part of the Emerson household. Emerson married in 1838, and in the early 1840s he and his wife returned with the Scotts to Missouri, where Emerson died in 1843. Scott reportedly attempted to purchase his freedom from Emerson’s widow, who refused the sale. In 1846, with the help of antislavery lawyers, Harriet and Dred Scott filed individual lawsuits for their freedom in Missouri state court in St. Louis on the grounds that their residence in a free state and a free territory had freed them from the bonds of slavery. ***

In 1850 the state court declared Scott free, but the verdict was reversed in 1852 by the Missouri Supreme Court (which thereby invalidated Missouri’s long-standing doctrine of “once free, always free”). https://www.britannica.com/event/Dred-Scott-decision

[1865 - overturned by 13th Amendment.]

Civil War – 1861 – 1865

“The Civil War is the central event in America's historical consciousness. While the Revolution of 1776-1783 created the United States, the Civil War of 1861-1865 determined what kind of nation it would be. The war resolved two fundamental questions
left unresolved by the revolution: whether the United States was to be a dissolvable confederation of sovereign states or an indivisible nation with a sovereign national government; and whether this nation, born of a declaration that all men were created with an equal right to liberty, would continue to exist as the largest slaveholding country in the world.” [https://www.battlefields.org/learn/articles/brief-overview-american-civil-war](https://www.battlefields.org/learn/articles/brief-overview-american-civil-war)

“The Civil War was America's bloodiest conflict. The unprecedented violence of battles such as Shiloh, Antietam, Stones River, and Gettysburg shocked citizens and international observers alike. Nearly as many men died in captivity during the Civil War as were killed in the whole of the Vietnam War. Hundreds of thousands died of disease. Roughly 2% of the population, an estimated 620,000 men, lost their lives in the line of duty.” [https://www.battlefields.org/learn/articles/civil-war-casualties](https://www.battlefields.org/learn/articles/civil-war-casualties)

![Abraham Lincoln](https://www.battlefields.org/learn/articles/civil-war-casualties)

**Jan. 1, 1863 – Emancipation Proclamation**

“Lincoln moved to end slavery on New Year’s Day 1863. It went on for three more years.”

“On New Year’s morning of 1863, President Abraham Lincoln hosted a three-hour reception in the White House. That afternoon, Lincoln slipped into his office and — without fanfare — signed a document that changed America forever. It was the Emancipation Proclamation, decreeing “that all persons held as slaves” within the rebellious Southern states “are, and henceforward shall be, free.” However, the proclamation did not immediately free any of the nation’s nearly 4 million slaves. The biggest impact was that for the first time, ending slavery became a goal of the Union in the bloody civil war with the Confederacy.” On New Year’s morning of 1863, President Abraham Lincoln hosted a three-hour reception in the White House. That afternoon, Lincoln slipped into his office and — without fanfare — signed a document that changed America forever. *** By Jan. 31, 1865, both houses of Congress passed the 13th Amendment that “neither slavery or involuntary servitude … shall exist in the United States.” Slavery officially ended on Dec. 18, 1865 after 27, or two-thirds, of the 36 states ratified the amendment.

***

Free African Americans in the North celebrated the news. “We are all liberated by this proclamation,” said the noted orator and former slave Frederick Douglass. “Everybody is liberated. The white man is liberated, the black man is liberated, the brave men now fighting the battles of their country against rebels and traitors are now liberated.” But
Douglass cautioned that the proclamation was only a first step; slaves who celebrated the proclamation risked being beaten or hung.”

https://www.washingtonpost.com/history/2019/01/01/lincoln-declared-an-end-slavery-new-years-day-it-went-two-more-years/?utm_term=.41ddb2cefc8e&wpisrc=nl_most&wpmm=1

Frederick Douglas

President Lincoln Assassinated April 15, 1865

“On the evening of April 14, 1865, John Wilkes Booth, a famous actor and Confederate sympathizer, assassinated President Abraham Lincoln at Ford’s Theatre in Washington, D.C. The attack came only five days after Confederate General Robert E. Lee surrendered his massive army at Appomattox Court House, Virginia, effectively ending the American Civil War.”

https://www.history.com/topics/american-civil-war/abraham-lincoln-assassination

John Wilkes Booth
Execution of the four Lincoln conspirators: David Herold, Lewis Powell, George Atzerodt and Mary Surratt.

**Tried by Military Commission**

“On May 1, 1865, President Andrew Johnson ordered the formation of a military commission to try the accused persons. The actual trial began on May 10th and lasted for about seven weeks. The defendants were allowed to have lawyers and witnesses, but they were not allowed to testify themselves. On June 29, 1865, the Military Commission met in secret session to begin its review of the evidence in the seven-week long trial. A guilty verdict could come with a majority vote of the nine-member commission; death sentences required the votes of six members. The next day, it reached its verdicts. The Commission found seven of the prisoners guilty of at least one of the conspiracy charges. Four of the prisoners: Mary Surratt, Lewis Powell, George Atzerodt, and David Herold were sentenced “to be hanged by the neck until he [or she] be dead”. Samuel Arnold, Dr. Samuel Mudd and Michael O’Laughlen were sentenced to “hard labor for life, at such place at the President shall direct”, Edman Spangler received a six-year sentence. The next day General Hartranft informed the prisoners of their sentences. He told the four condemned prisoners that they would hang the next day.”

[https://rarehistoricalphotos.com/execution-lincoln-conspirators-1865/](https://rarehistoricalphotos.com/execution-lincoln-conspirators-1865/)

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**POST CIVIL WAR STATUTES & CONSTITUTIONAL AMENDMENTS**

**March 2, 1863: FALSE CLAIMS ACT**

“Justice Department Recovers Over $2.8 Billion from False Claims Act Cases in Fiscal Year 2018

“The False Claims Act was originally passed in response to rampant fraud perpetrated against the United States military during the Civil War. Back then, crooked contractors defrauded the Union Army by selling it sick mules, lame horses, sawdust instead of gunpowder, and rotted ships with fresh paint. Unfortunately, what we see today is just a modern version of the same thing — deceptive and fraudulent practices directed at the U.S. government and the American taxpayer,” said Assistant Attorney General Jody Hunt. “The Department of Justice has placed a high priority on rooting out and pursuing those who cheat government programs for their own gain. The recoveries announced today are a message that fraud and dishonesty will not be tolerated.”

In 1986, Congress strengthened the Act by increasing incentives for whistleblowers to file lawsuits alleging false claims on behalf of the government. These whistleblower, or qui tam, actions comprise a significant percentage of the False Claims Act cases that are filed. If the government prevails in a qui tam action, the whistleblower, also known as the relator, receives up to 30 percent of the recovery. Whistleblowers filed 645 qui tam suits in fiscal year 2018, and this past year the Department recovered over $2.1 billion in these and earlier filed suits.”

Dec. 6, 1865 – 13th Amendment abolished slavery

Later Amendments to Constitution: https://www.law.cornell.edu/constitution

Amendment XIII [Abolition of Slavery (1865)] (see explanation)

“On January 31, 1865, the House of Representatives passed the proposed amendment with a vote of 119-56, just over the required two-thirds majority. The following day, Lincoln approved a joint resolution of Congress submitting it to the state legislatures for ratification. But he would not see final ratification: Lincoln was assassinated on April 14, 1865, and the necessary number of states did not ratify the 13th Amendment until December 6. While Section 1 of the 13th Amendment outlawed chattel slavery and involuntary servitude (except as punishment for a crime), Section 2 gave the U.S. Congress the power “to enforce this article by appropriate legislation.”

https://www.history.com/topics/black-history/thirteenth-amendment

April 9, 1866 – Civil Rights Act of 1866 – Overturned “BLACK CODES”

On this date, the House overrode President Andrew Johnson’s veto of the Civil Rights Bill of 1866 with near unanimous Republican support, 122 to 41, marking the first time Congress legislated upon civil rights.
“The year after the [13th] amendment’s passage, Congress used this power to pass the nation’s first civil rights bill, the Civil Rights Act of 1866. The law invalidated the so-called black codes, those laws put into place in the former Confederate states that governed the behavior of blacks, effectively keeping them dependent on their former owners. Congress also required the former Confederate states to ratify the 13th Amendment in order to regain representation in the federal government. Together with the 14th and 15th Amendments, also ratified during the Reconstruction era, the 13th Amendment sought to establish equality for black Americans. Despite these efforts, the struggle to achieve full equality and guarantee the civil rights of all Americans would continue well into the 20th century. https://www.history.com/topics/black-history/thirteenth-amendment

Black Codes:

“Under black codes, many states required blacks to sign yearly labor contracts; if they refused, they risked being arrested, fined and forced into unpaid labor. Outrage over black codes helped undermine support for President Andrew Johnson and the Republican Party.” https://www.history.com/topics/black-history/black-codes

Statute:

"All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."

July 9, 1868 – 14th Amendment – DUE PROCESS CLAUSE

Later Amendments to Constitution: https://www.law.cornell.edu/constitution

- Amendment XIV [Privileges and Immunities, Due Process, Equal Protection, Apportionment of Representatives, Civil War Disqualification and Debt (1868)] (see explanation)
Section 1: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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.”

“One of three amendments passed during the Reconstruction era to abolish slavery and establish civil and legal rights for black Americans, it would become the basis for many landmark Supreme Court decisions over the years.

But beginning in the 1920s, the Supreme Court increasingly applied the protections of the 14th Amendment on the state and local level. Ruling on appeal in the 1925 case Gitlow v. New York, the Court stated that the due process clause of the 14th Amendment protected the First Amendment rights of freedom of speech from infringement by the state as well as the federal government.

And in its famous 1954 ruling in Brown v. Board of Education, the Supreme Court overturned the “separate but equal” doctrine established in Plessy v. Ferguson, ruling that segregated public schools did in fact violate the equal protection clause of the 14th Amendment.


https://www.history.com/topics/black-history/fourteenth-amendment

April 20, 1871: Civil Rights Act of 1871 – 42 USC 1983

“Congress followed the Civil Rights Act of 1870 with an 1871 law “to enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States,” which came to be known as the Second Enforcement Act or the Second Ku Klux Klan Act. Like the prior year’s legislation, the act was designed in large part to protect African Americans from Klan violence during Reconstruction, giving those deprived of a constitutional right by someone acting under color of law the right to seek relief in a federal district or circuit court. This part of the legislation was later made a part of the United States Code as 42 U.S.C. §1983 and served as the basis for many federal court lawsuits against state and local officials.” https://www.fjc.gov/history/timeline/civil-rights-act-1871

The Act became a “civil rights weapon” after US Supreme Court in 1948 held in Hurd v. Hodge https://scholarship.kentlaw.iit.edu/cgi/viewcontent.cgi?article=2706&context=cklawreview

Hurd v. Hodge: U.S. Supreme Court’s decision:
In 1906, twenty of thirty-one lots in the 100 block of Bryant Street, Northwest, in the City of Washington, were sold subject to the following covenant:

". . . that said lot shall never be rented, leased, sold, transferred or conveyed unto any Negro or colored person, under a penalty of Two Thousand Dollars ($2,000), which shall be a lien against said property."

These cases involve seven of the twenty lots which are subject to the terms of the restrictive covenants. In No. 290, petitioners Hurd, found by the trial court to be Negroes, [Footnote 2] purchased one of the restricted properties from the white owners. In No. 291, petitioner Urciolo, a white real estate dealer, sold and conveyed three of the restricted properties to the Negro petitioners Rowe, Savage, and Stewart.

Suits were instituted in the District Court by respondents, who own other property in the block subject to the terms of the covenants, praying for injunctive relief to enforce the terms of the restrictive agreement. The cases were consolidated for trial, and, after a hearing, the court entered a judgment declaring null and void the deeds of the Negro petitioners; enjoining petitioner Urciolo and one Ryan, the white property owners who had sold the houses to the Negro petitioners, from leasing, selling, or conveying the properties to any Negro or colored person; enjoining the Negro petitioners from leasing or conveying the properties, and directing those petitioners "to remove themselves and all of their personal belongings" from the premises within sixty days.

