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Chapter 2: Constitutional Limitations

Test Bank

Multiple Choice

1. The legislature passed a law that prohibits vehicles in any state park. The law defines a vehicle as an object with wheels. Last month, Mike was given a ticket while pushing a baby stroller through the park. If Mike challenges his ticket on constitutional grounds, the most effective legal challenge is based on which argument?
a. The law is void for vagueness.
b. The law is an *ex post facto law*.
c. The law violates the equal protection clause.
d. The law does not satisfy the rational basis test.
Ans: A
Learning Objective: 2-3: Understand the importance of statutory clarity and know the legal test for identifying laws that are void for vagueness.
Cognitive Domain: Application
Answer Location: Statutory Clarity
Difficulty Level: Medium

2. A law that makes distinctions based on gender is subject to which type of scrutiny?
a. rational basis
b. intermediate
c. beyond a reasonable doubt
d. clear and convincing
Ans: B
Learning Objective: 2-4: Know the three levels of scrutiny under the Equal Protection Clause.
Cognitive Domain: Knowledge
Answer Location: Equal Protection
Difficulty Level: Easy

3. Which of the following amendments protects the freedom of speech and the freedom of assembly?
a. First Amendment
b. Seventh Amendment
c. Fifth Amendment
d. Fourteenth Amendment
Ans: A
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Knowledge
Answer Location: The Bill of Rights
Difficulty Level: Easy

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4. The constitution's prohibition on bills of attainder and *ex post facto* laws and the constitution's requirement of statutory clarity form the basis of what fundamental principle of criminal law?
a. equal protection
b. right to privacy
c. rule of legality
d. prohibition against cruel and unusual punishment
Ans: C
Learning Objective: 2-1: Know the rule of legality.
Cognitive Domain: Knowledge
Answer Location: Rule of Legality
Difficulty Level: Easy

5. Which of the following best characterizes the evolution of the U.S. Supreme Court's interpretation of the Second Amendment?
a. The Court has expanded its interpretation of the Second Amendment, holding that gun ownership for self-defense is a legitimate exercise of the right to bear arms.
b. The Court has held that any restriction on gun ownership is unconstitutional.
c. The Court has reaffirmed that gun ownership must be linked to the preservation of a well-regulated militia.
d. The Court has reaffirmed that the Second Amendment protections are limited to weapons that existed at the time that the Second Amendment was drafted.
Ans: A
Learning Objective: 2-7: Know how the Supreme Court's interpretation of the Second Amendment right to bear arms has evolved in the past few years.
Cognitive Domain: Analysis
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

6. A law that requires individuals to be a certain age before obtaining a driver's license is likely subject to what form of scrutiny?
a. strict scrutiny
b. maximum scrutiny
c. rational basis test
d. intermediate scrutiny
Ans: C
Learning Objective: 2-4: Know the three levels of scrutiny under the Equal Protection Clause.
Cognitive Domain: Analysis
Answer Location: Equal Protection: Three Levels of Scrutiny
Difficulty Level: Medium

7. Which of the following best characterizes the scope of the individual's rights under the First Amendment?
a. The content of the individual's speech is unrestricted under the First Amendment.
b. Although the freedom of speech is a broadly-protected fundamental right, the individual's right to free speech is not unlimited.

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c. The only limitation on an individual's freedom of speech is the prohibition against hate speech.
d. An individual may be prohibited from making any form of offensive speech.
Ans: B
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Analysis
Answer Location: The Right to Bear Arms
Difficulty Level: Medium

8. After a year of controversial public debate, the state legislature passed a law last month prohibiting a certain form of conduct. In response, a local prosecutor charged Sam with violating the law based on conduct Sam committed 6 months ago. What is the appropriate challenge to the prosecution?
a. The prosecution is valid because the public was on notice that the law might be passed.
b. The prosecution is invalid because it violates the prohibition against *ex post facto* laws.
c. The prosecution is valid because it upholds the doctrine of legality.
d. The prosecution is invalid because it violates the prohibition against bills of attainder.
Ans: B
Learning Objective: 2-2: Appreciate the distinction between bills of attainder and *ex post facto* laws.
Cognitive Domain: Analysis
Answer Location: Bills of Attainder and *Ex Post Facto* Laws
Difficulty Level: Medium

9. Which of the following is not a proper limitation of an individual's rights under the Second Amendment?
a. a ban on possession of a gun by a convicted felon
b. a ban on possession of a gun by a person who is mentally ill
c. a flat ban on carrying a loaded firearm within accessible reach outside the home
d. a law requiring the safe storage of guns
Ans: C
Learning Objective: 2-7: Know how the Supreme Court's interpretation of the Second Amendment right to bear arms has evolved in the past few years.
Cognitive Domain: Comprehension
Answer Location: The Right to Bear Arms
Difficulty Level: Comprehension

10. Which of the following punishments has not been held unconstitutional?
a. Carrying out the death penalty via crucifixion.
b. Sentencing a person to death who was 17 years old at the time of the offense.
c. Sentencing a juvenile to life imprisonment without parole for a nonhomicide offense.
d. Sentencing a person to death who was 18 years old at the time of the offense.
Ans: D
Learning Objective: 2-8: Appreciate the meaning of the Eighth Amendment prohibition on cruel and unusual punishment.

