

CONSTITUTION DAY 2016

Presented by the San Diego ACLU

What is Constitution Day?

A close-up, low-angle photograph of the Statue of Liberty's head and crown, rendered in a dark green color. The crown's spikes radiate outwards against a light background.

Constitution Day

September 17, 2016

Celebrating 229 years of our Nation's Constitution



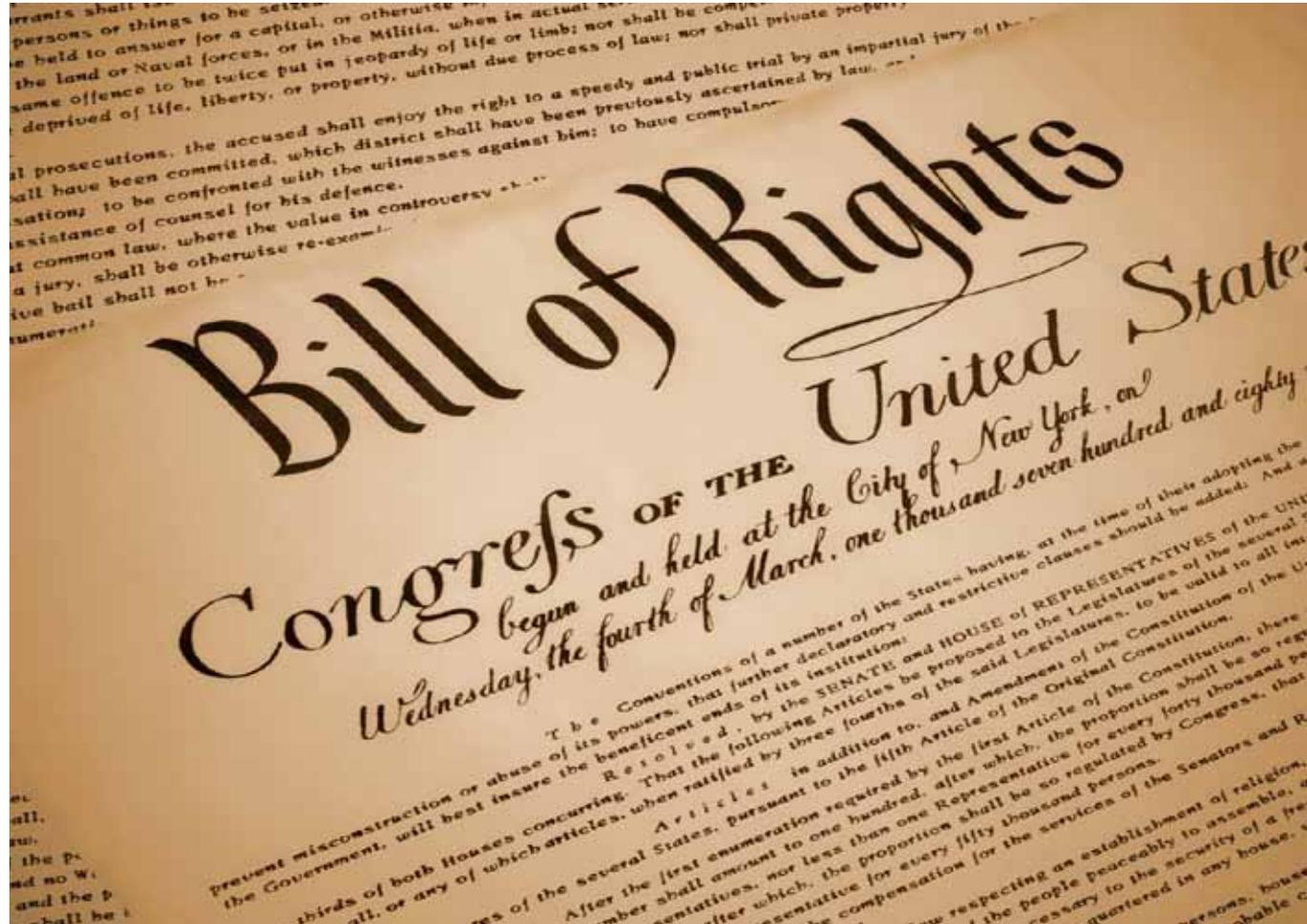
*Coordinated by the ACLU of San Diego & Imperial Counties and
Supported by the San Diego ACLU's Constitution Day Council 2016:
Hon. H. Lee Sarokin (Ret.), U.S. Court of Appeals, 3rd Circuit*

