

NOTES: The Bill of Rights

□ Vocabulary:

- posterity - n. future generations
- infringe - v. to interfere with; violate
- prescribe - v. to authorize/regulate
- abridging - v. limiting; to limit
- quartered - v. housed/lodged
- presentment - n. presentation of evidence
- impose - v. to charge/apply
- common law - n. laws based on court decisions & individual circumstances rather than on government legislation
- enumeration - n. the mention/listing

□ Protections Under the Bill of Rights:

• The First Amendment:

- freedom of speech - to express ideas through speech & the press (news & media); NOTE: free to express does **NOT** mean freedom from consequences/accountability
- freedom to assemble - to gather peacefully w/a group to protect & ask the gov. to fix problems
- freedom of religion - the right to believe & practice religion w/o fear of persecution (all religions)
- separation of church & state - prevents the gov. from favoring/creating a religion (no single religion can be used to create/pass laws or make court decisions); NOTE: most colonists came to America to escape religious-based persecution

• The Second Amendment:

- right to bear arms - citizens are able to have & keep weapons (NOTE: regulations like age restrictions, permits, restrictions for felons owning/keeping weapons → varies by state)

• The Third Amendment:

- freedom from military occupation of private property - government cannot force homeowners to allow soldiers to use their homes (NOTE: during peace time; during wartime Congress is able to pass a law & set the rules for occupation - this is due to the fact that before the Revolutionary War, laws gave British soldiers the right to take over private homes)

• The Fourth Amendment:

- unreasonable search & seizure - nobody can search your body, house, papers, &/things, unless they can prove to a judge they have a good reason (probable cause) for the search (NOTE: a search w/o consent **REQUIRES** a warrant issued by a judge)

• The Fifth Amendment: (NOTE: except in times of war, OR if you're in the military)

- grand jury - you cannot be tried for any serious crime w/o a Grand Jury meeting to decide whether/ not there is enough evidence against you for a trial
- double jeopardy - at the end of a trial, if a jury decides you are NOT guilty, the gov. cannot try you again for the same crime w/ another jury
- self-incrimination/right to remain silent - you cannot be forced to admit you are guilty of a crime, & if you choose not to, you do not have to say anything at your trial (NOTE: related to the right to remain silent disclosure in the Miranda Warning)
- due process of law - you cannot be killed, imprisoned/jailed, or fined, unless you were convicted of a crime by a jury & all of the proper legal steps during your arrest & trial were followed
- just compensation - the gov. cannot take your house/your farm/anything that is yours unless the gov. pays a fair price for it

• The Sixth Amendment (NOTE: if you are charged w/a crime)

- speedy & public trial - you have a right to have your trial soon & in public so everyone knows what's going on
- trial by an impartial jury - if you choose, the case has to be decided by a jury of ordinary people from where you are (NOTE: a change of venue can be requested if an impartial jury is not possible locally)
- informed of charges (criminal cases) - you have the right to know what you are accused of
- witnesses must face the accused - you have the right to see, hear, & cross-examine the people who are against you (the accused is allowed his/her/their own witnesses)
- legal representation - you have the right to a lawyer to help you, if you cannot afford to pay for a lawyer then the gov. will (NOTE: related to the right to a lawyer disclosure in the Miranda Warning)

• The Seventh Amendment

- trial by jury (civil cases) - you have a right to a jury of your peers to decide the outcome of a trial (NOTE: civil cases = a legal case b/t two people rather than between you & the gov.)

• The Eighth Amendment

- excessive bails & fines - the gov. cannot make you pay more than is reasonable in bail &/ fines
- cruel & unusual punishment - the gov. cannot inflict cruel/unusual punishment (like torture) even if you are convicted of a crime.

• The Ninth Amendment

- other rights - just b/c these rights are listed in the Constitution does not mean that you don't have other rights as well

• The Tenth Amendment

- powers - anything the Constitution does not say that Congress can do, is left up to the states & people

□ The Miranda Warning & Waiver

- The Miranda Warning & Waiver is the result of the landmark case *Miranda v. Arizona* (1966)
 - the Supreme Court held that detained criminal suspects must be informed of their rights BEFORE police questioning (if a person is not warned then their statements cannot be used as evidence at trial)
 - date of decision: June 13, 1966

The Warning & Waiver:

1. You have the right to remain silent. (5th Amendment)
2. Anything you say can & will be used against you in a court of law.
3. You have the right to an attorney. (6th Amendment)
4. If you cannot afford an attorney, one will be provided for you. (6th Amendment)
5. If you decide to answer questions now without an attorney present, you will still have the right to stop answering at any time until you talk to an attorney.

Waiver:

- Do you understand the rights I have just read to you?
- With these rights in mind, do you wish to speak to me?

NOTES on Interviews/Interrogation:

- police must Mirandize before interview/interrogation (this does not mean at time of detainment/arrest)
 - you must "activate" your rights by asking for a lawyer (this does NOT mean you are admitting guilt - this means you are getting legal advice to protect your interests)
 - after asking for a lawyer quit talking (to the police & cellmates), remain silent until you meet w/ the lawyer & have them there during questioning
 - for minors (under age 18) wait for your parent & lawyer before talking
- police are allowed to lie during interviews (w/o consequence)
- police are NOT authorized to offer or negotiate plea deals (no matter what they claim) - only a DA (District Attorney) can offer & approve plea deals
- note phone calls are recorded & can/will be used against you

Legal Terms/Vocabulary:

- precedent - n. a rule established in a legal case that becomes authoritative to a court when making decisions in similar cases
- custodial interrogation - the questioning of a detained person by the police in connection w/a criminal investigation
- defendant - a person who is either accused of a crime or accused in a civil suit
- self-incrimination - the intentional/unintentional act of providing info that will suggest your involvement in a crime, or expose you to criminal prosecution
- reasonable doubt - exists when a factfinder (investigator) cannot say w/ moral certainty that a person is guilty

- wrongful conviction - when a person is convicted of a crime they did not commit
- probable cause - reasonable grounds for making a search/pressing a charge
- prosecutorial misconduct - when a prosecutor violates a law or code of professional conduct in order to obtain a conviction (this gets cases thrown out &/convictions overturned)
- tunnel vision - the tendency to focus exclusively on a single or limited goal/point of view
- bias - a disproportionate weight in favor of or against an idea/thing, usually in a way that is inaccurate, close-minded, prejudicial, or unfair