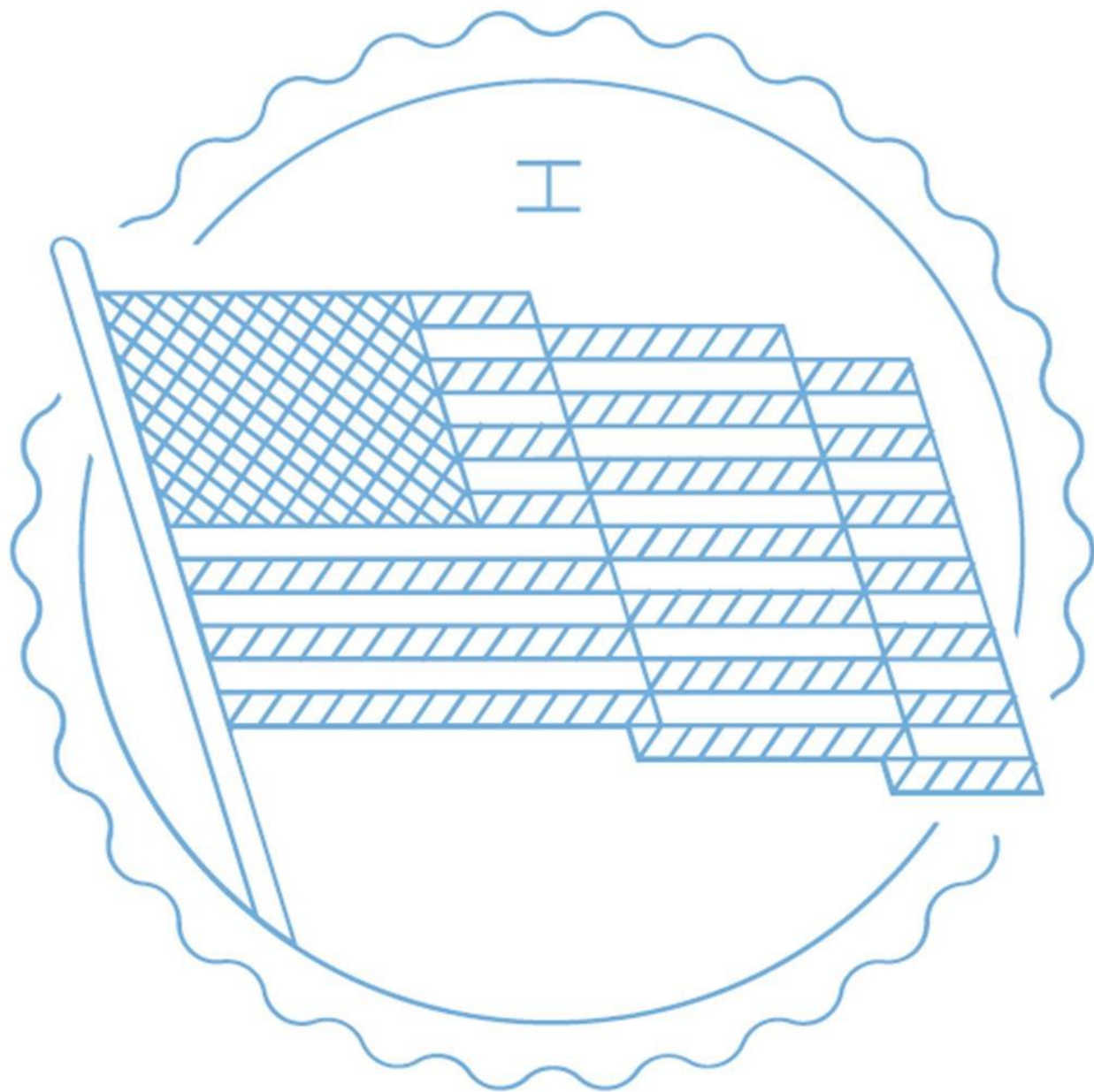


INTERACTIVE

CONSTITUTION

**The First
Amendment
SNAPSHOT**



NATIONAL CONSTITUTION CENTER



First Amendment Snapshot

Question for Debate:

Does the First Amendment Protect Hate speech?

Original Understanding

The Framers believed that freedom of conscience was an unalienable right, from God or nature, not government, because our opinions are involuntary thoughts presented to our reasoning minds.

Sources:

- Virginia Declaration of Rights of 1776
- New Hampshire Constitution of 1783
- The Sedition Act of 1790 penalized hate speech
- Madison and Jefferson in the Virginia and Kentucky resolutions criticized it as a violation of the unalienable rights of conscience.

Key Supreme Court cases

- Sedition Act of 1917 penalized criticism of the government
- Holmes and Brandeis criticized sedition prosecutions as unconstitutional in their dissenting and concurring opinions in *Abrams v. U.S.* and *Whitney v. California*
- *Brandenburg* case (1969) recognizes the principal that speech can only be banned if it's intended to and likely to cause imminent violence.

Modern controversies:

- Can states ban offensive funeral protests (*Phelps*)
- Can a school ban an offensive armband (*Tinker*)
- Can Facebook and Twitter ban speech the First Amendment protects?