

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



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