

FREEDOM UNDER FIRE

From the moment it was ratified, the Bill of Rights has served as the nation's most enduring safeguard against abuses of power, securing both individual liberty and democratic government. Yet over the last two centuries, both the meaning and significance of its amendments have evolved along with American society itself. As political pressures, new technologies, and social conflicts have reshaped the United States, certain rights have risen or declined in practical importance. The evaluation of the Bill of Rights from a modern perspective reveals that some protections play a far more active role in shaping public life than others. In modern American society, the First Amendment is the most important because it secures all of the core freedoms that make democratic participation possible; following is the Fourth Amendment, whose privacy protections have become essential in an age of digital surveillance; finally, the Second Amendment also remains significant because it shapes debates about self-defense, public safety, and the overall limits of governmental power. The First Amendment's system of expressive and religious freedoms forms the very structure where Americans debate, dissent, and hold authority accountable. The Fourth Amendment's guarantee of privacy has gained a new urgency as digital surveillance has expanded to every part of daily life. And the Second Amendment, while still deeply influential in shaping national conflict over violence, self-defense, and governmental authority, does not support democratic participation as strongly or fundamentally as freedoms of speech or protections of personal security.

The First Amendment holds the highest importance out of the three because its protections for expressive freedom form the legal foundation that allows every other constitutional right to function. The founders of America viewed expressive acts as natural liberties that humans possess without government.¹ Unlike in 1791, in which expressive liberties

¹ Jud Campbell, "Natural Rights and the First Amendment," Yale Law Journal, November 30, 2017, <https://yalelawjournal.org/article/natural-rights-and-the-first-amendment>.

were more philosophical norms than enforceable rules, they function through precise judicial doctrines that actively restrain the government. In modern America, courts have treated speech as a right that requires utmost protection. For example, *United States v. Stevens* concluded that speech restrictions must survive strict scrutiny.² In simple terms, strict scrutiny limits the government's attempts to regulate or censor anyone's opinions or viewpoints. This ensures that citizens can criticize the government even during times of political tension or controversy. There is a great structural importance to democratic life, much of which is enabled by the First Amendment. This includes political criticism, access to information, public debate, and collective actions. All of these functions are not optional, they are the very mechanisms which democracy operates from. The founders believed that expressive freedom ensured individuals could make "well-intentioned statements" without fear of government punishment.³ Their reasoning still stands and is arguably even more significant in a digital, mass-communication society where government influence can scale rapidly. There is simply no other single amendment that plays such an important role in sustaining public discourse and civic accountability. In short, this makes the First Amendment the most indispensable of the three for modern America. It was the first one the founding fathers made after all.

The Fourth Amendment follows as the second most important Amendment in the Bill of Rights for its protection of privacy and liberty, especially in an era where surveillance and data collection is widespread. This Amendment serves as a constitutional limit on how much the government can intrude into personal privacy. The Founding Fathers created this Amendment in reaction to the abuse of warrants and writs of assistance. They believed that the right to be let

² "The Free Speech Clause as a Deregulatory Tool," American Academy of Arts & Sciences, August 27, 2024, <https://www.amacad.org/publication/daedalus/free-speech-clause-deregulatory-tool>.

³ Campbell, "Natural Rights and the First Amendment."

alone was a core part of liberty.⁴ The threats that the Founding Fathers foresaw have only augmented in a new form: that of technology. Over the centuries, government surveillance has increased substantially with corporations such as the Federal Bureau of Investigation (FBI) employing thousands of agents with the sole job of surveillance. The case of *Carpenter v. United States* was practically a modern turning point for the Fourth Amendment in terms of transformation. For example, the court held that accessing cell-site information (CSLI) is a search that requires a warrant.⁵ This case is one of many that illustrates how digital data can easily reveal personal information such as location, far beyond anything the Founding Fathers had in mind in the late eighteenth century. In a digital era, the sharing of data is ultimately inevitable. *Carpenter* rejects the idea that simply sharing one's data with a third party removes privacy protections. As technology and the country evolve, so must its laws. The Fourth Amendment has had to defend even more civil liberties as surveillance was no longer just physical searches, but digital. Without this Amendment, the government could justly map a person's entire life to the very foot. In short, the Fourth Amendment is the second most important in modern society because of its protection of the boundary between citizen and state in an age of advanced surveillance. Privacy has more and more become the condition for exercising nearly every other liberty.