HOLDING:

[W]e have concluded that judicial enforcement of restrictive covenants by the courts of the District of Columbia is improper for other reasons hereinafter stated. *** We hold that the action of the District Court directed against the Negro purchasers and the white sellers denies rights intended by Congress to be protected by the Civil Rights Act, and that, consequently, the action cannot stand.

1872: NO PRESIDENT ABOVE THE LAW

President Ulysses S. Grant – African-American D.C. police officer - speeding on a horse-drawn carriage

Ulysses S. Grant – born, Point Pleasant, OH (April 27, 1822)

Washington Post article: Dec. 16, 2018
“In 1872, while president, Grant was arrested at the corner of 13th and M streets in Washington. This was not a high crime, but it was — at least theoretically speaking — a misdemeanor. *** The man who led the North to victory in the Civil War was busted for speeding in his horse-drawn carriage. *** That policeman was William H. West, a black man who had fought in the Civil War. “Since his retirement,” the story said, “he has decided to let the public know the true story of the arrest.” It begins with Grant’s love of fast horses. “Gen. Grant was an ardent admirer of a good horse and loved nothing better than to sit behind a pair of spirited animals,” the Star story said. “He was a good driver, and sometimes ‘let them out’ to try their mettle.” And that’s where Grant, as president, rode into the law. The police had been receiving complaints of speeding carriages. After a mother and child were run over and badly injured, Officer West was dispatched to investigate. As West spoke to witnesses, another group of speeding carriages headed toward him — including one driven by the president of the United States. “Policeman West held up his hand for them to stop,” the story said. “Grant was driving a pair of fast steppers and he had some difficulty in halting them, but this he managed to do.” Grant was a bit testy. "Well, officer," he said, “what do you want with me?” West replied: “I want to inform you, Mr. President, that you are violating the law by speeding along this street. Your fast driving, sir, has set the example for a lot of other gentlemen." The president apologized, promised it wouldn’t happen again, and galloped away. But Grant could not curb his need for speed. The next evening, West was patrolling at the corner of 13th and M streets when the president came barreling through again, this time speeding so fast that it took him an entire block to stop. Now Grant was cocky and had a “smile on his face,” the Star article said, that made him look like “a schoolboy who had been caught in a guilty act by a teacher.” He said, “Do you think, officer, that I was violating the speed laws?” “I do, Mr. President,” West said. Grant had an excuse for his speeding, not unlike one no doubt being given somewhere right now: He had no idea he had been going so fast. West was sympathetic but firm. “I am very sorry, Mr. President, to have to do it,” he said, “for you are the chief of the nation, and I am nothing but a policeman, but duty is duty, sir, and I will have to place you under arrest.” *** Anyway, Grant and several of his speeding buddies also arrested went with West to the police station. The president of the United States was ordered to put up 20 bucks as collateral. A trial was held the next day. "Thirty-two ladies of the most refined character and surroundings voluntarily came into the court and testified against the drivers,” the Star story said. “The cases were contested bitterly." The judge imposed “heavy fines” and a “scathing rebuke” to the speeding drivers, who didn’t include the president. He didn’t show up for court.”

https://www.washingtonpost.com/history/2018/12/16/police-officer-who-arrested-president/?utm_term=.9f22b60ea0f1

Later Amendments to Constitution: https://www.law.cornell.edu/constitution
July 2, 1964: CIVIL RIGHTS ACT of 1964

“The Civil Rights Act of 1964, which ended segregation in public places and banned employment discrimination on the basis of race, color, religion, sex or national origin, is considered one of the crowning legislative achievements of the civil rights movement. First proposed by President John F. Kennedy, it survived strong opposition from southern members of Congress and was then signed into law by Kennedy’s successor, Lyndon B. Johnson. In subsequent years, Congress expanded the act and passed additional civil rights legislation such as the Voting Rights Act of 1965.”

https://www.history.com/topics/black-history/civil-rights-act

John Fitzgerald "Jack" Kennedy

Lyndon Baines Johnson
Civil rights leader Martin Luther King Jr. said that the Civil Rights Act of 1964 was nothing less than a “second emancipation.”

SUBSEQUENT AMENDMENTS OF CIVIL RIGHTS ACT OF 1964

The following is the text of Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended, as it appears in volume 42 of the United States Code, beginning at section 2000e. Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. The Civil Rights Act of 1991 (Pub. L. 102-166) (CRA) and the Lily Ledbetter Fair Pay Act of 2009 (Pub. L. 111-2) amend several sections of Title VII. In addition, section 102 of the CRA (which is printed elsewhere in this publication) amends the Revised Statutes by adding a new section following section 1977 (42 U.S.C. 1981), to provide for the recovery of compensatory and punitive damages in cases of intentional violations of Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973. Cross references to Title VII as enacted appear in italics following each section heading. Editor's notes also appear in italics. https://www.eeoc.gov/laws/statutes/titlevii.cfm

Equal Employment Opportunity Commission

SEC. 2000e-2. [Section 703](a) Employer practices

It shall be an unlawful employment practice for an employer -

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or
(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex, or national origin.

**EEOC Charge Filing and Notice of Right-to-Sue Requirements:** [https://www.eeoc.gov/employees/charge.cfm](https://www.eeoc.gov/employees/charge.cfm)

If you plan to file a lawsuit under federal law alleging discrimination on the basis of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability, genetic information, or retaliation, you first have to file a charge with the EEOC (except for lawsuits under the Equal Pay Act, see below).

We will give you a Notice of Right to Sue at the time the EEOC closes its investigation. You may also request a Notice of Right to Sue from the EEOC office investigating your charge if you wish to file a lawsuit in court before the investigation is completed (see below). This notice gives you permission to file a lawsuit in federal or state court.

**You Have 90 Days to File A Lawsuit in Court**

Once you receive a Notice of Right to Sue, you must file your lawsuit within 90 days. This deadline is set by law. If you don't file in time, you may be prevented from going forward with your lawsuit.

**Facts About Mediation**

Mediation is a form of Alternative Dispute Resolution (ADR) that is offered by the U.S. Equal Employment Opportunity Commission (EEOC) as an alternative to the traditional investigative or litigation process. Mediation is an informal process in which a neutral third party assists the opposing parties to reach a voluntary, negotiated resolution of a charge of discrimination. Mediation gives the parties the opportunity to discuss the issues raised in the charge, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, to incorporate those areas of agreements into solutions. A mediator does not impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution. [https://www.eeoc.gov/eeoc/mediation/facts.cfm](https://www.eeoc.gov/eeoc/mediation/facts.cfm)
OHIO STATUTE: [http://codes.ohio.gov/orc/4112.02](http://codes.ohio.gov/orc/4112.02)

4112.02 Unlawful discriminatory practices.

It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

OHIO CIVIL RIGHTS COMMISSION

MEDIATION OPTION

“The Ohio Civil Rights Commission offers a voluntary mediation program and employs highly competent mediators in each of its regional offices. A case cannot be mediated unless both parties voluntarily agree to participate in the process. The purpose of the mediation is to resolve the issues in a manner that is satisfactory for both parties. Mediation is not the forum to decide the merits of the case. If mediation is successful, the case is closed and no further action will be taken. If mediation is not successful or if one party declines to participate, a full investigation will be conducted.” [http://crc.ohio.gov/FilingaCharge/Mediation.aspx](http://crc.ohio.gov/FilingaCharge/Mediation.aspx)
STATUTE OF LIMITATIONS - 6 MONTHS

The Ohio Civil Rights Commission has a statute of limitations of six months (or one year for housing) and cannot investigate acts of discrimination that occurred prior to that date. For this reason, all charges of discrimination must be filed within 6 months of the date that the discrimination occurred (with housing charges having one year to file).

Cincinnati- Satellite Office

Kathy Haley Ross, Acting Regional Director
Mid-Pointe Towers
7162 Reading Road, Suite 1005
Cincinnati, OH 45237
Phone: (513) 351-2541 Fax: (513) 351-2616

Importantly, filing with the OCRC is not required to pursue a state-law discrimination claim directly in state or federal court. State discrimination laws and lawsuits in state court work differently. First and foremost, a lawsuit based on your state discrimination claim must be filed within six years of the date you believe you were discriminated against, except for age discrimination claims, which must be filed within 180 days of the date you believe you were discriminated against (in most circumstances). These deadlines are called the “statute of limitations.”
II. FEDERAL & STATE COURTS

U.S. SUPREME COURT

9 Justices, appointed by President, confirmed by Senate; serve for life, as do all Federal judges: https://www.supremecourt.gov/about/biographies.aspx

All nine Supreme Court justices posed for a portrait on Nov. 30, 2018. This is the first official group photo to include Justice Brett M. Kavanaugh.

- Chief Justice John Roberts (since 2005)
- Clarence Thomas (since 1991)
- Ruth Bader Ginsburg (since 1993)
- Stephen Breyer (since 1994)
- Samuel Alito (since 2006)
- Sonia Sotomayor (since 2009)
- Elena Kagan (since 2010)
- Neil Gorsuch (since 2017)
- Brett M. Kavanaugh (since 2018)

U.S. COURTS OF APPEAL – 12 Circuits (3-judge panels, unless “en banc” with all judges)

- 6th Circuit – Cincinnati: The United States Court of Appeals for the Sixth Circuit has jurisdiction over federal appeals arising from the states of Kentucky, Michigan, Ohio and
Tennessee. The Court sits in Cincinnati, Ohio at the Potter Stewart United States Courthouse.

- 16 Active Judges; 10 Senior Judges (retired; hear few cases):
  https://www.ca6.uscourts.gov/judges

U.S. DISTRICT COURTS - 94 Districts

- The United States District Court for the Southern District of Ohio is one of two United States district courts in Ohio and includes forty-eight of the state's eighty-eight counties. Appeals from the court are taken to the United States Court of Appeals for the Sixth Circuit at Cincinnati.

- Cincinnati: 5 District Court judges; 2 Magistrates:
  https://www.ohsd.uscourts.gov/content/cincinnati

While district judges are nominated by the President and confirmed by the United States Senate for lifetime tenure, magistrate judges are appointed by a majority vote of the federal district judges of a particular district and serve terms of eight years if full-time, or four years if part-time, and may be reappointed.
7 Justices – six-year terms (all judges in Ohio)

The Supreme Court of Ohio is established by Article IV, Section 1, of the Ohio Constitution. Article IV, Section 2, of the Constitution sets the size of the Court at seven - a chief justice and six justices - and outlines the jurisdiction of the Court.

The chief justice and six justices are elected to six-year terms on a nonpartisan ballot. Two justices are chosen at the general election in even-numbered years. In the year when the chief justice runs, voters pick three members of the Court. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the Court. Appointments are made by the governor for vacancies that occur between elections.

Chief Justice Maureen O’Connor (2003; Chief Judge 2011)
Justice Sharon L. Kennedy (2012)
Justice Judith L. French (2013)
Justice Patrick F. Fischer (2017)
Justice R. Patrick DeWine (2017) – son of Governor Mike DeWine
Justice Mary DeGenaro (Jan. 2018)
Justice Michael P. Donnelly (Jan. 2019)

OHIO COURT OF APPEALS FOR FIRST DISTRICT – HAMILTON COUNTY (3-judge panels)

The First District Court of Appeals is one of twelve appellate districts in the state of Ohio. Our jurisdiction consists only of Hamilton County.
The Hamilton Court First District Court of Appeals is composed of six judges who are elected to the court and may serve six-year terms. The court has jurisdiction over Hamilton County, Ohio. Article IV, Section 3 of the Ohio Constitution grants the court the power to hear appeals from both municipal and common pleas courts in Ohio. The court also has original jurisdiction to hear cases involving writs of habeas corpus, mandamus, prohibition, procedendo, and quo warranto.

