

# Incorporation of the Bill of Rights

- Judicial Activism: Expanded 14th Amendment Due Process Clause
- Incorporation limits the rights of states by protecting all citizens against abridgement of civil liberties. Nationalized the bill of rights.

## 1st Amendment

Speech  
Press  
Assembly  
Religion

**Gitlow v. New York (1925)**  
**Near v. Minnesota (1931)**  
*DeJonge v. Oregon (1937)*  
*Hamilton v. Regents (1934)*

## 2nd Amendment

Bear Arms

*McDonald v. Chicago (2010)*

## 4th Amendment

Search & Seizure  
Exclusionary Rule

*Wolf v. Colorado (1949)*  
***Mapp v. Ohio (1961)***

## 5th Amendment

Just Compensation  
Self-Incrimination  
Double Jeopardy

*B&C RR Co. v. Chicago (1897)*  
*Malloy v. Hogan (1964)*  
*Benton v. Maryland (1969)*

## 6th Amendment

Public Trial  
Right to Counsel  
Confrontation  
Impartial Trial  
Speedy Trial  
Criminal Jury Trial

*In re Oliver (1948)*  
***Gideon v. Wainwright (1963)***  
*Pointer v. Texas (1965)*  
*Parker v. Gladden (1966)*  
*Klopper v. North Carolina (1967)*  
*Duncan v. Louisiana (1968)*

## 8th Amendment

No Cruel/Unusual

*Robinson v. California (1962)*

NOTE: 3rd Amendment NOT incorporated.  
Other rights not listed in above amendments also not incorporated.

NOTE II: Warren Court (1953-1969)

\*\***Pink** = AP Cases to Know!



# Key INTERPRETATIONS of the Bill of Rights

## 1st Amendment

### SPEECH

Fighting Words  
 Direct Incitement Test (Imminent Lawlessness)  
 (old: Clear & Present Danger)  
 Obscenity (Miller Test)  
 Commercial Speech, Public Airwaves

### RELIGION

Applies to legitimate religions  
 Indirect Coercion Test

### PRESS

Prior Restraint  
 Libel, Slander  
 Executive Privilege

### ASSEMBLY

Content Neutral  
 Time, Place & Manner

## 4th Amendment

Plain View  
 Exigent Circumstances  
 No Knock Warrants  
 Stop & Frisk  
 Drug Testing

## 4th/5th Amendment

Exclusionary Rule  
 Fruits of a Poisonous Tree  
 Good Faith Exceptions

## 6th Amendment

Plea Bargain

## 8th Amendment

No executions under 15, mentally retarded

## 9th Amendment/Privacy

Restrictions on abortion (Undue Burden Test)  
 Right to Die

Unconstitutional Federal Statutes 1798-2005	
1798-1864	2
1864-1910	33
1910-1930	24
1930-1936	14
1936-1953	3
1953-1969	25
1969-1986	35
1986-2005	35
<b>TOTAL</b>	<b>171</b>

**ORDER V. FREEDOM**

**COMPELLING NEED**

