



RIGHTS OF THE ACCUSED

AP Exam
Study Tool



Original Constitution – Article I

- **Writ of Habeas Corpus** - A court order directing an official who has a person in custody to bring the prisoner to court to show cause for his or her detention (government cannot hold a suspect indefinitely without charging him/her of a crime)
- **Bill of Attainder** – Congress cannot pass legislative act that declares the guilt of an individual and hands out punishment without a judicial trial.
- **Ex Post Facto Law** – the government cannot make a crime that was not a crime when committed, that increases the penalty for crime after its commission, or that changes the rules of evidence so as to make conviction easier.

4th Amendment

- People, their homes, and their possessions cannot be searched or taken by the government without a good reason.
- In most cases, the police must get a warrant (permission from a judge) before they can conduct a search.
- No arrest except for probable cause
- Right to Privacy - expectation of Americans to be left alone, to be free from unwarranted snooping or spying, and to be secure in their own homes
- **Exclusionary Rule** - any illegally obtained evidence, no matter how incriminating, may not be admitted in federal court; *Mapp v. Ohio* (1961) - extended that to state courts

5th Amendment

- People who are accused of crimes do not have to give evidence against themselves.
- *Miranda v. Arizona* (1966) – Suspects must be informed of right to remain silent, that anything said may be used against him, and he has the right to an attorney
- People cannot be tried again for a crime for which they have been found innocent.
- People's lives, liberty, or property cannot be taken from them without due process of law.
- No coerced confessions or illegal interrogation

6th Amendment

- A person accused of a crime has the right to a speedy, public trial by a jury (other citizens).
- People must be told what crimes they are accused of.
- People have a right to question the persons who are accusing them.
- An accused person has the right to have a lawyer.
- *Gideon v. Wainwright* (1963) — Right of all persons accused of a felony (state or federal court) to an attorney, even if they cannot afford one (previously on criminal defendants accused of a capital crime had such rights).
- *Miranda v. Arizona* (1966) – accused must be notified of her/his rights

8th Amendment

- People arrested for crimes are entitled to be free on reasonable bail (money deposited with the court) while awaiting trial.
- If a person must pay a fine, it must be a fair amount.
- People found guilty of crimes shall not be punished in cruel and unusual ways.
- *Gregg v. Georgia* (1976) – death penalty upheld - did not violate 8th & 14th amendments in all cases
- *Roper v. Simmons* (2004) – execution of minors is cruel and unusual punishment

14th Amendment

- “No State shall . . . deprive any person of life, liberty, or property, without due process of law.”
- No state shall deny Equal protection of the law