



LESSON 11

RIGHTS OF CRIMINAL SUSPECTS (456, 458-467)

UNIT 2

Civil Liberties and Civil Rights (≈10%)

FOURTH AMENDMENT RIGHTS

- The Constitution forbids only "unreasonable" searches and seizures
- A police search without consent is constitutionally unreasonable unless it has been authorized by a valid search warrant
 - Ex: police use of sobriety checkpoints in enforcing drunk driving laws
- The Constitution requirements of a specific search warrant
 - Must describe what places are to be searched
 - Must describe what things are to be seized
- The Exclusionary Rule
 - *Mapp v. Ohio* (1961) - The Supreme Court ruled that evidence obtained unconstitutionally cannot be used in court against person from whom it was seized
 - Adopted mainly to prevent police misconduct
 - Not used if:
 - There would be "inevitable discovery" of the evidence (*Nix v. Williams*)
 - Police operate "in good faith" that the warrant was valid (*U.S. v. Leon*)

FIFTH AMENDMENT RIGHTS

- Due Process Rights
 - When govt. denies life, liberty or property, it must use fair procedures:
 - Observe Bill of Rights.
 - Provide reasonable notice.
 - Provide chance to be heard.
 - Procedural due process refers to the methods by which a law is enforced; pertains not to the law itself, but to the way in which the law is applied
 - Examples of violations of procedural due process:
 - Illegal Searches.
 - Unfair Court Procedures.
 - Substantive due process places limits on what a government may do; pertains to the content of the law
 - Examples of violations of substantive due process:
 - Ban on all abortions within a state.
 - County ordinance banning all firearms.
 - Example of distinction between procedural and substantive: a law prohibits possession of narcotics (substantive) and police must generally obtain a warrant before conducting a search for narcotics in one's home (procedural).
- No Self-incrimination - the right to remain silent
 - You have the right to remain silent
 - You do not have to testify against yourself; "I plead the 5th"
 - Designed so that the burden is on the government to prove guilt

- The Miranda Warning
 - *Miranda v. Arizona* (1966) - Supreme Court announced that no conviction could stand if evidence introduced at the trial had been obtained by the police during "custodial interrogation" unless suspects have been:
 - Notified that they are free to remain silent
 - Warned that what they say may be used against them in court
 - Told that they have a right to have attorneys present during questioning
 - Informed that if they cannot afford to hire their own lawyer, attorneys will be provided for them
 - Permitted to terminate any stage of the police interrogation
- Double jeopardy
 - Fifth amendment prevents individual from being tried again (if found innocent)
 - Still can be tried by both federal and state governments for the same offense (or by two states)
 - Double jeopardy does not forbid civil prosecution after acquittal in a criminal trial
- Grand Jury Indictment
 - Grand jury indictment is necessary in order to require anyone to stand trial for a serious crime
 - Grand jurors are concerned with whether there is enough evidence to warrant a trial
 - Plea bargaining - pleading guilty to a lesser offense in return for not having to stand trial for a more serious charge (about 90% of cases end in a plea deal)

SIXTH AMENDMENT RIGHTS - FAIR TRIAL PROCEDURES

- The Right to counsel
 - Judges have an obligation to ensure that all persons subject to any kind of custodial interrogation are represented by lawyers
 - Right to counsel extends to all hearings for all offenses for which an accused could be deprived of liberty
 - In *Gideon v. Wainwright* (1963), the United States Supreme Court ruled that the Sixth Amendment right-to-counsel provision applies to those accused of major crimes under state laws
- Government is obligated to give the defendant a speedy trial
- Government is obligated to give the defendant a public trial
- An impartial jury consists of persons who represent a fair cross-section of the community
- Defendant has the constitutional right to obtain witness in his/her favor
 - Constitution gives accused persons the right to be confronted with the witnesses against them

EIGHTH AMENDMENT RIGHTS

- The Death Penalty
 - Eighth Amendment forbids the inflicting of cruel and unusual punishments
 - The death penalty is not considered cruel and unusual punishment in America
 - *Furman v. Georgia* (1972) - Court halted capital punishment until states could administer it in "consistent fashion" decision that ruled on the requirement for a degree of consistency in the application of the death penalty.
 - The case led to a de facto moratorium on capital punishment throughout the United States, which came to an end when *Gregg v. Georgia* was decided in 1976.
 - *Gregg v. Georgia* (1976) - The death penalty does not, automatically, violate the 8th Amendment.
 - Capital punishment is an extreme sanction, but it is suitable to the most extreme of crimes.
 - If the jury is furnished with standards to direct and limit the sentencing discretion, and the jury's decision is subjected to meaningful appellate review, the death sentence may be constitutional.
 - If, however, the death penalty is mandatory, such that there is no provision for mercy based on the characteristics of the offender, then it is unconstitutional.

