Commandant’s Professional Reading List

- The Constitution of the United States of America -
- Discussion Guide -

This guide is intended to help Marines think about and synthesize ideas from the U.S. Constitution. All answers or responses during discussion should be embraced as relevant, and open for further discussion. To the guide leader: There is no single right answer.

The point of this guide is to help the readers synthesize the ideas and legal restrictions, constraints and restraints outlined in the U.S. Constitution. The discussion leader can draw examples from current events to tie the current relevance of the constitutional organization of the United States to military organization, readiness and operations in the current environment.

**Prep Work:**

a. Read all seven articles and twenty seven amendments to the U.S. Constitution. A brief summary of the U.S. Constitution is at the end of this document for quick reference during the discussion.

b. Be prepared to discuss current events. The annual budget and Executive Directives will be a consistently contemporary starting point for many discussion groups.

c. Immanuel Kant, *Perpetual Peace: A Philosophical Sketch*, Hackett Publishing, 2003 pp.1-23, will also provide good point of reference for discussing the theoretical basis for the U.S. Constitution in regards to military readiness.

**Discussion Questions:** All answers / responses during discussion should be embraced as relevant, and open for further discussion.

1. How is US Military Organized in the Constitution? Who is in charge and does this make us more or less capable of conducting military operations? Does this make us more or less ready to conduct Counter-terrorism operations at home and abroad?

   Key Take-Away: Article I, Section 8 grants the Congress the power to declare War and to raise and maintain an Army and Navy. Article II, Section 2 makes the President the Commander-In –Chief. This balance of power makes it harder for one person to abuse their power, however it does require collaboration to take actions to war, which is slower than a dictatorship.

2. How does the Constitution effect our operations overseas? How does the constitution effect the employment of military forces on US soil? Has technology changed the applicability of these principles?

   Key Take-Away: Under Article I, Section 8, Clause 12 funding for the Army can only be granted for two years; which can disrupt our ability to plan. There are arguments that targeting US Citizens fighting against the US can’t be targeted without due process of law under the Fifth Amendment. Technology has given us the more precisely target our enemies, and the evolution of enemy tactics has redefined combat zones we have new challenges. The rights and restrictions from the US Constitution still take precedence over the new threats, as proved by current legal debates over UAV programs.

3. Are there any portions of the US Constitution that are no longer applicable with modern technology?
Key Take-Away: Several debates can be made here, however the discussion leader should point out Article VII gives the government to change the Constitution to reflect the current situation.

4. What parts of the Constitution would you change if you were re-writing it today? What are the most enduring and appropriate portions that you think define the national identity as the US?

Key Take-Away: There is no wrong answer here, but most Marines will pull immediately to the Bill of Rights; make them consider the balances of power, ability to amend and ideas contained in the Preamble if you notice this trend. The mention of the Three-Fifths Compromise and other laws regarding slavery can help reinforce the point that the US Constitution has changed with several of the Amendments, (13, 14, 19 and 26).

5. What does your oath to the Constitution mean? Why do we include the phrase, “all enemies, foreign and domestic”? Why do we swear allegiance to the Constitution and not the Country, the people or the President? What does this mean if the President and the Senate disagree about the constitutionality of an operation? What should your actions be as a member of the military?

Key Take-Away: The original Oath of Office has changed many times. The prevailing idea now is that the Constitution is the rule of law and source of legitimacy. Past examples are available at; [http://www.history.army.mil/html/faq/oaths.html](http://www.history.army.mil/html/faq/oaths.html), this can help to introduce several of the topics of how we have arrived at the current oath, and how events like the American Revolution and US Civil War have changed our views about the duties of Military members.

6. Below is a summary of the US Constitution, broken down by section. This can be used if the group is not very familiar with the Constitution:

The Constitution of the United States is the source of authority and legal parameters for the federal government of the United States of America. It consists of seven articles and twenty seven amendments, (as of May 19, 2014). The ideas contained in this document are what every member of the armed forces has sworn to support and defend. This is why it is important for every Marine to be familiar with the document. Below the contents of the Constitution are outlined.

The preamble of the Constitution does not lay out legal parameters, however serves as the ‘Commander’s Intent’ of the document or the reason it was being drafted after the United States had been operating under the Articles of Confederation.

Article I, creates and organizes the legislative branch of the US government; it consists of ten sections. Section One names the legislative body as, “The Congress” and organizes it as a bi-cameral, or two bodied, organization. Section Two establishes the House of Representatives and defines the requirements to serve in this organization. Section Three establishes the Senate, defines the roles and qualifications for Senators and the role of the Vice President in the Senate. Section Four grants the power to the states for electing their own Congressmen and requires that the Congress meets at least annually. Section Five requires a quorum to meet, allows each house to levy fines against its members and allows them to be expelled from the Congress. Section Six mandates that the Federal Government will pay Congressmen, prohibits the detention of members from being detained while in session or traveling to or from sessions and prohibits them from holding other jobs while in office. Section Seven outlines how a bill becomes a law; by passing both houses of Congress and establishes the power of the President to veto the bill. Section Eight lists 18 powers granted to the Congress, among them are: declaring war,
establishing and maintaining an army and navy and raising money. Section Nine details powers that are denied to the Congress. Section Ten outlines powers denied to the states.