A panel of 3 judges hears each case on appeal. One judge from the three is then chosen at random to draft the opinion of the court. Any appeals from the First District Court of Appeals may be reviewed by the Ohio Supreme Court.

**Appellate Judges:**
Penelope R. Cunningham  
Dennis P. Deters  
Charles M. Miller  
Russell J. Mock  
Beth A. Myers  
Marilyn Zayas


**HAMILTON COUNTY COURT OF COMMON PLEAS**


The courts of common pleas have original jurisdiction in all criminal felony cases and original jurisdiction in all civil cases in which the amount in controversy is generally more than $15,000.

Common pleas judges are elected to six year terms on a nonpartisan ballot. A person must be an attorney with at least six years of experience in the practice of law to be elected or appointed to the court.

**HAMILTON COUNTY MUNICIPAL COURT**

Judge Heather Russell [“CHANGE COURT”]


_____________________________________________________________________________

HAMILTON COUNTY


In Ohio, the grand jury is composed of nine people and up to five alternates. All jurors reside in the county and are randomly selected to serve, in the same way that the trial — or petit — jurors are selected. The judge or prosecutor chooses a foreperson from the nine jurors.

Hamilton County Prosecutor / Intake Division runs two grand juries which hear evidence and vote on the filing of criminal charges. The Intake Division also houses the Victim/Witness advocate program, as well as the Diversion program.

Petit Jury: Hear trial – criminal cases (12 jurors in Common Pleas); need unanimous verdict for guilt or innocence.

Civil case (8 jurors); need vote of 6.

Hamilton County Jury Commissioner: Bradley J. Seitz, Esq. [son of State Rep. Bill Seitz]

Juror Q&A: https://hamiltoncountycourts.org/index.php/juror-qa/

Who may be called to serve as a juror?

You may be called to serve if you are at least 18 years old, a United States citizen and a resident of Hamilton County. In addition, you must have a reasonable knowledge of English and be physically and mentally capable of serving.

How did my name get selected for jury duty?

Jurors' names are selected at random by a computer from a list of registered voters provided by the Board of Elections.
How long will I be required to serve?

Normal length of service is for two weeks. However, if you are not serving on a jury in progress, you will call a recording each night for reporting instructions for the next day. If your services are not required, it is recommended that you report to work.

Do I get paid for jury duty?

You will receive a fee of $19.00 for each day that you are required to attend. Work statements for your company indicating the days that you served as a juror and the amount paid will be furnished upon request.

Is it possible that I might report for jury service but not sit on a jury?

Yes, the parties involved in a case generally seek to settle their differences and avoid the expense and time of a trial. Sometimes the case is settled just a few moments before the trial begins. Though many trials are scheduled daily, the Court doesn't know until that morning how many will actually go to trial. But your time spent waiting is not wasted. Your presence encourages settlement.

OHIO TRIALS – ONLY 2.4% of CRIMINAL CASES - 1.3% of CIVIL CASES

(Ohio Supreme Court; 2015 report)

It is conventionally understood among court observers at the national level that approximately 2 percent of civil cases and 5 percent of criminal cases ultimately go to trial. Ohio trial rates fall below those figures. As shown in Figure 3, the trial rate for civil cases heard in the common pleas, general division courts in 2015 was 1.3 percent and 2.4 percent for criminal cases. When viewed over the last 10 years, the rates of civil and criminal cases proceeding to trial have steadily declined.

HAMILTON COUNTY – JUROR ORIENTATION VIDEO (Part I and Part II):

https://hamiltoncountycourts.org/index.php/juror-video/
III. FAMOUS U.S. SUPREME COURT DECISIONS

Case reviews from this web site: US Courts: Supreme Court Landmarks
http://www.uscourts.gov/about-federal-courts/educational-resources/supreme-court-landmark

Cases in bold - Prof. Bennett added cases related to Fire Service

Marbury v. Madison (1803)
Holding: Established the doctrine of judicial review.

In the Judiciary Act of 1789, Congress gave the Supreme Court the authority to issue certain judicial writs. The Constitution did not give the Court this power. Because the Constitution is the Supreme Law of the Land, the Court held that any contradictory congressional Act is without force. The ability of federal courts to declare legislative and executive actions unconstitutional is known as judicial review. Teach students the significance of *Marbury v. Madison* which establishes the concept of judicial review.

Brown v. Board of Education (1954)
Holding: Separate schools are not equal.

In *Plessy v. Ferguson* (1896), the Supreme Court sanctioned segregation by upholding the doctrine of "separate but equal." The National Association for the Advancement of Colored People disagreed with this ruling, challenging the constitutionality of segregation in the Topeka, Kansas, school system. In 1954, the Court reversed its *Plessy* decision, declaring that "separate schools are inherently unequal."

Mapp v. Ohio (1961)
Holding: Illegally obtained material cannot be used in a criminal trial.

While searching Dollree Mapp's house, police officers discovered obscene materials and arrested her. Because the police officers never produced a search warrant, she argued that the materials should be suppressed as the fruits of an illegal search and seizure. The Supreme Court agreed and applied to the states the exclusionary rule from *Weeks v. United States*(1914).

Gideon v. Wainwright (1963)
Holding: Indigent defendants must be provided representation without charge.
Gideon was accused of committing a felony. Being indigent, he petitioned the judge to provide him with an attorney free of charge. The judge denied his request. The Supreme Court ruled for Gideon, saying that the Sixth Amendment requires indigent criminal defendants to be provided an attorney free of charge.


**Holding:** In order to prove libel, a public official must show that what was said against them was made with actual malice.

The New York Times was sued by the Montgomery, Alabama police commissioner, L.B. Sullivan, for printing an advertisement containing some false statements. The Supreme Court unanimously ruled in favor of the newspaper saying the right to publish all statements is protected under the First Amendment.

**Miranda v. Arizona (1966)**

**Holding:** Police must inform suspects of their rights before questioning.

After hours of police interrogations, Ernesto Miranda confessed to rape and kidnapping. At trial, he sought to suppress his confession, stating that he was not advised of his rights to counsel and to remain silent. The Supreme Court agreed, holding that police must inform suspects of their rights before questioning.

**Garrity v. New Jersey (1967): INTERNAL INVESTIGATIONS, 5th AMENDMENT RIGHTS**

Justice Douglas:

Appellants were police officers in certain New Jersey boroughs. The Supreme Court of New Jersey ordered that alleged irregularities in handling cases in the municipal courts of those boroughs be investigated by the Attorney General, invested him with broad powers of inquiry and investigation, and directed him to make a report to the court. The matters investigated concerned alleged fixing of traffic tickets.

Before being questioned, each appellant was warned (1) that anything he said might be used against him in any state criminal proceeding; (2) that he had the privilege to refuse to answer if the disclosure would tend to incriminate him; but (3) that, if he refused to answer, he would be subject to removal from office.
Appellants answered the questions. No immunity was granted, as there is no immunity statute applicable in these circumstances. Over their objections, some of the answers given were used in subsequent prosecutions for conspiracy to obstruct the administration of the traffic laws. Appellants were convicted, and their convictions were sustained over their protests that their statements were coerced by reason of the fact that, if they refused to answer, they could lose their positions with the police department.

***

We conclude that policemen, like teachers and lawyers, are not relegated to a watered-down version of constitutional rights.

HOLDING:

We now hold the protection of the individual under the Fourteenth Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office, and that it extends to all, whether they are policemen or other members of our body politic.

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**Pickering v. Board of Ed. of Township High School District (1968): FIRST AMENDMENT “BALANCING TEST “– PUBLIC EMPLOYEES HAVE FIRST AMENDMENT RIGHT OF FREE SPEECH, BUT MUST BE BALANCED AGAINST INTEREST OF EMPLOYER**

Justice Marshall:

Appellant Marvin L. Pickering, a teacher in Township High School District 205, Will County, Illinois, was dismissed from his position by the appellee Board of Education for sending a letter to a local newspaper in connection with a recently proposed tax increase that was critical of the way in which the Board and the district superintendent of schools had handled past proposals to raise new revenue for the schools. Appellant's dismissal resulted from a determination by the Board, after a full hearing, that the publication of the letter was "detrimental to the efficient operation and administration of the schools of the district" and hence, under the relevant Illinois statute, Ill.Rev.Stat. c. 122, § 10-22.4 (1963), that "interests of the school require[d] [his dismissal]."

***

A. Appellant's letter

*LETTERS TO THE EDITOR*
Dear Editor:

I enjoyed reading the back issues of your paper which you loaned to me. Perhaps others would enjoy reading them in order to see just how far the two new high schools have deviated from the original promises by the Board of Education. First, let me state that I am referring to the February thru November, 1961 issues of your paper, so that it can be checked.

One statement in your paper declared that swimming pools, athletic fields, and auditoriums had been left out of the program. They may have been left out but they got put back in very quickly, because Lockport West has both an auditorium and athletic field. In fact, Lockport West has a better athletic field than Lockport Central. It has a track that isn't quite regulation distance even though the board spent a few thousand dollars on it. Whose fault is that? Oh, I forgot, it wasn't supposed to be there in the first place. It must have fallen out of the sky. Such responsibility has been touched on in other letters but it seems one just can't help noticing it. I am not saying the school shouldn't have these facilities, because I think they should, but promises are promises, or are they?

Since there seems to be a problem getting all the facts to the voter on the twice defeated bond issue, many letters have been written to this paper and probably more will follow, I feel I must say something about the letters and their writers. Many of these letters did not give the whole story. Letters by your Board and Administration have stated that teachers' salaries total $1,297,746 for one year. Now that must have been the total payroll, otherwise the teachers would be getting $10,000 a year. I teach at the high school and I know this just isn't the case. However, this shows their "stop at nothing" attitude. To illustrate further, do you know that the superintendent told the teachers, and I quote, "Any teacher that opposes the referendum should be prepared for the consequences." I think this gets at the reason we have problems passing bond issues. Threats take something away; these are insults to voters in a free society. We should try to sell a program on its merits, if it has any.

Remember those letters entitled "District 205 Teachers Speak," I think the voters should know that those letters have been written and agreed to by only five or six teachers, not 98% of the teachers in the high school. In fact, many teachers didn't even know who was writing them. Did you know that those letters had to have the approval of the superintendent before they could be put in the paper? That's the kind of totalitarianism teachers live in at the high school, and your children go to school in.

In last week's paper, the letter written by a few uninformed teachers threatened to close the school cafeteria and fire its personnel. This is ridiculous, and insults the intelligence of the voter because properly managed school cafeterias do not cost the school district any money. If the cafeteria is losing money, then the board should not be packing free
lunches for athletes on days of athletic contests. Whatever the case, the taxpayer's child should only have to pay about 30 cents for his lunch instead of 35 cents to pay for free lunches for the athletes.

In a reply to this letter, your Board of Administration will probably state that these lunches are paid for from receipts from the games. But $20,000 in receipts doesn't pay for the $200,000 a year they have been spending on varsity sports while neglecting the wants of teachers.

You see we don't need an increase in the transportation tax unless the voters want to keep paying $50,000 or more a year to transport athletes home after practice and to away games, etc. Rest of the $200,000 is made up in coaches' salaries, athletic directors' salaries, baseball pitching machines, sodded football fields, and thousands of dollars for other sports equipment.

These things are all right, provided we have enough money for them. To sod football fields on borrowed money and then not be able to pay teachers' salaries is getting the cart before the horse.

If these things aren't enough for you, look at East High. No doors on many of the classrooms, a plant room without any sunlight, no water in a first aid treatment room, are just a few of many things. The taxpayers were really taken to the cleaners. A part of the sidewalk in front of the building has already collapsed. Maybe Mr. Hess would be interested to know that we need blinds on the windows in that building also.

Once again, the board must have forgotten they were going to spend $3,200,000 on the West building and $2,300,000 on the East building.

As I see it, the bond issue is a fight between the Board of Education that is trying to push tax supported athletics down our throats with education, and a public that has mixed emotions about both of these items because they feel they are already paying enough taxes, and simply don't know whom to trust with any more tax money.