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Cognitive Domain: Comprehension
Answer Location: Cruel and Unusual Punishment
Difficulty Level: Medium

True/False

1. The right to privacy is limited to the protection of persons and objects.
Ans: F
Learning Objective: 2-6: Understand the constitutional basis for the right to privacy and the type of acts that are protected within the "zone of privacy."
Cognitive Domain: Knowledge
Answer Location: The Right to Privacy and the Fourth Amendment
Difficulty Level: Easy

2. The execution of a person who is younger than 18 years of age at the time of a capital offense constitutes cruel and unusual punishment.
Ans: T
Learning Objective: 2-8: Appreciate the meaning of the Eighth Amendment prohibition on cruel and unusual punishment.
Answer Location: Cruel and Unusual Punishment: The Amount of Punishment: The Death Penalty
Cognitive Domain: Knowledge
Difficulty Level: Easy

3. The U.S. Supreme Court has interpreted cross burning as a form of hate speech, regardless of the intent.
Ans: F
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech: Hate Speech
Difficulty Level: Easy

4. An individual's act of incitement to violent action is constitutional unless the incitement is of imminent violence.
Ans: T
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Comprehension
Answer Location: Freedom of Speech
Difficulty Level: Easy

5. The right to privacy is explicitly stated in the U.S. Constitution.
Ans: F
Learning Objective: 2-6: Understand the constitutional basis for the right to privacy and the type of acts that are protected within the "zone of privacy."
Cognitive Domain: Knowledge

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Answer Location: Privacy: The Constitutional Right to Privacy
Difficulty Level: Easy

6. Law enforcement may place a GPS device on a suspect's car because there is no reasonable expectation of privacy in a vehicle's movement.
Ans: F
Learning Objective: 2-6: Understand the constitutional basis for the right to privacy and the type of acts that are protected within the "zone of privacy."
Cognitive Domain: Analysis
Answer Location: The Right to Privacy and the Fourth Amendment
Difficulty Level: Medium

7. Since 2014, the total number of executions carried out nationwide has declined.
Ans: T
Learning Objective: 2-8: Appreciate the meaning of the Eighth Amendment prohibition on cruel and unusual punishment.
Cognitive Domain: Comprehension
Answer Location: Cruel and Unusual Punishment
Difficulty Level: Medium

8. A student may not be compelled to pledge allegiance to the American flag.
Ans: T
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

9. A law that prohibits providing contraceptives to unmarried individuals is an unconstitutional violation of the Fourth Amendment right to privacy.
Ans: F
Learning Objective: 2-6: Understand the constitutional basis for the right to privacy and the type of acts that are protected within the "zone of privacy."
Cognitive Domain: Analysis
Answer Location: The Constitutional Right to Privacy
Difficulty Level: Hard

10. In Virginia, the Supreme Court held that a law prohibiting non-law-enforcement persons from carrying a weapon on the campus of George Mason University is an unconstitutional violation of the Second Amendment.
Ans: F
Learning Objective: 2-7: Know how the Supreme Court's interpretation of the Second Amendment right to bear arms has evolved in the past few years.
Cognitive Domain: Knowledge
Answer Location: The Right to Bear Arms
Difficulty Level: Easy

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Essay

1. Define and distinguish the three types of scrutiny under the Equal Protection Clause.
Ans: (1) Rational basis test: the minimum level of scrutiny which will apply to most laws. (2) Intermediate scrutiny: the middle level of scrutiny has applied to classifications based on gender. (3) Strict scrutiny: the highest level of scrutiny has been applied to classifications based on race and national origin. Although a law may appear neutral, it may nonetheless be deemed to constitute an unconstitutional classification.
Learning Objective: 2-4: Know the three levels of scrutiny under the Equal Protection Clause.
Cognitive Domain: Comprehension
Answer Location: Equal Protection: Three Levels of Scrutiny
Difficulty Level: Medium

2. What are the three main differences between a bill of attainder and *ex post facto* laws?
Ans: (1) A bill of attainder punishes a specific individual or specific individuals. An *ex post facto* law criminalizes an act that was legal at the time the act was committed. (2) A bill of attainder is not limited to criminal punishment and may involve any disadvantage imposed on an individual; *ex post facto* laws are limited to criminal punishment. (3) A bill of attainder imposes punishment on an individual without trial. An *ex post facto* law is enforced in a criminal trial.
Learning Objective: 2-2: Appreciate the distinction between bills of attainder and *ex post facto* laws.
Cognitive Domain: Analysis
Answer Location: Bills of Attainder and *Ex Post Facto* Laws
Difficulty Level: Easy

3. What are the four functions central to democracy performed by freedom of expression under the First Amendment as identified by Thomas I. Emerson?
Ans: Freedom of expression contributes to individual self-fulfillment by encouraging individuals to express their ideas and creativity, ensures a vigorous "marketplace of ideas," promotes social stability, and ensures that there is a steady stream of innovative ideas and enables the government to identify and address newly arising issues.
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

4. What does due process require with respect to criminal law? Why is due process important?
Ans: Due process requires that criminal statutes should be drafted in a clear and understandable fashion. Statutes that fail to meet this standard are considered unconstitutional. Due process requires that individuals receive notice of criminal conduct and that the police, prosecutors, judges, and jurors are provided with a reasonably clear statement of prohibited behavior so as to ensure uniform and nondiscriminatory enforcement of the law. Due process protections in this context are important because they ensure that individuals are not punished for innocent conduct or conduct that they could not reasonably know was illegal.
Learning Objective: 2-3: Understand the importance of statutory clarity and know the legal test for identifying laws that are void for vagueness.

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Cognitive Domain: Application
Answer Location: Statutory Clarity
Difficulty Level: Easy

5. What are the main categories of speech whose content is not protected by the First Amendment?
Ans: Fighting words, incitement to violent action, threat (true threats), obscenity, and libel. (Students may briefly describe each of these categories.)
Learning Objective: 2-5: Appreciate the importance of freedom of expression and the categories of expression that are not protected by the First Amendment.
Cognitive Domain: Knowledge
Answer Location: Freedom of Speech
Difficulty Level: Easy

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