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| **Chapter 20:****Civil Liberties** | **Summary** | **Constitutional/ Court Connections** |
| **Background Of Civil Liberties**  | * Three Objectives
	+ Limit federal powers and assure the rights and liberties found in the various state constitutions
	+ Constitution meant to be a document proclaiming what the federal government could and could not do.
	+ What the government could not do was meant to apply only to the federal government, not to the state governments
* Civil Liberties Major Issues
	+ Bill of Rights
	+ Government officials have often been successful at taking action against the rights of political or religious dissidents.
	+ Waves of immigration who are not white and Western European have created cultural conflicts
 | Bill of Rights |
| **First Amendment Rights** | * Freedom of Expression & National Security
	+ Press should be free of prior restraint--government censorship of the press in advance of publication—even if publication is clearly against the interests or security of the government.
	+ During WWI, Congress defined further some of the expression by passing legislation stating that treason, insurrection, forcible resistance to federal law, and encouraging disloyalty in the armed services were not protected by the First Amendment.
	+ Supreme Court upheld these limits on free expression in 1919
	+ Later court moved toward allowing more freedom of expression but deferred to Congress during times of crisis.
* Selective Incorporation
	+ 14th Amendment created the possibility that some or all of the Bill of Rights might restrict state government actions based on the amendment’s “due-process clause.”
	+ The courts for the first time argued that fundamental personal rights are protected from the infringement by the state because of the due-process clause.
* Defining Speech
	+ Speeches not fully protected:
		- Libel
		- Symbolic speech
	+ FCC has not created a comprehensive definition of obscenity
* Defining a Person
	+ corporations and organizations usually have the same First Amendment rights as individuals
	+ More restrictions on commercial speech rather than individual speech.
	+ Younger people have fewer rights than adults do
* Church & State
	+ free-exercise clause
		- government cannot interfere with an individual’s practice of religion
	+ No religious exemptions from a law binding all other citizen’s, even if that law oppresses one’s religious beliefs.
	+ establishment clause
		- no government involvement in religion, even if involvement is not preferential.
	+ government aid given to parochial schools and denominational colleges have been allowed
	+ Aid is allowed if it involves a secular purpose, has an impact that neither advances nor inhibits religion, and does not create “excessive government entanglement with religion.”
 | “Clear-And Present Danger” test: words used to create a clear and present danger to the public, and Congress can prevent dangers.14th Amendmentdue-process clause*Gitlow v. New York*Federal Communications Commission (FCC)free exercise clauseestablishment clause |
| **Rights of the Accused** | * Bill of Rights offers several civil liberties that protect the accused:
	+ right to exclude evidence improperly obtained from a trail
	+ right to proper search and seizures (4th Amendment)
	+ right to avoid self-incrimination (5th Amendment)
* exclusionary rule
	+ evidence gathered in violation of the Constitution cannot be used in trials
* *Mapp v. Ohio* court ruled that exclusionary rule applies to not only state governments, but also the federal government
* probable cause
	+ reasonable searches of individuals can be made only with a properly obtained search warrant, issued when a judge can determines that the police have good reason to believe a crime is being committed
* Constitutional ban on confessions and self-incriminations was originally intended to prevent torture or coercion.
 | Fourth Amendment Fifth Amendment *Mapp v. Ohio**Miranda v. Arizona*  |
| **Terrorism & Civil Liberties** | * September 11, 2001, raised important questions about how far the government can go in investigating and prosecuting individuals
	+ Congress passed a new law The Patriot Act
	+ Statue of limitation on terrorist crimes is eliminated, with increased penalties
* An executive order then proclaimed a national emergency so that any non citizen believed to be a terrorist or to have harbored a terrorist would be tried by a military court
	+ tried before a commission of military officers
	+ 2/3 vote if the commission is needed to find the accused guilty
	+ apply of the accused may only be made by the Secretary of Defense or the President.
* Act renewed in 2006
	+ the ability to tap phones and Internet connections is an expansion of police powers that may deel is dangerous and could lead to invasions of privacy against citizens who have no terrorist ties
* Many civil libertarians feel this is a violation due process of law
* National Security Agency (NSA) had a program to intercept telephone calls and emails between people abroad and Americans
* The Bush Administration defended the program as essential to national security and argued that it could not take the time to go before special courts established under the Foreign Intelligence Surveillance Act (FISA) of 1978 because they took too long and the standards of proof to obtain approval for surveillance were too high.
	+ Congress passes a bill that allowed the government to intercept foreign communications with people in the United States provided that FISA court had approved the surveillance.
 | Patriot Act: May tap into telephone, internet connections,and size voicemails, used by suspect with a court orderForeign Intelligence Surveillance Act  |