Article II, creates and organizes the Executive branch of the US government, it consists of four sections. Section One establishes the office of President and the Vice President, establishes the criteria to hold these offices and creates the Electoral College to elect them. Section Two makes the President the Commander in Chief of the Armed Forces and the militia, gives him a cabinet, allows him to pardon criminals and with the approval of Congress to sign treaties and appoint officers and judges. Section Three mandates that the President inform the Congress about the State of the Union, to act of head of state by receiving foreign diplomats. Section Four establishes the criteria to impeach Executives.

Article III, creates and organizes the Judicial Branch, it consists of three sections. Section One establishes the Supreme Court and lesser courts. Section Two establishes which cases are heard by the Supreme Court. Section Three defines the crime of treason.

Article IV, consists of four sections. Section One mandates that each state will honor the laws of all other states. Section Two guarantees that citizens of each state will be treated fairly in each of the states, it also states if a person is accused of a crime then fleeing to another state he will be returned to where he committed the crime. Section Three outlines the creation of new states and the control of Federal Land. Section Four guarantees each state will have a Republican government and the Federal Government will protect them in case of invasion.

Article V, has one section; which outlines the methods for amending the Constitution which requires the approval of two thirds of both houses of the Legislature or two thirds of the legislature to call for a Constitutional Convention where three quarters of the delegates will have to approve changes.

Article VI, has one section; which guarantees that the United States under the Constitution would assume all debts and contracts entered into by the United States under The Articles of Confederation. It sets the Constitution and all laws and treaties of the United States to be the supreme law of the country. Finally, it requires all officers of the United States and of the states to swear an oath of allegiance to the United States and the Constitution when taking office.

Article VII, has one section; this details the method of ratifying the Constitution.

The Constitution also has twenty seven amendments; the first ten were adopted at the same time and are known collectively as the Bill of Rights.

The First Amendment forbids the Congress from passing any law restricting freedom of speech, the practice of religion, the press to publish and to assemble to address the government.

The Second Amendment guarantees the right of the people to keep and bear arms.

The Third Amendment forbids the military from forcing citizens to house the members of the armed service.

The Fourth Amendment protects the people from the government taking or searching their property without probable cause.
The Fifth Amendment protects people from: being held for a crime without being indicted, being tried for the same crime more than once, and prevents citizens from testifying against themselves in court.

The Seventh Amendment guarantees a jury trial in federal civil court cases. This type of case is normally no longer heard in federal court.

The Eighth Amendment guarantees that punishments will be fair, and not cruel, and that extraordinarily large fines will not be set.

The Ninth Amendment is simply a statement that other rights aside from those listed may exist, and just because they are not listed doesn't mean they can be violated.

The Tenth Amendment is the subject of some debate, but essentially it states that any power not granted to the federal government belongs to the states or to the people. See the Federalism Topic Page for more information.

The Eleventh Amendment more clearly defines the original jurisdiction of the Supreme Court concerning a suit brought against a state by a citizen of another state.

The Twelfth Amendment redefines how the President and Vice-President are chosen by the Electoral College, making the two positions cooperative, rather than first and second highest vote-getters. It also ensures that anyone who becomes Vice-President must be eligible to become President.

The Thirteenth Amendment abolished slavery in the entire United States.

The Fourteenth Amendment ensured that all citizens of all states enjoyed not only rights on the federal level, but on the state level, too. It removed the three-fifths counting of slaves in the census. It ensured that the United States would not pay the debts of the Confederate states.

The Fifteenth Amendment ensures that race cannot be used as criteria for voting.

The Sixteenth Amendment authorizes the United States to collect income tax without regard to the population of the states.

The Seventeenth Amendment shifted the choosing of Senators from the state legislatures to the people of the states.

The Eighteenth Amendment abolished the sale or manufacture of alcohol in the United States. This amendment was later repealed (erased).

The Nineteenth Amendment ensures that gender cannot be used as criteria for voting.

The Twentieth Amendment set new start dates for the terms of the Congress and the President, and clarifies how the deaths of Presidents before swearing-in would be handled.

The Twenty First Amendment repealed the 18th Amendment.
The Twenty Second Amendment set a limit on the number of times a President could be elected - two four-year terms. It has one exception for a Vice-President who assumes the Presidency after the death or removal of the President, establishing the maximum term of any President to 10 years.

The Twenty Third Amendment grants Washington D.C. three electors in Presidential elections.

The Twenty Fourth Amendment ensured that no tax could be charged to vote for any federal office.

The Twenty Fifth Amendment clarifies even further the line of succession to the Presidency, and establishes rules for a President who becomes unable to perform his duties while in office.

The Twenty Sixth Amendment ensures that any person 18 or over may vote.

The Twenty Seventh Amendment requires that any law that increased the pay of legislators may not take effect until after an election.

**U. S. Constitution Discussion Key Takeaways:**

1. The organization of the US Government and how the military fits in the Government.
2. The Oath of Office and what it means to swear to support and defend the Constitution.
3. The separation of Powers and how this affects the military.

To the Discussion Leader:

Encourage the Marine and/or Sailor to read from this book and other books. Encourage them to think, challenge, debate, and arrive at a common understanding. Encourage them to consider the ideas of others, to examine the evolution of laws in the US and to push themselves intellectually.

Avoid leading the discussion group to a particular interpretation. Support continuous conversation. This guide does NOT support a lecture with mile-deep detail on every possible issue and scenario in the US Constitution, but instead provides a cursory look at the governing document of the US.