I must sign this letter as a citizen, taxpayer and voter, not as a teacher, since that freedom has been taken from the teachers by the administration. Do you really know what goes on behind those stone walls at the high school?

Respectfully,

Marvin L. Pickering.

HOLDING:

The public interest in having free and unhindered debate on matters of public importance -- the core value of the Free Speech Clause of the First Amendment -- is so great that it has been held that a State cannot authorize the recovery of damages by a public official for defamatory
statements directed at him except when such statements are shown to have been made either with knowledge of their falsity or with reckless disregard for their truth or falsity. *New York Times Co. v. Sullivan*, 376 U. S. 254 (1964); *St. Amant v. Thompson*, 390 U. S. 727 (1968). Compare *Linn v. United Plant Guard Workers*, 383 U. S. 53 (1966).

***

In sum, we hold that, in a case such as this, absent proof of false statements knowingly or recklessly made by him, a teacher's exercise of his right to speak on issues of public importance may not furnish the basis for his dismissal from public employment. Since no such showing has been made in this case regarding appellant's letter, *see Appendix, infra*, his dismissal for writing it cannot be upheld and the judgment of the Illinois Supreme Court must, accordingly, be reversed and the case remanded for further proceedings not inconsistent with this opinion.

**Terry v. Ohio (1968)**

**Holding:** Stop and frisks do not violate the Constitution under certain circumstances.

Observing Terry and others acting suspiciously in front of a store, a police officer concluded that they might rob it. The officer stopped and frisked the men. A weapon was found on Terry and he was convicted of carrying a concealed weapon. The Supreme Court ruled that this search was reasonable.


Justice Brenan:

This case has its origin in an arrest and search carried out on the morning of November 26, 1965. Petitioner's complaint alleged that on that day respondents, agents of the Federal Bureau of Narcotics acting under claim of federal authority, entered his apartment and arrested him for alleged narcotics violations. The agents manacled petitioner in front of his wife and children, and threatened to arrest the entire family. They searched the apartment from stem to stern. Thereafter, petitioner was taken to the federal courthouse in Brooklyn, where he was interrogated, booked, and subjected to a visual strip search.

***

Respondents do not argue that petitioner should be entirely without remedy for an unconstitutional invasion of his rights by federal agents. In respondents' view, however, the rights that petitioner asserts—primarily rights of privacy—are creations of state and not of
federal law. Accordingly, they argue, petitioner may obtain money damages to redress invasion of these rights only by an action in tort, under state law, in the state courts.

HOLDING:

Having concluded that petitioner's complaint states a cause of action under the Fourth Amendment, supra, at 390—395, we hold that petitioner is entitled to recover money damages for any injuries he has suffered as a result of the agents' violation of the Amendment.

Holding: The President is not above the law.

The special prosecutor in the Watergate affair subpoenaed audio tapes of Oval Office conversations. President Nixon refused to turn over the tapes, asserting executive privilege. The Supreme Court ruled that the defendants' right to potentially exculpating evidence outweighed the President's right to executive privilege if national security was not compromised.

Michigan v. Tyler (1978) – ARSON INVESTIGATION - SEARCH WARRANT IS NOT REQUIRED UNTIL PROPERTY NO LONGER UNDER FIRE DEPARTMENT CONTROL

Justice Stewart

Shortly before midnight on January 21, 1970, a fire broke out at Tyler's Auction, a furniture store in Oakland County, Mich. The building was leased to respondent Loren Tyler, who conducted the business in association with respondent Robert Tompkins. According to the trial testimony of various witnesses, the fire department responded to the fire and was "just watering down smoldering embers" when Fire Chief See arrived on the scene around 2 a.m. It was Chief See's responsibility "to determine the cause and make out all reports." Chief See was met by Lt. Lawson, who informed him that two plastic containers of flammable liquid had been found in the building. Using portable lights, they entered the gutted store, which was filled with smoke and steam, to examine the containers. Concluding that the fire "could possibly have been an arson," Chief See called Police Detective Webb, who arrived around 3:30 a.m. Detective Webb took several pictures of the containers and of the interior of the store, but finally abandoned his efforts because of the smoke and steam. Chief See briefly "[l]ooked throughout the rest of the building to see if there was any further evidence, to determine what the cause of the fire was." By 4 a.m., the fire had been extinguished and the firefighters departed. See and Webb took the two containers to the fire station, where they were turned over to Webb for safekeeping.
Four hours after he had left Tyler's Auction, Chief See returned with Assistant Chief Somerville, whose job was to determine the "origin of all fires that occur within the Township." The fire had been extinguished and the building was empty. After a cursory examination, they left, and Somerville returned with Detective Webb around 9 a.m. In Webb's words, they discovered suspicious "burn marks in the carpet, which [Webb] could not see earlier that morning, because of the heat, steam, and the darkness." They also found "pieces of tape, with burn marks, on the stairway." After leaving the building to obtain tools, they returned and removed pieces of the carpet and sections of the stairs to preserve these bits of evidence suggestive of a fuse trail. Somerville also searched through the rubble "looking for any other signs or evidence that showed how this fire was caused."

On February 16, Sergeant Hoffman of the Michigan State Police Arson Section returned to Tyler's Auction to take photographs. During this visit or during another at about the same time, he checked the circuit breakers, had someone inspect the furnace, and had a television repairman examine the remains of several television sets found in the ashes. He also found a piece of fuse. Over the course of his several visits, Hoffman secured physical evidence and formed opinions that played a substantial role at trial in establishing arson as the cause of the fire and in refuting the respondents' testimony about what furniture had been lost. His entries into the building were without warrants or Tyler's consent, and were for the sole purpose "of making an investigation and seizing evidence."

The Michigan Supreme Court held that, with only a few exceptions, any entry onto fire-damaged private property by fire or police officials is subject to the warrant requirements of the Fourth and Fourteenth Amendments.

"[Once] the blaze [has been] extinguished and the firefighters have left the premises, a warrant is required to reenter and search the premises, unless there is consent or the premises have been abandoned."

HOLDING:

On the facts of this case, we do not believe that a warrant was necessary for the early morning reentries on January 22. As the fire was being extinguished, Chief See and his assistants began their investigation, but visibility was severely hindered by darkness, steam, and smoke. Thus they departed at 4 a.m. and returned shortly after daylight to continue their investigation. Little purpose would have been served by their remaining in the building, except to remove any doubt about the legality of the warrantless search and seizure later that same morning. Under these circumstances, we find that the morning entries were no more than an actual continuation of the first, and the lack of a warrant thus did not invalidate the resulting seizure of evidence.
The entries occurring after January 22, however, were clearly detached from the initial exigency and warrantless entry. Since all of these searches were conducted without valid warrants and without consent, they were invalid under the Fourth and Fourteenth Amendments, and any evidence obtained as a result of those entries must, therefore, be excluded at the respondents' retrial.

In summation, we hold that an entry to fight a fire requires no warrant, and that, once in the building, officials may remain there for a reasonable time to investigate the cause of the blaze. Thereafter, additional entries to investigate the cause of the fire must be made pursuant to the warrant procedures governing administrative searches.


**Holding:** Students have a reduced expectation of privacy in school.

A teacher accused T.L.O. of smoking in the bathroom. When she denied the allegation, the principal searched her purse and found cigarettes and marijuana paraphernalia. A family court declared T.L.O. a delinquent. The Supreme Court ruled that her rights were not violated since students have reduced expectations of privacy in school.

Cleveland Board of Education v. Loudermill (1985) – CLASSIFIED EMPLOYEE RIGHT TO "PRE-DISCIPLINARY" MEETING PRIOR TO TERMINATION

Justice White:

In 1979, the Cleveland Board of Education, petitioner in No. 83-1362, hired respondent James Loudermill as a security guard. On his job application, Loudermill stated that he had never been convicted of a felony. Eleven months later, as part of a routine examination of his employment records, the Board discovered that, in fact, Loudermill had been convicted of grand larceny in 1968. By letter dated November 3, 1980, the Board's Business Manager informed Loudermill that he had been dismissed because of his dishonesty in filling out the employment application. Loudermill was not afforded an opportunity to respond to the charge of dishonesty or to challenge his dismissal. On November 13, the Board adopted a resolution officially approving the discharge.

Under Ohio law, Loudermill was a "classified civil servant." Ohio Rev.Code Ann. § 124.11 (1984). Such employees can be terminated only for cause, and may obtain administrative review if discharged. § 124.34. Pursuant to this provision, Loudermill filed an appeal with the Cleveland Civil Service Commission on November 12. The Commission appointed a referee, who held a
hearing on January 29, 1981. Loudermill argued that he had thought that his 1968 larceny conviction was for a misdemeanor, rather than a felony. The referee recommended reinstatement. On July 20, 1981, the full Commission heard argument and orally announced that it would uphold the dismissal. Proposed findings of fact and conclusions of law followed on August 10, and Loudermill's attorneys were advised of the result by mail on August 21.

HOLDING:

As we shall explain, affording the employee an opportunity to respond prior to termination would impose neither a significant administrative burden nor intolerable delays. Furthermore, the employer shares the employee's interest in avoiding disruption and erroneous decisions; and until the matter is settled, the employer would continue to receive the benefit of the employee's labors. It is preferable to keep a qualified employee on than to train a new one. A governmental employer also has an interest in keeping citizens usefully employed, rather than taking the possibly erroneous and counterproductive step of forcing its employees onto the welfare rolls. Finally, in those situations where the employer perceives a significant hazard in keeping the employee on the job, it can avoid the problem by suspending with pay.

***

The foregoing considerations indicate that the pretermination "hearing," though necessary, need not be elaborate.


Justice Kennedy:

Finding that alcohol and drug abuse by railroad employees poses a serious threat to safety, the Federal Railroad Administration (FRA) has promulgated regulations that mandate blood and urine tests of employees who are involved in certain train accidents. The FRA also has adopted regulations that do not require, but do authorize, railroads to administer breath and urine tests to employees who violate certain safety rules. The question presented by this case is whether these regulations violate the Fourth Amendment.

***

The FRA also found, after a review of accident investigation reports, that from 1972 to 1983 "the nation's railroads experienced at least 21 significant train accidents involving alcohol or drug use as a probable cause or contributing factor," and that these accidents "resulted in 25 fatalities, 61 non-fatal injuries, and property damage estimated at $19 million (approximately $27 million in
1982 dollars)." 48 Fed. Reg. 30726 (1983). The FRA further identified "an additional 17 fatalities to operating employees working on or around rail rolling stock that involved alcohol or drugs as a contributing factor." Ibid. In light of these problems, the FRA solicited comments from interested parties on a various regulatory approaches to the problems of alcohol and drug abuse throughout the Nation's railroad system.

***

After occurrence of an event which activates its duty to test, the railroad must transport all crew members and other covered employees directly involved in the accident or incident to an independent medical facility, where both blood and urine samples must be obtained from each employee. After the samples have been collected, the railroad is required to ship them by prepaid air freight to the FRA laboratory for analysis.

HOLDING:

In sum, imposing a warrant requirement in the present context would add little to the assurances of certainty and regularity already afforded by the regulations, while significantly hindering, and in many cases frustrating, the objectives of the Government's testing program. We do not believe that a warrant is essential to render the intrusions here at issue reasonable under the Fourth Amendment.

***

More importantly, the expectations of privacy of covered employees are diminished by reason of their participation in an industry that is regulated pervasively to ensure safety, a goal dependent, in substantial part, on the health and fitness of covered employees.

***

We conclude that the compelling Government interests served by the FRA’s regulations would be significantly hindered if railroads were required to point to specific facts giving rise to a reasonable suspicion of impairment before testing a given employee. In view of our conclusion that, on the present record, the toxicological testing contemplated by the regulations is not an undue infringement on the justifiable expectations of privacy of covered employees, the Government's compelling interests outweigh privacy concerns.

