

### Historical background

Articles of the confederation were written during the early part of the American Revolution and approved in 1781

The national government was deliberately kept weak; giving much of the power to the states

### Organization of the Federal Government

the federal government was divided into three separate branches of government

the Legislative branch  
Congress - the law makers

the Executive branch  
President - enforces the law.  
most LEOs belong to this branch

the Judicial branch  
Supreme Court - interprets the laws

### 1st Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; of the right of the people to peacefully assemble, and to petition the government for a redress of grievances

**Religion** Establishment clause -separation of church and state. Any law must serve a secular purpose  
Free Exercise clause- prevents government from interfering with religious practices

### 1st Amendment (cont)

**Freedom of speech** Balancing test- citizen's interest v public interest  
Symbolic speech is protected  
Speech NOT protected:  
clear and present danger,  
fighting words,  
true threats,  
advocating Immediate lawless action,  
Obscenity,  
Fraudulent misrepresentation (slander/perjury)

**Peaceful assembly** a speaker has no right to express his views on another person's private property  
the government may require a permit for access to public forums  
-permits may restrict the time, place and manner of expression

### 4th Amendment

the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### 4th Amendment (cont)

**Search** a government intrusion that adversely impacts upon a person, house, paper, or effect where the person has a reasonable expectation of privacy.  
Does not regulate searches by private citizens

**Seizure** Person or property taken under control of the government  
arrests, detainments, and taking personal property as evidence

**probable cause** Is needed to obtain arrest or search warrants. Particular description of place or person must be described.

### 5th Amendment

No person shall be held for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.



### 5th Amendment (cont)

**Double Jeopardy** means to be tried twice by the same sovereign for the same offense

The following situations are not Double Jeopardy:

- Dual Sovereignty,
- Mistrial,
- Nolle prosequi,
- Remand of the case

**Self-Incrimination** focuses on the government interrogations seeking communicative evidence.

Interrogation - words or actions likely to elicit an incriminating response.

Communicative "testimonial" can be verbal, written, or non-verbal.

Non-testimonial evidence - face, fingerprints, booking information

**Grand Jury Indictment** all "infamous" crimes, meaning felony offenses, will be investigated by a body of impartial citizens to determine if enough probable cause exists to charge a person with a crime

**Due Process** rules and procedures to ensure fairness

### 6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defense.

**Speedy Trial** 100 days of arrest

**Confrontation of witnesses** ability to challenge the accuracy of the testimony and allow the jury to weight the information

**Compulsory Witnesses** defendant may subpoena witnesses on their behalf

**Assistance of Counsel** the right to legal counsel at "critical stages" of the process  
indictment, information, initial appearances

**Informed of the nature and cause of charges** the initial appearance. without unnecessary delay

**Venue** the trial is held where the crime was committed

### 8th amendment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted

**Bail** is not to punish people but allow pretrial release of a person presumed innocent

**Cruel and Unusual** Excludes torture  
capital punishment is not cruel/-unusual is used with discretion and adequate procedures

### 14th amendment

the 14th amendment was a landmark change to the constitution after the Civil war. It made the fundamental rights found in the constitution applicable to the states



By **kreutzkt**  
[cheatography.com/kreutzkt/](https://cheatography.com/kreutzkt/)

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