and
Cooley
LLP

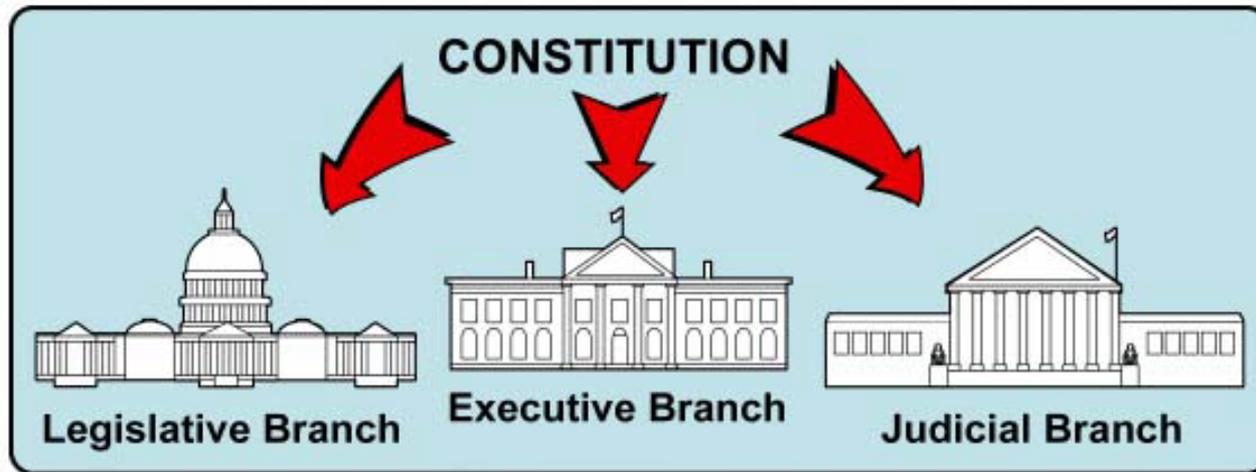
What is the Constitution?



What is the Bill of Rights?



Separation of Powers



**FIRST
AMENDMENT**

Freedom of Press

Freedom of Speech

Freedom of Religion

Freedom to Petition the Government

Freedom to Assemble

TINKER VS. DES MOINES

“First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”



Although the Tinker decision recognized that students have free speech rights on campus, the court also held that your free speech rights can be limited when the speech “materially disrupts class work or involves substantial disorder or invasion of the rights of others.”

San Diego Student Speech case

La Jolla 'senior benches' stay put amid litigation | SignOnSanDiego.com
http://signonsandiego.com/stories/a/la-jolla-high-school-student-speech-case-1.1



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La Jolla 'senior benches' stay put amid litigation
Superintendent overrules principal, keeps painted benches during free-speech legal clash

Comments
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By Morgan Lee and Maureen Magee (H&S)

7:55 p.m., May 27, 2011
Updated 5:35 p.m., May 28, 2011

Also see »



Building character is on charter's agenda

At UCSD internet forum, 'gee whiz' meets 'realists'

All public schools in San Diego County closed Friday

Also of interest

La Jolla High benches get temporary protection

ACLU sues school district over bench dispute

Students try again on school bench message

Bench statement

LA JOLLA — The San Diego Unified School District has halted plans to remove decades-old "senior" benches at La Jolla High School while a lawsuit plays out in court over the fate of the controversial student forum.



Students at La Jolla High School protest benches to show support for the protest movement in town. The messages read "Freedom for kids" and "Stand with District."

The three benches have been painted and repainted over the years with mostly celebratory messages, from birthday wishes to prom invitations. But a dispute erupted in February when campus officials blotted out political statements supportive of the Middle Eastern anti-government movement painted by members of the Persian Club.

