

Kanovitz, Ingram, & Devine, *Constitutional Law for Criminal Justice*,  
15th Edition

Multiple-Choice Examination and True/False Questions

Chapter 2: Freedom of Speech

Multiple-Choice Questions

1. The First Amendment protects the following right or rights in addition to freedom of speech.
  - a. freedom of religious exercise
  - b. the right to petition Congress for a redress of grievances
  - c. the right to peaceably assemble
  - d. all of the above

ANS: d

2. Several categories of speech lack First Amendment protection. They include:
  - a. commercial speech
  - b. deliberate lies
  - c. speech that is likely to arouse anger, resentment, or alarm in others based on race, religion, gender, or sexual orientation
  - d. none of the above

ANS: d

3. Which of the following is NOT a constitutionally protected form of speech?
  - a. wearing a Nazi uniform
  - b. refusing to recite the Pledge of Allegiance
  - c. ritual use of drugs in a religious ceremony
  - d. burning a cross at a KKK rally

ANS: c

4. In *Texas v. Johnson*, the Court determined that a law prohibiting which of the following acts was unconstitutional?
  - a. burning a U.S. flag
  - b. burning a draft card
  - c. burning a cross
  - d. displaying a swastika

ANS: a

5. The *Miller* test includes all the following criteria for determining whether a work is obscene EXCEPT:
  - a. it appeals to the prurient interests of the average person

- b. it depicts “hard-core” sexual acts, previously defined by applicable state law, in a patently offensive way
- c. it contains pictures of live subjects, not computer generated images
- d. it lacks any serious literary, artistic, political, scientific or other value

ANS: c

6. The *Brandenburg* Test applies to which of the following:

- a. incitement of illegal action
- b. child pornography
- c. restrictions on use of public forums
- d. symbolic speech

ANS: a

7. Which of the following would be considered a nonpublic forum?

- a. a municipal auditorium
- b. a sidewalk
- c. a post office
- d. a park

ANS: c

8. Which of the following constitutes a valid time, place, or manner restriction on speech in a public forum?

- a. prohibiting expressive activity within 35 feet of entrances to abortion clinics
- b. requiring 30 days advance notice before holding a rally in a park
- c. banning noisy activities in front of a school while the school is in session
- d. requiring a permit to distribute leaflets

ANS: c

9. Which of the following statutes is it appropriate for police to use when making an arrest in a speech context, regardless of whether the speaker’s conduct is constitutionally protected?

- a. statutes authorizing arrests for “disturbing,” “annoying,” or “offensive” conduct
- b. statutes authorizing arrests for blocking the public passage
- c. statutes authorizing arrests for loitering
- d. statutes authorizing arrests for disobeying an order to move or that fail to provide objective standards when such orders may be issued

ANS: b

10. The defendant walked up to two homeless people and shouted: “You filthy pieces of garbage, you’re ruining this city! You’re disgusting. This whole city hates you. Get out now!” The defendant can be arrested under a statute that criminalizes:

- a. profanity
- b. fighting words
- c. hate speech
- d. none of the above

ANS: b

11. Which of the following activities would be regarded as “speech”?

- a. begging
- b. burning a cross at a Ku Klux Klan rally
- c. refusing to pledge allegiance to the flag
- d. all of them

ANS: d

12. Six anti-war protestors climbed onto the roof of an Armed Services Recruiting Station where they lowered the flag flying over the building, soaked it in kerosene, and ignited it. They were convicted of criminal trespass and malicious destruction of government property. They appealed, contending that their conviction violated the First Amendment. The appeals court should:

- a. overturn their conviction on the grounds that flag burning is constitutionally protected symbolic speech
- b. overturn their conviction on the ground that the location of the demonstration was a public forum
- c. affirm their conviction because the conduct for which they were convicted is not protected by the First Amendment
- d. affirm their conviction because their conduct posed a clear and present danger of starting a fire

ANS: c

13. All of the following categories have been excluded from First Amendment protection EXCEPT for:

- a. curse words
- b. speech integral to criminal conduct
- c. fighting words
- d. incitement to immediate unlawful action

ANS: a

14. The test currently used to determine whether literary works are obscene was established by the Supreme Court in:

- a. *Miller v. California*
- b. *Chaplinsky v. New Hampshire*
- c. *Grace v. United States*
- d. *Brandenburg v. Ohio*

ANS: a

15. To be outlawed as child pornography, materials must:

- a. appeal to the prurient interest of the average person
- b. visually depict real children engaged in sexual activity
- c. lack serious literary, artistic, political, or scientific value
- d. all of the above

ANS: b

16. Which of the following situations justify an arrest for using “fighting words”?

- a. calling an absent political opponent a “fascist pig” during a campaign speech

- b. shouting “fuck you, you goddamn faggot” while driving at a rapid speed past a man seated on his front porch
- c. uttering “you stupid son-of-a-bitch” to a police officer after receiving a citation for a traffic violation
- d. none of the above

ANS: d

17. In *Brandenburg v. Ohio*, the Supreme Court established the test that controls when speech can be punished as:
- a. “fighting words”
  - b. hate speech
  - c. obscenity
  - d. incitement to violence or other unlawful acts

ANS: d

18. Municipal auditoriums are examples of:
- a. traditional public forums
  - b. public forums by designation
  - c. nonpublic forums
  - d. limited public forums

ANS: b

19. Which of the following locations is not a public forum?
- a. a municipal park
  - b. a corporate mall shopping center parking lot
  - c. a municipal auditorium
  - d. The sidewalk in front of a public school

ANS: b

20. The “marketplace of ideas” is
- a. another name for a public forum
  - b. the title of the book found obscene in *Miller v. California*
  - c. the legal term for commercial speech communicated via the Internet
  - d. a metaphor used to explain why truth is more likely to emerge in a society that tolerates the expression of ideas that are repulsive, hateful, and offensive as well as ideas that have value

ANS: d

### True/False Questions

21. Anti-litter laws are constitutional, but enforcement efforts must be directed at people who drop handbills and produce litter, not against the people who distribute them.
- a. True
  - b. False

ANS: a

22. Local governments cannot prohibit beggars from soliciting contributions in public forums.
- a. True
  - b. False

ANS: a

23. Permits may be required only for gatherings large enough to create traffic, public safety, or competing use concerns that make advance notice necessary.

- a. True
- b. False

ANS: a

24. The First Amendment prohibits legislatures from providing increased punishments for crimes motivated by hatred of the victim because of the victim's race, religion, ethnicity, or sexual orientation.

- a. True
- b. False

ANS: b

25. To constitute a true threat, the speaker must intend to commit an unlawful act of violence against a particular person or group of persons, and the statement must be understood as a serious threat of imminent harm.

- a. True
- b. False

ANS: b