FREE RESPONSE QUESTION (FRQ) REVIEW

1. Many scholars and observers have argued that the ratification of the Fourteenth Amendment to the Constitution has become the single most important act in all of United States politics.
 - (a) Identify which provision of the Fourteenth Amendment was applied in one of the following Supreme Court cases. For the case you select, explain the significance of the decision in United States politics.
 - *Mapp v. Ohio* (1961)
 - *Gideon v. Wainwright* (1963)
 - *Miranda v. Arizona* (1966)

2. The Supreme Court ruled in *Baron v. Baltimore* (1833) that the Bill of Rights did not apply to the states.
 - (a) Explain how the Court has interpreted the Fourteenth Amendment to apply the Bill of Rights to the states.
 - (b) Discuss the Court's decision in each of the following cases to support your explanation.
 - *Wolf v. Colorado* (1949)
 - *Gideon v. Wainwright* (1963)

3. Initially, the United States Constitution did little to protect citizens from actions of the states. In the twentieth century, the Supreme Court interpreted the Constitution to protect the rights of citizens from state governments in a process referred to as incorporation.
 - (a) Define selective incorporation
 - (b) Explain how the rights of criminal defendants have been incorporated. Your explanation must be based on a specific and relevant Supreme Court decision.

4. The framers of the Constitution created a political system based on limited government. The original Constitution and the Bill of Rights were intended to restrict the powers of the national government.
 - (a) Explain how the guarantee of a public trial in the Bill of Rights limits the powers of the national government.

5. The Fourteenth Amendment protects civil rights and civil liberties.
 - (a) Describe the difference between civil rights and civil liberties.
 - (b) Identify the primary clause of the Fourteenth Amendment that is used to extend civil liberties.
 - (c) Explain how civil liberties were incorporated by the Supreme Court in each of the following cases.
 - *Gideon v. Wainwright*
 - *Mapp v. Ohio*
 - *Miranda v. Arizona*

MULTIPLE CHOICE (MC) REVIEW

- Which rule bars the use of illegally seized evidence at trial?
(A) double jeopardy
(B) right to pay
(C) prior restraint
(D) exclusionary
(E) hate speech
- The Constitution protects against search of an individual's person and home without _____.
(A) due process
(B) permission
(C) a warrant
(D) compensation
(E) a good reason
- What does the Sixth Amendment guarantee to those accused of a crime?
(A) assistance of counsel
(B) access to law books
(C) a jury trial
(D) assistance by the press
(E) a written indictment
- Today, the United States is one of only two industrialized nations that currently use which of the following to punish crime?
(A) a prison system
(B) a juvenile justice system
(C) the Eighth Amendment
(D) the death penalty
(E) corporal punishment
- What did *Mapp v. Ohio* find to be unconstitutional?
(A) illegally obtained evidence
(B) forced sterilization
(C) segregated education
(D) discrimination against homosexuals
(E) imprisonment without a trial
- Miranda* rights include the right to which of the following?
(A) a phone call
(B) due process
(C) a jury trial
(D) be free from search and seizure
(E) counsel
- Which Supreme Court case developed the exclusionary rule?
(A) *Parker v. Gideon*
(B) *New York Times Co. v. Sullivan*
(C) *Mapp v. Ohio*
(D) *Wolf v. Colorado*
(E) *Gideon v. Wainwright*
- What type of jury privately hears evidence presented by the government to determine whether persons should be required to stand trial?
(A) petit
(B) private
(C) secret
(D) grand
(E) citizens'
- The "right to remain silent" is a citizen's protection against which of the following?
(A) governmental intrusion
(B) search and seizure
(C) religious establishment
(D) a biased jury
(E) self-incrimination
- The double jeopardy clause prevents an individual who is acquitted of a crime from which of the following?
(A) media coverage
(B) being tried again
(C) going free
(D) asserting innocence
(E) seeking the assistance of an attorney
- Which of the following is responsible for determining whether enough evidence exists to support a conviction against a criminal defendant?
(A) trial court
(B) defense attorney
(C) prosecutor
(D) legislature
(E) jury