On Friday, it looked as if the free-speech debate might come to an abrupt end as Principal Dana Sherburne ordered in forklifts to spray benches on Tuesday. The blotting out of the bench messages had prompted a lawsuit by the ACLU.

Superintendent Bill Kowba stepped in to say the benches will stay for the time being.

"Mr. Kowba just thought it was appropriate not to take action at this point in time until we see what happens with the litigation," said Bernie Rhineson, chief of staff for the district, on Saturday. Sherburne agreed to follow the directions, Rhineson said.

San Diego Unified Treasurer Scott Barnett expressed outrage Friday night when word first surfaced of Sherburne's plan and suggested he would take personal action to block the removal of the benches. He eventually announced on his Facebook page that Kowba ordered that the benches remain.

4/4/2011 1:01 PM

La Jolla High senior benches

Q. Do you think students have the right to paint a political message on a school bench?

Q. Do you think administrators have the right or responsibility to protect students from negative or controversial subjects?

Fourth Amendment

Right to be secure in their persons... against
unreasonable searches and seizures.

No warrants shall be issued
without probable cause.

Safford Unif. School Dist. v. Redding (2009)



- Were school administrators right to search Savana?
- Even searching inside her underwear?
- Was there enough proof that she might be carrying contraband?
- Does it make a difference that she was only 13 years old?

4th Amendment – Unreasonable Search?

- Valid drug search?
- Early a.m. before non-bussed students present
- Suspect not present
- Drug dogs
- No drugs or weapons found
- No charges filed



Riley v. California (2014)

- Can police conduct a warrantless search of a cell phone seized from a suspect incident to arrest?



Due Process: Insuring Fairness

5th

Amendment

**No person shall be
tried for the same
crime twice**

**No person shall be
deprived of life,
liberty, or property
without due process
of law**

6th

Amendment

**Right to a speedy
and public trial by
an impartial judge**

Right to counsel

**Right to obtain
witnesses in your
favor**

**Right to confront
witnesses and
accusers**

7th

Amendment

**Right to a trial by
jury in civil cases**

**Juries decide what
the facts were**



EIGHTH

AMENDMENT

No Excessive Fines

NO Excessive Bail

No Cruel and Unusual Punishment

Furman v. Georgia (1973)

Death Penalty = "Cruel and Unusual Punishment" b/c:

- A punishment that is by its severity degrading to human dignity (torture)
- Obviously inflicted in a wholly arbitrary fashion (discriminating against blacks & the poor)
- Clearly and totally rejected throughout society
- Patently unnecessary

But: *Gregg v. Georgia* (1976)

- Changes had fixed 8th Amendment flaws

What do *you* think?

Does water-boarding = torture?



Fourteenth Amendment

No state shall deny to any person

within its jurisdiction

the equal protection of the laws

A black and white photograph of a woman and a man in a library. The woman, on the left, is smiling and has her arm around the man's shoulder. The man, on the right, has a neutral expression. They are standing in front of bookshelves filled with books. The text 'Loving v. Virginia' is overlaid in red cursive script across the bottom half of the image.

*Loving v.
Virginia*

Loving v. Virginia (1967)

- In 1958, it was a crime in Virginia—and 15 other states—for a white person to marry a black person.
- Richard and Mildred Loving married in Washington, D.C. and tried to return to their home state.
- They were arrested and sentenced to 1 year in jail if they stayed in VA...just for being married.
- ACLU litigates their case.
- Supreme Court unanimously ruled these laws unconstitutional in 1967.

Obergefell v. Hodges (2015)

Does this remind you of Loving v. Virginia?

- Plaintiff seeks recognition of his Maryland marriage on his husband's Ohio death certificate.
- Does the 14th Amendment require a state to recognize a same-sex marriage validly licensed in another state?
- Supreme Court rules that the Constitution guarantees a right to same-sex marriage, and that those marriages be recognized by all states.

Amending the Constitution

Proposed 28th Amendment to the U.S.
Constitution:

Lowering the Voting Age to 16

Discuss the pros and cons.