Justice Kennedy:

The United States Customs Service, a bureau of the Department of the Treasury, is the federal agency responsible for processing persons, carriers, cargo, and mail into the United States, collecting revenue from imports, and enforcing customs and related laws.

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n May 1986, the Commissioner announced implementation of the drug-testing program. Drug tests were made a condition of placement or employment for positions that meet one or more of three criteria. The first is direct involvement in drug interdiction or enforcement of related laws, an activity the Commissioner deemed fraught with obvious dangers to the mission of the agency and the lives of Customs [489 U.S. 656, 661] agents. Id., at 17, 113. The second criterion is a requirement that the incumbent carry firearms, as the Commissioner concluded that "[p]ublic safety demands that employees who carry deadly arms and are prepared to make instant life or death decisions be drug free." Id., at 113. The third criterion is a requirement for the incumbent to handle "classified" material, which the Commissioner determined might fall into the hands of smugglers if accessible to employees who, by reason of their own illegal drug use, are susceptible to bribery or blackmail. Id., at 114.

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After an employee qualifies for a position covered by the Customs testing program, the Service advises him by letter that his final selection is contingent upon successful completion of drug screening. An independent contractor contacts the employee to fix the time and place for collecting the sample. On reporting for the test, the employee must produce photographic identification and remove any outer garments, such as a coat or a jacket, and personal belongings. The employee may produce the sample behind a partition, or in the privacy of a bathroom stall if he so chooses. To ensure against adulteration of the specimen, or substitution of a sample from another person, a monitor of the same sex as the employee remains close at hand to listen for the normal sounds of urination. Dye is added to the toilet water to prevent the employee from using the water to adulterate the sample.

HOLDING:

In Skinner v. Railway Labor Executives' Assn., ante, at 616-618, decided today, we held that federal regulations requiring employees of private railroads to produce urine samples for chemical testing implicate the Fourth Amendment, as those tests invade reasonable expectations of privacy.

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We think Customs employees who are directly involved in the interdiction of illegal drugs or who are required to carry firearms in the line of duty likewise have a diminished expectation of privacy in respect to the intrusions occasioned by a urine test.
In sum, we believe the Government has demonstrated that its compelling interests in safeguarding our borders and the public safety outweigh the privacy expectations of employees who seek to be promoted to positions that directly involve the interdiction of illegal drugs or that require the incumbent to carry a firearm. We hold that the testing of these employees is reasonable under the Fourth Amendment.

**Texas v. Johnson (1989)**

**Holding:** Even offensive speech such as flag burning is protected by the First Amendment.

To protest the policies of the Reagan administration, Gregory Lee Johnson burned an American flag outside of the Dallas City Hall. He was arrested for this act, but argued that it was symbolic speech. The Supreme Court agreed, ruling that symbolic speech is constitutionally protected even when it is offensive.

**County of Sacramento v. Lewis (1998) – QUALIFIED IMMUNITY - UNLESS CONDUCT “SHOCKS THE CONSCIENCE”**

Justice Souter:

On May 22, 1990, at approximately 8:30 p.m., petitioner James Everett Smith, a Sacramento County sheriff's deputy, along with another officer, Murray Stapp, responded to a call to break up a fight. Upon returning to his patrol car, Stapp saw a motorcycle approaching at high speed. It was operated by 18-year-old Brian Willard and carried Philip Lewis, respondents' 16-year-old decedent, as a passenger. Neither boy had anything to do with the fight that prompted the call to the police.

Stapp turned on his overhead rotating lights, yelled to the boys to stop, and pulled his patrol car closer to Smith's, attempting to pen the motorcycle in. Instead of pulling over in response to Stapp's warning lights and commands, Willard slowly maneuvered the motorcycle between the two police cars and sped off. Smith immediately switched on his own emergency lights and siren, made a quick turn, and began pursuit at high speed. For 75 seconds over a course of 1.3 miles in a residential neighborhood, the motorcycle wove in and out of oncoming traffic, forcing two cars and a bicycle to swerve off the road. The motorcycle and patrol car reached speeds up to 100 miles an hour, with Smith following at a distance as short as 100 feet; at that speed, his car would have required 650 feet to stop.

The chase ended after the motorcycle tipped over as Willard tried a sharp left turn. By the time Smith slammed on his brakes, Willard was out of the way, but Lewis was not. The patrol car
skidded into him at 40 miles an hour, propelling him some 70 feet down the road and inflicting massive injuries. Lewis was pronounced dead at the scene.

[Lawsuit dismissed by District Court on basis of officer’s “qualified immunity”; 9th Cir. reversed.]

Since Smith apparently disregarded the Sacramento County Sheriff's Department's General Order on police pursuits, the Ninth Circuit found a genuine issue of material fact that might be resolved by a finding that Smith's conduct amounted to deliberate indifference:

"The General Order requires an officer to communicate his intention to pursue a vehicle to the sheriff's department dispatch center. But defendants concede that Smith did not contact the dispatch center. The General Order requires an officer to consider whether the seriousness of the offense warrants a chase at speeds in excess of the posted limit. But here, the only apparent 'offense' was the boys' refusal to stop when another officer told them to do so. The General Order requires an officer to consider whether the need for apprehension justifies the pursuit under existing conditions. Yet Smith apparently only 'needed' to apprehend the boys because they refused to stop. The General Order requires an officer to consider whether the pursuit presents unreasonable hazards to life and property. But taking the facts here in the light most favorable to plaintiffs, there existed an unreasonable hazard to Lewis's and Willard's lives. The General Order also directs an officer to discontinue a pursuit when the hazards of continuing outweigh the benefits of immediate apprehension. But here, there was no apparent danger involved in permitting the boys to escape. There certainly was risk of harm to others in continuing the pursuit."

HOLDING:

The issue in this case is whether a police officer violates the Fourteenth Amendment's guarantee of substantive due process by causing death through deliberate or reckless indifference to life in a high-speed automobile chase aimed at apprehending a suspected offender. We answer no, and hold that in such circumstances only a purpose to cause harm unrelated to the legitimate object of arrest will satisfy the element of arbitrary conduct shocking to the conscience, necessary for a due process violation.

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The fault claimed on Smith's part in this case accordingly fails to meet the shocks-the-conscience test.

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Smith was faced with a course of lawless behavior for which the police were not to blame. They had done nothing to cause Willard's high-speed driving in the first place, nothing to excuse his flouting of the commonly understood law enforcement authority to control traffic, and nothing (beyond a refusal to call off the chase) to encourage him to race through traffic at breakneck speed forcing other drivers out of their travel lanes. Willard's outrageous behavior was
practically instantaneous, and so was Smith's instinctive response. While prudence would have repressed the reaction, the officer's instinct was to do his job as a law enforcement officer, not to induce Willard's lawlessness, or to terrorize, cause harm, or kill. Prudence, that is, was subject to countervailing enforcement considerations, and while Smith exaggerated their demands, there is no reason to believe that they were tainted by an improper or malicious motive on his part.

Regardless whether Smith's behavior offended the reasonableness held up by tort law or the balance struck in law enforcement's own codes of sound practice, it does not shock the conscience, and petitioners are not called upon to answer for it under § 1983. The judgment below is accordingly reversed.


Justice Souter:

Between 1985 and 1990, while attending college, petitioner Beth Ann Faragher worked part time and during the summers as an ocean lifeguard for the Marine Safety Section of the Parks and Recreation Department of respondent, the City of Boca Raton, Florida (City). During this period, Faragher's immediate supervisors were Bill Terry [Chief, Marine Services Division], David Silverman [Lieutenant], and Robert Gordon [Training Captain]. In June 1990, Faragher resigned.

In 1992, Faragher brought an action against Terry, Silverman, and the City, asserting claims under Title VII, Rev. Stat. § 1979, 42 U. S. C. § 1983, and Florida law. So far as it concerns the Title VII claim, the complaint alleged that Terry and Silverman created a "sexually hostile atmosphere" at the beach by repeatedly subjecting Faragher and other female lifeguards to "uninvited and offensive touching," by making lewd remarks, and by speaking of women in offensive terms. The complaint contained specific allegations that Terry once said that he would never promote a woman to the rank of lieutenant, and that Silverman had said to Faragher, "Date me or clean the toilets for a year."

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[District Court judge, after bench trial, found City liable; Court of Appeals reversed.]

From time to time over the course of Faragher's tenure at the Marine Safety Section, between 4 and 6 of the 40 to 50 lifeguards were women. Id., at 1556. During that 5-year period, Terry
repeatedly touched the bodies of female employees without invitation, *ibid.*, would put his arm around Faragher, with his hand on her buttocks, *id.*, at 1557, and once made contact with another female lifeguard in a motion of sexual simulation, *id.*, at 1556. He made crudely demeaning references to women generally, *id.*, at 1557, and once commented disparagingly on Faragher's shape, *ibid.* During a job interview with a woman he hired as a lifeguard, Terry said that the female lifeguards had sex with their male counterparts and asked whether she would do the same. *Ibid.*

Silverman behaved in similar ways. He once tackled Faragher and remarked that, but for a physical characteristic he found unattractive, he would readily have had sexual relations with her. *Ibid.* Another time, he pantomimed an act of oral sex. *Ibid.* Within earshot of the female lifeguards, Silverman made frequent, vulgar references to women and sexual matters, commented on the bodies of female lifeguards and beachgoers, and at least twice told female lifeguards that he would like to engage in sex with them. *Id.*, at 1557-1558.

Faragher did not complain to higher management about Terry or Silverman. Although she spoke of their behavior to Gordon, she did not regard these discussions as formal complaints to a supervisor but as conversations with a person she held in high esteem. *Id.*, at 1559. Other female lifeguards had similarly informal talks with Gordon, but because Gordon did not feel that it was his place to do so, he did not report these complaints to Terry, his own supervisor, or to any other city official. *Id.*, at 1559-1560. Gordon responded to the complaints of one lifeguard by saying that "the City just [doesn't] care." *Id.*, at 1561.

In April 1990, however, two months before Faragher's resignation, Nancy Ewanchew, a former lifeguard, wrote to Richard Bender, the City's Personnel Director, complaining that Terry and Silverman had harassed her and other female lifeguards. *Id.*, at 1559. Following investigation of this complaint, the City found that Terry and Silverman had behaved improperly, reprimanded them, and required them to choose between a suspension without pay or the forfeiture of annual leave. *Ibid.*

**HOLDING:**

This case calls for identification of the circumstances under which an employer may be held liable under Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.*, for the acts of a supervisory employee whose sexual harassment of subordinates has created a hostile work environment amounting to employment discrimination. We hold that an employer is vicariously liable for actionable discrimination caused by a supervisor, but subject to an affirmative defense looking to the reasonableness of the employer's conduct as well as that of a plaintiff victim.

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While the City would have an opportunity to raise an affirmative defense if there were any serious prospect of its presenting one, it appears from the record that any such avenue is closed. The District Court found that the City had entirely failed to disseminate its policy against sexual harassment among the beach employees and that its officials made no attempt to keep track of
the conduct of supervisors like Terry and Silverman. The record also makes clear that the City's policy did not include any assurance that the harassing supervisors could be bypassed in registering complaints. App. 274. Under such circumstances, we hold as a matter of law that the City could not be found to have exercised reasonable care to prevent the supervisors' harassing conduct. Unlike the employer of a small work force, who might expect that sufficient care to prevent tortious behavior could be exercised informally, those responsible for city operations could not reasonably have thought that precautions against hostile environments in anyone of many departments in far-flung locations could be effective without communicating some formal policy against harassment, with a sensible complaint procedure.

Christensen v. Harris County (2000) – OVERTIME: COMP TIME INSTEAD OF CASH IS LAWFUL

Justice Thomas:

Petitioners are 127 deputy sheriffs employed by respondents Harris County, Texas, and its sheriff, Tommy B. Thomas (collectively, Harris County). It is undisputed that each of the petitioners individually agreed to accept compensatory time, in lieu of cash, as compensation for overtime.