America has always had extensive gun regulation; in fact, the current trend of loosening restrictions is historically new. The gun law movement is not a restoration to the Founding era, but practically the opposite. Early American law treated gun use as something the state had full authority to regulate. This included limiting who could have guns and under what specific

⁴ National Constitution Center, "Olmstead v. United States," National Constitution Center, 2022, <https://constitutioncenter.org/the-constitution/supreme-court-case-library/olmstead-v-united-states> .

⁵ Laura Hecht-Feella, "The Fourth Amendment in the Digital Age: How *Carpenter* Can Shape Privacy Protections for New Technologies" (Brennan Center for Justice, 2021), 8, <https://www.brennancenter.org/sites/default/files/2021-03/Fourth-Amendment-Digital-Age-Carpenter.pdf>.

circumstances.⁶ Guns themselves were viewed with different levels of importance. Militia arms received heightened legal protection where common civilians did not.⁷ The Founders themselves saw bearing arms as a duty for the militia, not as a personal right to own guns. During the twenty-first century, various cases have reshaped gun rights to fit into modern America. In 2008, *District of Columbia v. Heller* created the foundational modern precedent by recognizing an individual right to possess firearms for the purpose of self-defense within one's home.⁸ Two years later, *McDonald v. City of Chicago* caused the Second Amendment to apply everywhere, not just federally. Less than a decade later, *Caetano v. Massachusetts* expanded the term "arms" to include modern weapons that were not present at the Founding—for example, stun guns. Finally in 2022, *New York State Rifle & Pistol Association v. Bruen* pushed these rights even further. This case held that the Second Amendment covers carrying guns in public and created a new historical test that limited what regulations were permissible. These court cases, along with many others, show how the Second Amendment has been evolving along with the United States and has continued to be a vital part of American society, tradition, and history. Gun regulation has existed throughout, even in places people imagine as "lawless." For example, some famous "Wild West" towns and similar areas had safe-storage requirements, public-carry restrictions, and sometimes even complete bans on guns. There were thousands of documented pre-1934 gun laws, showing that regulation has always been a major part of American firearm policy.⁹ This

⁶ Robert Spitzer, "Gun Law History in the United States and Second Amendment Rights" (2017), 83, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4825&context=lcp>.

⁷ Saul Cornell, "Founding Fantasies vs. Historical Realities in the Second Amendment Debate," *Duke Center for Firearms Law*, July 27, 2023, <https://firearmslaw.duke.edu/2023/07/founding-fantasies-vs-historical-realities-in-the-second-amendment-debate>.

⁸ Dave S. Sidhu, "The Second Amendment at the Supreme Court: Challenges to Federal Gun Laws," *Congress.gov*, 2025, <https://www.congress.gov/crs-product/LSB11108>.

⁹ Brennan Center for Justice, "The Supreme Court Shouldn't Disrupt the Judicial Consensus on the Second Amendment," 2021, <https://www.brennancenter.org/our-work/analysis-opinion/supreme-court-shouldnt-disrupt-judicial-consensus-second-amendment>.

expresses how the Second Amendment has had significant relative importance to America as a whole but in terms of impact and control the First and Fourth come out on top.

Collectively, the First, Fourth, and Second Amendments demonstrate how the Bill of Rights continues to shape modern American life. The First Amendment holds the greatest influence for its protections of speech, religion, and expression which form the foundation of democratic participation and debate. The Fourth Amendment follows as the main constitutional barrier against government intrusion, a role that has only become more important as digital surveillance has grown. The Second Amendment still affects national discussions about personal security, violence, and limits on governmental power, but its influence on democratic functioning is more limited than that of expressive or privacy rights. Overall, the different amounts of importance between these amendments display the Bill of Rights as a dynamic system whose meaning and impact adapts with the nation. Similar to past republics that survived by reinforcing the liberties that protected civic life, Americans continue to depend on these very amendments to define the relationship between themselves and the state.

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