As petitioners accumulated compensatory time, Harris County became concerned that it lacked the resources to pay monetary compensation to employees who worked overtime after reaching the statutory cap on compensatory time accrual and to employees who left their jobs with sizable reserves of accrued time. As a result, the county began looking for a way to reduce accumulated compensatory time. It wrote to the United States Department of Labor's Wage and Hour Division, asking "whether the Sheriff may schedule non-exempt employees to use or take compensatory time." Brief for Petitioners 18-19. The Acting Administrator of the Division replied:

"[I]t is our position that a public employer may schedule its nonexempt employees to use their accrued FLSA compensatory time as directed if the prior agreement specifically provides such a provision ....

"Absent such an agreement, it is our position that neither the statute nor the regulations permit an employer to require an employee to use accrued compensatory time." Opinion Letter from Dept. of Labor, Wage and Hour Div. (Sept. 14, 1992), 1992 WL 845100 (Opinion Letter).

After receiving the letter, Harris County implemented a policy under which the employees' supervisor sets a maximum number of compensatory hours that may be accumulated. When an employee's stock of hours approaches that maximum, the employee is advised of the maximum and is asked to take steps to reduce accumulated compensatory time. If the employee does not do so voluntarily, a supervisor may order the employee to use his compensatory time at specified times.
HOLDING:

As we have noted, no relevant statutory provision expressly or implicitly prohibits Harris County from pursuing its policy of forcing employees to utilize their compensatory time. In its opinion letter siding with the petitioners, the Department of Labor opined that "it is our position that neither the statute nor the regulations permit an employer to require an employee to use accrued compensatory time." Opinion Letter (emphasis added). But this view is exactly backwards. Unless the FLSA prohibits respondents from adopting its policy, petitioners cannot show that Harris County has violated the FLSA. And the FLSA contains no such prohibition. The judgment of the Court of Appeals is affirmed.

It is so ordered.


Holding: Random drug tests of students involved in extracurricular activities do not violate the Fourth Amendment.

In Veronia School District v. Acton (1995), the Supreme Court held that random drug tests of student athletes do not violate the Fourth Amendment's prohibition of unreasonable searches and seizures. Some schools then began to require drug tests of all students in extracurricular activities. The Supreme Court in Earls upheld this practice.


Justice O’Connor [unanimous decision].

Note: John G. Robert, Esq. argued case for Toyota– he is now Chief Justice.

Respondent began working at petitioner's automobile manufacturing plant in Georgetown, Kentucky, in August 1990. She was soon placed on an engine fabrication assembly line, where her duties included work with pneumatic tools. Use of these tools eventually caused pain in respondent's hands, wrists, and arms. She sought treatment at petitioner's in-house medical service, where she was diagnosed with bilateral carpal tunnel syndrome and bilateral tendinitis. Respondent consulted a personal physician who placed her on permanent work restrictions that precluded her from lifting more than 20 pounds or from "frequently lifting or carrying ... objects weighing up to 10 pounds," engaging in "constant repetitive ... flexion or extension of [her] wrists or elbows," performing "overhead work," or using "vibratory or pneumatic tools." Brief for Respondent 2; App. 45-46.

Upon her return, petitioner placed respondent on a team in Quality Control Inspection Operations (QCIO). QCIO is responsible for four tasks: (1) "assembly paint"; (2) "paint second inspection"; (3) "shell body audit"; and (4) "ED surface repair." App. 19. Respondent was initially placed on a team that performed only the first two of these tasks, and for a couple of years, she rotated on a weekly basis between them. In assembly paint, respondent visually inspected painted cars moving slowly down a conveyor. She scanned for scratches, dents, chips, or any other flaws that may have occurred during the assembly or painting process, at a rate of one car every 54 seconds. When respondent began working in assembly paint, inspection team members were required to open and shut the doors, trunk, and/or hood of each passing car. Sometime during respondent's tenure, however, the position was modified to include only visual inspection with few or no manual tasks. Paint second inspection required team members to use their hands to wipe each painted car with a glove as it moved along a conveyor. Id., at 21-22. The parties agree that respondent was physically capable of performing both of these jobs and that her performance was satisfactory.

During the fall of 1996, petitioner announced that it wanted QCIO employees to be able to rotate through all four of the QCIO processes. Respondent therefore received training for the shell body audit job, in which team members apply a highlight oil to the hood, fender, doors, rear quarter panel, and trunk of passing cars at a rate of approximately one car per minute. The highlight oil has the viscosity of salad oil, and employees spread it on cars with a sponge attached to a block of wood. After they wipe each car with the oil, the employees visually inspect it for flaws. Wiping the cars required respondent to hold her hands and arms up around shoulder height for several hours at a time.

A short while after the shell body audit job was added to respondent's rotations, she began to experience pain in her neck and shoulders. Respondent again sought care at petitioner's in-house medical service, where she was diagnosed with myotendinitis bilateral periscapular, an inflammation of the muscles and tendons around both of her shoulder blades; myotendinitis and myositis bilateral forearms with nerve compression causing median nerve irritation; and thoracic outlet compression, a condition that causes pain in the nerves that lead to the upper extremities. Respondent requested that petitioner accommodate her medical conditions by allowing her to
return to doing only her original two jobs in QCIO, which respondent claimed she could still perform without difficulty.

The parties disagree about what happened next. According to respondent, petitioner refused her request and forced her to continue working in the shell body audit job, which caused her even greater physical injury. According to petitioner, respondent simply began missing work on a regular basis. Regardless, it is clear that on December 6, 1996, the last day respondent worked at petitioner's plant, she was placed under a no-work-of-any-kind restriction by her treating physicians. On January 27, 1997, respondent received a letter from petitioner that terminated her employment, citing her poor attendance record.


HOLDING:

Merely having an impairment does not make one disabled for purposes of the ADA. Claimants also need to demonstrate that the impairment limits a major life activity. See 42 U. S. C. § 12102(2)(A) (1994 ed.). The HEW Rehabilitation Act regulations provide a list of examples of "major life activities" that includes "walking, seeing, hearing," and, as relevant here, "performing manual tasks." 45 CFR § 84.3(j)(2)(ii) (2001).

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We therefore hold that to be substantially limited in performing manual tasks, an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives. The impairment's impact must also be permanent or long term. See 29 CFR §§ 1630.2(j)(2)(ii)-(iii) (2001).

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Yet household chores, bathing, and brushing one's teeth are among the types of manual tasks of central importance to people's daily lives, and should have been part of the assessment of whether respondent was substantially limited in performing manual tasks.

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In addition, according to respondent's deposition testimony, even after her condition worsened, she could still brush her teeth, wash her face, bathe, tend her flower garden, fix breakfast, do laundry, and pick up around the house. App. 32-34. The record also indicates that her medical
conditions caused her to avoid sweeping, to quit dancing, to occasionally seek help dressing, and to reduce how often she plays with her children, gardens, and drives long distances. Id., at 32, 38-39. But these changes in her life did not amount to such severe restrictions in the activities that are of central importance to most people's daily lives that they establish a manual task disability as a matter of law.


**Holding:** Colleges and universities have a legitimate interest in promoting diversity.

Barbara Grutter alleged that her Equal Protection rights were violated when the University of Michigan Law School's attempt to gain a diverse student body resulted in the denial of her admission's application. The Supreme Court disagreed and held that institutions of higher education have a legitimate interest in promoting diversity


Chief Justice Rehnquist:

Respondent William Hibbs (hereinafter respondent) worked for the Department's Welfare Division. In April and May 1997, he sought leave under the FMLA to care for his ailing wife, who was recovering from a car accident and neck surgery. The Department granted his request for the full 12 weeks of FMLA leave and authorized him to use the leave intermittently as needed between May and December 1997. Respondent did so until August 5, 1997, after which he did not return to work. In October 1997, the Department informed respondent that he had exhausted his FMLA leave, that no further leave would be granted, and that he must report to work by November 12, 1997. Respondent failed to do so and was terminated.

**HOLDING:**

The Family and Medical Leave Act of 1993 (FMLA or Act) entitles eligible employees to take up to 12 work weeks of unpaid leave annually for any of several reasons, including the onset of a "serious health condition" in an employee's spouse, child, or parent. 107 Stat. 9, 29 U. S. C. § 2612(a)(1)(C). The Act creates a private right of action to seek both equitable relief and money damages "against any employer (including a public agency) in any Federal or State court of competent jurisdiction," § 2617(a)(2), should that employer "interfere with, restrain, or deny the exercise of" FMLA rights, § 2615(a)(1). We hold that employees of the State of Nevada may recover money damages in the event of the State's failure to comply with the family-care provision of the Act.

Justice Ginsburg:

Plaintiff-respondent Nancy Drew Suders alleged sexually harassing conduct by her supervisors, officers of the Pennsylvania State Police (PSP), of such severity she was forced to resign. The question presented concerns the proof burdens parties bear when a sexual harassment/constructive discharge claim of that character is asserted under Title VII of the Civil Rights Act of 1964.

***

In March 1998, the PSP hired Suders as a police communications operator for the McConnellsburg barracks. Suders v. Easton, 325 F.3d 432, 436 (CA3 2003). Suders’ supervisors were Sergeant Eric D. Easton, Station Commander at the McConnellsburg barracks, Patrol Corporal William D. Baker, and Corporal Eric B. Prendergast. Ibid. Those three supervisors subjected Suders to a continuous barrage of sexual harassment that ceased only when she resigned from the force. Ibid.

Easton “would bring up [the subject of] people having sex with animals” each time Suders entered his office. Ibid. (internal quotation marks omitted). He told Prendergast, in front of Suders, that young girls should be given instruction in how to gratify men with oral sex. Ibid. Easton also would sit down near Suders, wearing spandex shorts, and spread his legs apart. Ibid. Apparently imitating a move popularized by television wrestling, Baker repeatedly made an obscene gesture in Suders’ presence by grabbing his genitals and shouting out a vulgar comment inviting oral sex. Id., at 437. Baker made this gesture as many as five-to-ten times per night throughout Suders’ employment at the barracks. Ibid. Suders once told Baker she “d[on’t] think [he] should be doing this” ’; Baker responded by jumping on a chair and again performing the gesture, with the accompanying vulgarity. Ibid. Further, Baker would “rub his rear end in front of her and remark ‘I have a nice ass, don’t I?’ ” Ibid. Prendergast told Suders “‘the village idiot could do her job’ ”; wearing black gloves, he would pound on furniture to intimidate her. Ibid.

In June 1998, Prendergast accused Suders of taking a missing accident file home with her. Id., at 438. After that incident, Suders approached the PSP’s Equal Employment Opportunity Officer, Virginia Smith-Elliott, and told her she “might need some help.” Ibid. Smith-Elliott gave Suders her telephone number, but neither woman followed up on the conversation. Ibid. On August 18, 1998, Suders contacted Smith-Elliott again, this time stating that she was being harassed and was afraid. Ibid. Smith-Elliott told Suders to file a complaint, but did not tell her how to obtain the necessary form. Smith-Elliott’s response and the manner in which it was conveyed appeared to Suders insensitive and unhelpful. Ibid.
Two days later, Suders’ supervisors arrested her for theft, and Suders resigned from the force. The theft arrest occurred in the following circumstances. Suders had several times taken a computer-skills exam to satisfy a PSP job requirement. Id., at 438—439. Each time, Suders’ supervisors told her that she had failed. Id., at 439. Suders one day came upon her exams in a set of drawers in the women’s locker room. She concluded that her supervisors had never forwarded the tests for grading and that their reports of her failures were false. Ibid. Regarding the tests as her property, Suders removed them from the locker room. Ibid.; App. 11, 119—120. Upon finding that the exams had been removed, Suders’ supervisors devised a plan to arrest her for theft. 325 F.3d, at 438—439. The officers dusted the drawer in which the exams had been stored with a theft-detection powder that turns hands blue when touched. Id., at 439. As anticipated by Easton, Baker, and Prendergast, Suders attempted to return the tests to the drawer, whereupon her hands turned telltale blue. Ibid. The supervisors then apprehended and handcuffed her, photographed her blue hands, and commenced to question her. Ibid. Suders had previously prepared a written resignation, which she tendered soon after the supervisors detained her. Ibid. Nevertheless, the supervisors initially refused to release her. Instead, they brought her to an interrogation room, gave her warnings under Miranda v. Arizona, 384 U.S. 436 (1966), and continued to question her. Ibid. Suders reiterated that she wanted to resign, and Easton then let her leave. Ibid. The PSP never brought theft charges against her.

HOLDING:

We conclude that an employer does not have recourse to the Ellerth/Faragher affirmative defense when a supervisor’s official act precipitates the constructive discharge; absent such a “tangible employment action,” however, the defense is available to the employer whose supervisors are charged with harassment.

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Following Ellerth and Faragher, the plaintiff who alleges no tangible employment action has the duty to mitigate harm, but the defendant bears the burden to allege and prove that the plaintiff failed in that regard.


Per Curiam [decision not authored by one Justice]:

Respondent John Roe, a San Diego police officer, made a video showing himself stripping off a police uniform and masturbating. He sold the video on the adults-only section of eBay, the popular online auction site. His user name was “Codestud3@aol.com,” a word play on a high priority police radio call. 356 F. 3d 1108, 1110 (CA9 2004). The uniform apparently was not the specific uniform worn by the San Diego police, but it was clearly identifiable as a police
uniform. Roe also sold custom videos, as well as police equipment, including official uniforms of the San Diego Police Department (SDPD), and various other items such as men’s underwear. Roe’s eBay user profile identified him as employed in the field of law enforcement.

Roe’s supervisor, a police sergeant, discovered Roe’s activities when, while on eBay, he came across an official SDPD police uniform for sale offered by an individual with the username “Codestud3@aol.com.” He searched for other items Codestud3 offered and discovered listings for Roe’s videos depicting the objectionable material. Recognizing Roe’s picture, the sergeant printed images of certain of Roe’s offerings and shared them with others in Roe’s chain of command, including a police captain. The captain notified the SDPD’s internal affairs department, which began an investigation. In response to a request by an undercover officer, Roe produced a custom video. It showed Roe, again in police uniform, issuing a traffic citation but revoking it after undoing the uniform and masturbating.

The investigation revealed that Roe’s conduct violated specific SDPD policies, including conduct unbecoming of an officer, outside employment, and immoral conduct. When confronted, Roe admitted to selling the videos and police paraphernalia. The SDPD ordered Roe to “cease displaying, manufacturing, distributing or selling any sexually explicit materials or engaging in any similar behaviors, via the internet, U. S. Mail, commercial vendors or distributors, or any other medium available to the public.” 356 F. 3d, at 1111 (internal quotation marks omitted). Although Roe removed some of the items he had offered for sale, he did not change his seller’s profile, which described the first two videos he had produced and listed their prices as well as the prices for custom videos. After discovering Roe’s failure to follow its orders, the SDPD—citing Roe for the added violation of disobedience of lawful orders—began termination proceedings. The proceedings resulted in Roe’s dismissal from the police force.

HOLDING:

A government employee does not relinquish all First Amendment rights otherwise enjoyed by citizens just by reason of his or her employment. See, e.g., Keyishian v. Board of Regents of Univ. of State of N. Y., 385 U. S. 589, 605–606 (1967). On the other hand, a governmental employer may impose certain restraints on the speech of its employees, restraints that would be unconstitutional if applied to the general public. The Court has recognized the right of employees to speak on matters of public concern, typically matters concerning government policies that are of interest to the public at large, a subject on which public employees are uniquely qualified to comment. See Connick, supra; Pickering v. Board of Ed. of Township High School Dist. 205, Will Cty., 391 U. S. 563 (1968). Outside of this category, the Court has held that when government employees speak or write on their own time on topics unrelated to their employment, the speech can have First Amendment protection, absent some governmental justification “far stronger than mere speculation” in regulating it. United States v. Treasury Employees, 513 U. S. 454, 465, 475 (1995) (NTEU). We have little difficulty in concluding that the City was not barred from terminating Roe under either line of cases.

***
To reconcile the employee’s right to engage in speech and the government employer’s right to protect its own legitimate interests in performing its mission, the Pickering Court adopted a balancing test. It requires a court evaluating restraints on a public employee’s speech to balance “the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” 391 U. S., at 568; see also Connick, supra, at 142.

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No similar purpose could be attributed to the employee’s speech in the present case. Roe’s activities did nothing to inform the public about any aspect of the SDPD’s functioning or operation. Nor were Roe’s activities anything like the private remarks at issue in Rankin, where one co-worker commented to another co-worker on an item of political news. Roe’s expression was widely broadcast, linked to his official status as a police officer, and designed to exploit his employer’s image.

The speech in question was detrimental to the mission and functions of the employer. There is no basis for finding that it was of concern to the community as the Court’s cases have understood that term in the context of restrictions by governmental entities on the speech of their employees.

**Tennessee v. Lane (2004): ADA – COURTS, OTHER PUBLIC BUILDINGS, MUST BE ACCESSIBLE TO THOSE IN WHEELCHAIRS**

Justice Stevens:

Respondents, both of whom are paraplegics who use wheelchairs for mobility, claimed that they were denied access to, and the services of, the state court system by reason of their disabilities. Lane alleged that he was compelled to appear to answer a set of criminal charges on the second floor of a county courthouse that had no elevator. At his first appearance, Lane crawled up two flights of stairs to get to the courtroom. When Lane returned to the courthouse for a hearing, he refused to crawl again or to be carried by officers to the courtroom; he consequently was arrested and jailed for failure to appear. Jones, a certified court reporter, alleged that she has not been able to gain access to a number of county courthouses, and, as a result, has lost both work and an opportunity to participate in the judicial process. Respondents sought damages and equitable relief.

**HOLDING:**

It is not difficult to perceive the harm that Title II is designed to address. Congress enacted Title II against a backdrop of pervasive unequal treatment in the administration of state services and programs, including systematic deprivations of fundamental rights. For example, “[a]s of 1979, most States … categorically disqualified ‘idiots’ from voting, without regard to individual
The majority of these laws remain on the books, and have been the subject of legal challenge as recently as 2001. Similarly, a number of States have prohibited and continue to prohibit persons with disabilities from engaging in activities such as marrying and serving as jurors. The historical experience that Title II reflects is also documented in this Court’s cases, which have identified unconstitutional treatment of disabled persons by state agencies in a variety of settings, including unjustified commitment, e.g., Jackson v. Indiana, 406 U. S. 715 (1972); the abuse and neglect of persons committed to state mental health hospitals, Younberg v. Romeo, 457 U. S. 307 (1982); and irrational discrimination in zoning decisions, Cleburne v. Cleburne Living Center, Inc., 473 U. S. 432 (1985). The decisions of other courts, too, document a pattern of unequal treatment in the administration of a wide range of public services, programs, and activities, including the penal system, public education, and voting. Notably, these decisions also demonstrate a pattern of unconstitutional treatment in the administration of justice.

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For these reasons, we conclude that Title II, as it applies to the class of cases implicating the fundamental right of access to the courts, constitutes a valid exercise of Congress’ §5 authority to enforce the guarantees of the Fourteenth Amendment.

**IBP, Inc. v. Alvarez (2005): FLSA, NOT ON CLOCK WHEN PUTTING ON WORK CLOTHES & EQUIPMENT**

Justice Stevens:

Petitioner in No. 03–1238, IBP, Inc. (IBP), is a large producer of fresh beef, pork, and related products. At its plant in Pasco, Washington, it employs approximately 178 workers in 113 job classifications in the slaughter division and 800 line workers in 145 job classifications in the processing division. All production workers in both divisions must wear outer garments, hardhats, hairnets, earplugs, gloves, sleeves, aprons, leggings, and boots. Many of them, particularly those who use knives, must also wear a variety of protective equipment for their hands, arms, torsos, and legs; this gear includes chain link metal aprons, vests, plexiglass armguards, and special gloves. IBP requires its employees to store their equipment and tools in company locker rooms, where most of them don their protective gear.

Production workers’ pay is based on the time spent cutting and bagging meat. Pay begins with the first piece of meat and ends with the last piece of meat. Since 1998, however, IBP has also paid for four minutes of clothes-changing time. In 1999, respondents, IBP employees, filed this class action to recover compensation for preproduction and postproduction work, including the time spent donning and doffing protective gear and walking between the locker rooms and the production floor before and after their assigned shifts.

**HOLDING:**

In short, we are not persuaded that such waiting—which in this case is two steps removed from the productive activity on the assembly line—is “integral and indispensable” to a “principal
activity” that identifies the time when the continuous workday begins. Accordingly, we hold that §4(a)(2) excludes from the scope of the FLSA the time employees spend waiting to don the first piece of gear that marks the beginning of the continuous workday.


Justice Kennedy:

Respondent Richard Ceballos has been employed since 1989 as a deputy district attorney for the Los Angeles County District Attorney’s Office. During the period relevant to this case, Ceballos was a calendar deputy in the office’s Pomona branch, and in this capacity he exercised certain supervisory responsibilities over other lawyers. In February 2000, a defense attorney contacted Ceballos about a pending criminal case. The defense attorney said there were inaccuracies in an affidavit used to obtain a critical search warrant. The attorney informed Ceballos that he had filed a motion to traverse, or challenge, the warrant, but he also wanted Ceballos to review the case. According to Ceballos, it was not unusual for defense attorneys to ask calendar deputies to investigate aspects of pending cases.

After examining the affidavit and visiting the location it described, Ceballos determined the affidavit contained serious misrepresentations. The affidavit called a long driveway what Ceballos thought should have been referred to as a separate roadway. Ceballos also questioned the affidavit’s statement that tire tracks led from a stripped-down truck to the premises covered by the warrant. His doubts arose from his conclusion that the roadway’s composition in some places made it difficult or impossible to leave visible tire tracks.

Ceballos spoke on the telephone to the warrant affiant, a deputy sheriff from the Los Angeles County Sheriff’s Department, but he did not receive a satisfactory explanation for the perceived inaccuracies. He relayed his findings to his supervisors, petitioners Carol Najera and Frank Sundstedt, and followed up by preparing a disposition memorandum. The memo explained Ceballos’ concerns and recommended dismissal of the case. On March 2, 2000, Ceballos submitted the memo to Sundstedt for his review. A few days later, Ceballos presented Sundstedt with another memo, this one describing a second telephone conversation between Ceballos and the warrant affiant.

Based on Ceballos’ statements, a meeting was held to discuss the affidavit. Attendees included Ceballos, Sundstedt, and Najera, as well as the warrant affiant and other employees from the sheriff’s department. The meeting allegedly became heated, with one lieutenant sharply criticizing Ceballos for his handling of the case.
Despite Ceballos’ concerns, Sundstedt decided to proceed with the prosecution, pending disposition of the defense motion to traverse. The trial court held a hearing on the motion. Ceballos was called by the defense and recounted his observations about the affidavit, but the trial court rejected the challenge to the warrant.

Ceballos claims that in the aftermath of these events he was subjected to a series of retaliatory employment actions. The actions included reassignment from his calendar deputy position to a trial deputy position, transfer to another courthouse, and denial of a promotion. Ceballos initiated an employment grievance, but the grievance was denied based on a finding that he had not suffered any retaliation. Unsatisfied, Ceballos sued in the United States District Court for the Central District of California, asserting, as relevant here, a claim under Rev. Stat. §1979, 42 U. S. C. §1983. He alleged petitioners violated the First and Fourteenth Amendments by retaliating against him based on his memo of March 2.

Petitioners responded that no retaliatory actions were taken against Ceballos and that all the actions of which he complained were explained by legitimate reasons such as staffing needs. They further contended that, in any event, Ceballos’ memo was not protected speech under the First Amendment. Petitioners moved for summary judgment, and the District Court granted their motion. Noting that Ceballos wrote his memo pursuant to his employment duties, the court concluded he was not entitled to First Amendment protection for the memo’s contents. It held in the alternative that even if Ceballos’ speech was constitutionally protected, petitioners had qualified immunity because the rights Ceballos asserted were not clearly established.

**HOLDING:**

Ceballos did not act as a citizen when he went about conducting his daily professional activities, such as supervising attorneys, investigating charges, and preparing filings. In the same way he did not speak as a citizen by writing a memo that addressed the proper disposition of a pending criminal case. When he went to work and performed the tasks he was paid to perform, Ceballos acted as a government employee. The fact that his duties sometimes required him to speak or write does not mean his supervisors were prohibited from evaluating his performance.

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We reject, however, the notion that the First Amendment shields from discipline the expressions employees make pursuant to their professional duties. Our precedents do not support the existence of a constitutional cause of action behind every statement a public employee makes in the course of doing his or her job.

**Frank Ricci v. DeStefano (2009):** RACE DISCRIMINATION – PROMOTION EXAM PROFESSIONALLY PREPARED, RESULTS CAN NOT BE SET ASIDE

Justice Kennedy:
In 2003, 118 New Haven firefighters took examinations to qualify for promotion to the rank of lieutenant or captain. Promotion examinations in New Haven (or City) were infrequent, so the stakes were high. The results would determine which firefighters would be considered for promotions during the next two years, and the order in which they would be considered. Many firefighters studied for months, at considerable personal and financial cost.

When the examination results showed that white candidates had outperformed minority candidates, the mayor and other local politicians opened a public debate that turned rancorous. Some firefighters argued the tests should be discarded because the results showed the tests to be discriminatory. They threatened a discrimination lawsuit if the City made promotions based on the tests. Other firefighters said the exams were neutral and fair. And they, in turn, threatened a discrimination lawsuit if the City, relying on the statistical racial disparity, ignored the test results and denied promotions to the candidates who had performed well. In the end the City took the side of those who protested the test results. It threw out the examinations.

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After reviewing bids from various consultants, the City hired Industrial/Organizational Solutions, Inc. (IOS) to develop and administer the examinations, at a cost to the City of $100,000. IOS is an Illinois company that specializes in designing entry-level and promotional examinations for fire and police departments.

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Candidates took the examinations in November and December 2003. Seventy-seven candidates completed the lieutenant examination—43 whites, 19 blacks, and 15 Hispanics. Of those, 34 candidates passed—25 whites, 6 blacks, and 3 Hispanics. Eight lieutenant positions were vacant at the time of the examination. As the rule of three operated, this meant that the top 10 candidates were eligible for an immediate promotion to lieutenant. All 10 were white.

HOLDING:

We conclude that race-based action like the City’s in this case is impermissible under Title VII unless the employer can demonstrate a strong basis in evidence that, had it not taken the action, it would have been liable under the disparate-impact statute.

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The City argues that, even under the strong-basis-in-evidence standard, its decision to discard the examination results was permissible under Title VII. That is incorrect. Even if respondents were motivated as a subjective matter by a desire to avoid committing disparate-impact discrimination, the record makes clear there is no support for the conclusion that respondents had an objective, strong basis in evidence to find the tests inadequate, with some consequent disparate-impact liability in violation of Title VII.

**Hefferman v. City of Patterson (2016): POLICE OFFICER MERELY MOVED SIGN SUPPORTING OPPONENT OF MAYOR TO MOTHER’S HOUSE – HIS LAWSUIT REINSTATED**

Justice Breyer:

In 2005, Jeffrey Heffernan, the petitioner, was a police officer in Paterson, New Jersey. He worked in the office of the Chief of Police, James Wittig. At that time, the mayor of Paterson, Jose Torres, was running for reelection against Lawrence Spagnola. Torres had appointed to their current positions both Chief Wittig and a subordinate who directly supervised Heffernan. Heffernan was a good friend of Spagnola’s.

During the campaign, Heffernan’s mother, who was bedridden, asked Heffernan to drive downtown and pick up a large Spagnola sign. She wanted to replace a smaller Spagnola sign, which had been stolen from her front yard. Heffernan went to a Spagnola distribution point and picked up the sign. While there, he spoke for a time to Spagnola’s campaign manager and staff. Other members of the police force saw him, sign in hand, talking to campaign workers. Word quickly spread throughout the force.

The next day, Heffernan’s supervisors demoted Heffernan from detective to patrol officer and assigned him to a “walking post.” In this way they punished Heffernan for what they thought was his “overt involvement” in Spagnola’s campaign. In fact, Heffernan was not involved in the campaign but had picked up the sign simply to help his mother. Heffernan’s supervisors had made a factual mistake.

[U.S. District Court dismissed his lawsuit; 3rd Circuit agreed.]

**HOLDING:**

The First Amendment generally prohibits government officials from dismissing or demoting an employee because of the employee’s engagement in constitutionally protected political activity. See *Elrod v. Burns*, 427 U. S. 347 (1976); *Branti v. Finkel*, 445 U. S. 507 (1980); but cf. *Civil
Service Comm’n v. Letter Carriers, 413 U. S. 548, 564 (1973). In this case a government official demoted an employee because the official believed, but incorrectly believed, that the employee had supported a particular candidate for mayor. The question is whether the official’s factual mistake makes a critical legal difference. Even though the employee had not in fact engaged in protected political activity, did his demotion “deprive” him of a “right . . . secured by the Constitution”? 42 U. S. C. §1983. We hold that it did.

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We have assumed that the policy that Heffernan’s employers implemented violated the Constitution. Supra, at 3. There is some evidence in the record, however, suggesting that Heffernan’s employers may have dismissed him pursuant to a different and neutral policy prohibiting police officers from overt involvement in any political campaign. See Brief for United States as Amicus Curiae 27–28. Whether that policy existed, whether Heffernan’s supervisors were indeed following it, and whether it complies with constitutional standards, see Civil Service Comm’n, 413 U. S., at 564, are all matters for the lower courts to decide in the first instance. Without expressing views on the matter, we reverse the judgment of the Third Circuit and remand the case for such further proceedings consistent with this opinion.
IV. OUR ELECTED OFFICIALS: U.S. CONGRESS / OHIO / HAMILTON COUNTY

U.S. Congress

U.S. Senate: 100 Senators – six-year terms [2 from each state]

Rob Portman (Republican; served since 2011)

Sherrod Brown (Democrat; served since 2007)

U.S. House of Representative: 435 representatives – two-year terms [Ohio has 16]

Steve Chabot – Ohio 1st District (Republican; served since 1995)

Brad Wenstrup – Ohio 2nd District (Republican; served since 2013)

OHIO GENERAL ASSEMBLY

The Ohio General Assembly is the state legislature of the U.S. state of Ohio.
Term Limits: Members are limited to four consecutive two-year elected terms (terms are considered consecutive if they are separated by less than two years). Time served by appointment to fill out another representative's uncompleted term does not count against the term limit.

Senate: 33 members – 4-year terms

Cecil L. Thomas – 9th District (Democrat; served since 2014). Senator Thomas was born in rural northern Alabama and moved to Cincinnati, Ohio at a young age. After high school, he joined the Cincinnati police cadet program, and served the city of Cincinnati as a police officer for the next 27 years.

House of Representatives: 99-members – 2-year terms

Bill Seitz (R) - District 30 - Majority Floor Leader; was Term Limited as Ohio Senator; elected as State Representative. The district consists of Cheviot, Delhi Township, Green as well as portions of Cincinnati, in Hamilton County. Formerly, Seitz represented the same seat from 2001 to 2007. Seitz then went on to serve in the Ohio Senate from 2007 to 2016 before returning to the Ohio House. In the Senate, Seitz served as Chairman of the Public Utilities Committee and Vice-Chairman of the Government Oversight & Reform Committee. [http://www.ohiohouse.gov/bill-seitz/biography](http://www.ohiohouse.gov/bill-seitz/biography)

Governor:

Richard Michael DeWine (age 71) is an American politician based in the state of Ohio currently serving as the state's 50th Attorney General, and is also the state's Governor-elect, having been elected to the position during the 2018 midterm elections, and will officially take office as Ohio's 70th Governor in January 2019. Ohio Attorney General since 2011.
Jeff A. Hussey was appointed State Fire Marshal in July 2017. Prior to this appointment, Hussey served as Chief Deputy State Fire Marshal. As State Fire Marshal, he is responsible for overseeing all operations and bureaus of the Marshal’s office. Prior to joining the State Fire Marshal’s office, Hussey served as Chief of the Granville Fire Department for ten years (2006-2016).


Melvin R. House; Director, State Board of Emergency Medical, Fire, and Transportation Services (EMFTS) – Appointed 2012: House, 56, has been with Ohio EMA since 2005, coordinating the building of local, regional, and statewide response capabilities through the Ohio Response System. He also served as fire chief for Willoughby Fire Department for 26 years prior to his position at EMA.


HAMILTON COUNTY

HAMILTON COUNTY COMMISSIONERS

County Commissioners are:

- Commissioner Todd Portune (D) President

- Commissioner Denise Driehaus (D) Vice-President
Former Commissioner Chris Monzel – (R) Defeated on Nov. 7, 2018

Democratic challenger Stephanie Summerow Dumas.

She won the race for Hamilton County commission by about 9,000 votes in Tuesday’s election. Her victory means Democrats hold all three seats of the commission for the first time. It’s also the first time there have been two women on the board. And Dumas says she is the first African-American woman to be elected commissioner in Ohio. The former Forest Park Mayor beat Mt. Healthy Mayor James Wolf in the May primary election to get on the ballot. On Tuesday night, she beat Republican Chris Monzel, who has served on the commission since 2010. http://www.wvxu.org/post/new-hamilton-county-commission-will-be-one-firsts#stream/0

Hamilton County Prosecutor Joe Deters

The current Hamilton County Prosecuting Attorney Joseph T. Deters was elected to office in November 2004 in a write-in race, and began his four year term on January 3, 2005. He has appointed 110 assistant prosecuting attorneys and 70 additional support persons, making the Hamilton County Prosecuting Attorney’s Office one of the largest law firms in Hamilton County.
Nov. 12, 2018: Deters, 61, told Politics Extra he will run for re-election. "I love the job," said Deters, the longest-tenured prosecutor in county history. "The office has never been better. In my mind, there's no better prosecutor's office in the state of Ohio. We have some really good prosecutors right now. I'd hate to see them go by the wayside." 

Coroner – Dr. Lakshmi Sammarco: 9/11/2018 Cincinnati shooting: Coroner gives new details of how victims died: The victims killed in the Cincinnati shootings suffered a total of 12 shots, Dr. Lakshmi Sammarco, the Hamilton County coroner, said Tuesday afternoon. The gunman, Omar Santa Perez, "was a man on a mission," Sammarco said. "He didn't hesitate to reload his gun and use it again and again.

Sheriff Jim Neal – Nov. 9, 2016: Neil, who spent 30 years as a deputy with the Sheriff's Office, was first elected to office in 2012. He replaced Republican Simon Leis Jr., who retired after serving 25 years as Hamilton County sheriff. This will be Neil's second four-year term. Neil, a Democrat, led Republican challenger Gary Lee [retired Cincinnati PD Captain] by 61.51 percent of votes cast with all 556 precincts reporting.

HAMILTON COUNTY FIRE CHIEFS ASSOCIATION
Rob Leininger, Fire Chief, Springfield Township; President of Hamilton County Fire Chiefs Association

- BS Degree, Eastern Kentucky University, Police and Fire Administration, 1980
- Fire Chief, 1989 to 1996, Northern Hills Fire Department & Paramedic EMS
- Fire Chief, 1996 to current, Springfield Township Fire Department & Paramedic EMS (Hamilton County)
- President, 2013 to current, Hamilton County Fire Chiefs Association