**Unit 3 Chpt. 10 Topic 3.7-3.9 Due Process AMSCO pg. 312-34**

**3.7 Selective Incorporation**

Protections of the Bill of Rights have been selectively incorporated by way of the 14th amendment’s d\_\_\_\_\_ process clause to prevent state i\_\_\_\_\_\_\_\_\_\_\_\_ of b\_\_\_\_\_\_\_ liberties.

**Explain the implications of the doctrine of selective incorporation.**

The doctrine of selective incorporation has imposed l\_\_\_\_\_\_\_\_\_ on s\_\_\_\_\_\_\_\_ regulation of civil r\_\_\_\_\_\_ and l\_\_\_\_\_\_\_\_ as represented by ***McDonald v. Chicago (2010)***, which ruled the Second Amendment’s right to keep and bear arms for self-defense in one’s home is applicable to the s\_\_\_\_\_\_\_\_\_ through the \_\_\_\_\_\_\_\_ amendment.

**BILL OF RIGHTS AND THE STATES**

**BILL OF RIGHTS**

* Added to the original Constitution to a\_\_\_\_\_\_\_\_\_\_\_\_ states. Demanded by the Anti-F\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Rights of the i\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and states listed to protect them from the f\_\_\_\_\_\_\_\_\_\_\_\_\_\_ government
* Bill of Rights o\_\_\_\_\_\_\_\_ applied to the f\_\_\_\_\_\_\_\_\_\_\_ government and did not include protections against s\_\_\_\_\_\_\_\_\_ governments (*Barron v. Baltimore*, 1833)

– Belief was that people could protect themselves against the state governments that were in their own backyards, but they needed additional protection against a new, powerful, and distant national gov’t. Each state had its own state constitution and state bill of rights to protect their citizenry from the state government.

**SELECTIVE INCORPORATION OF THE BILL OF RIGHTS**

* The B \_\_\_\_of R\_\_\_\_\_\_\_ only apply to n\_\_\_\_\_\_\_\_\_ (f\_\_\_\_\_\_\_\_\_) government… NOT the states –*Barron v. Baltimore* (1833)
* **14th Amendment: created the possibility that the B of R would apply to the s\_\_\_\_\_\_\_\_\_**

**14th Amendment**: All persons b\_\_\_\_\_\_\_ or n\_\_\_\_\_\_\_\_\_\_\_\_ in the United States, and subject to the jurisdiction thereof, are c\_\_\_\_\_\_\_\_\_\_\_ of the United States and of the state wherein they reside. No s\_\_\_\_\_\_\_\_\_\_ shall make or enforce any law which shall a\_\_\_\_\_\_\_\_\_\_ the privileges or i\_\_\_\_\_\_\_\_\_\_\_\_\_ of citizens of the United States; nor shall any s\_\_\_\_\_\_\_\_\_ d\_\_\_\_\_\_\_\_\_\_ any person of l\_\_\_\_\_\_, l\_\_\_\_\_\_\_\_\_\_, or p\_\_\_\_\_\_\_\_\_\_\_\_, without d\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_ of l\_\_\_\_\_\_\_; nor deny to any person within its jurisdiction the e\_\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_\_\_ of the l\_\_\_\_\_\_\_\_\_.

**SELECTIVE INCORPORATION OF THE BILL OF RIGHTS**

**DOCTRINE OF INCORPORATION** constitutional doctrine through which the first t\_\_\_\_\_\_ a\_\_\_\_\_\_\_\_\_\_\_ of the United States Constitution (known as the B\_\_\_\_\_ of R\_\_\_\_\_\_\_\_) are made applicable to the states through the D\_\_\_\_\_\_\_ Process clause of the Fourteenth Amendment. I\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ applies both s\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and p\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**SELECTIVE INCORPORATION**: A constitutional doctrine through which the Bill of Rights are made applicable to the states through the Due Process clause of the Fourteenth Amendment and so applied to state and local governments.

Utilizing the language of the Fourteenth Amendment, specifically that “no state…shall a\_\_\_\_\_\_\_\_…d\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_ of law,” the n\_\_\_\_\_\_\_\_\_\_\_ government now serves as p\_\_\_\_\_\_\_\_\_\_\_ of our inalienable right to “life, liberty and property.” Most of the time this has resulted in the n\_\_\_\_\_\_\_\_\_\_\_ government i\_\_\_\_\_\_\_\_\_\_ its w\_\_\_\_\_\_\_\_\_ on s\_\_\_\_\_\_\_\_\_ and l\_\_\_\_\_\_\_ laws to the contrary.

The Fourteenth Amendment has weakened the states and strengthened the national government in our federal system of government.

**Explain how has the 14th amendment impacted federalism? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Modifying Effect of the 14th Amendment**

* The d\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_\_ clause has been used to apply some of the provisions of the B\_\_\_\_\_\_ of Rights to the s\_\_\_\_\_\_.
* This clause bans s\_\_\_\_\_\_\_ from denying l\_\_\_\_\_\_, l\_\_\_\_\_\_\_\_\_, or p\_\_\_\_\_\_\_\_\_\_\_ without d\_\_\_\_\_ process of law.
* The “total i\_\_\_\_\_\_\_\_\_\_\_\_\_” view would apply a\_\_\_\_\_ of the provisions of the B\_\_\_\_\_\_\_\_ of Rights to the s\_\_\_\_\_\_. It argues for n\_\_\_\_\_\_\_\_\_\_\_\_\_ (or f\_\_\_\_\_\_\_\_\_\_\_\_\_) of the Bill of R\_\_\_\_\_\_\_\_\_\_\_.
* The “s\_\_\_\_\_\_\_\_\_\_\_\_\_ incorporation” view would apply only s\_\_\_\_\_\_\_\_\_ of these provisions and would do so on a c\_\_\_\_\_\_\_\_\_- by-c\_\_\_\_\_\_\_\_ basis.

Utilizing the language of the Fourteenth Amendment, specifically that “no state…shall abridge…due process of law,” the n\_\_\_\_\_\_\_\_\_\_\_\_ government now serves as p\_\_\_\_\_\_\_\_\_\_\_\_ of our inalienable right to “life, liberty and property.” Most of the time this has resulted in the n\_\_\_\_\_\_\_\_\_\_\_ government imposing its w\_\_\_\_\_\_\_ on state and local laws to the contrary.

The F\_\_\_\_\_\_\_\_\_\_\_\_ Amendment has w\_\_\_\_\_\_\_\_\_\_\_ the states and strengthened the national government in our f\_\_\_\_\_\_\_\_\_\_\_\_ system of government.

**Modifying Effect of the 14th Amendment**

* **Subsequent cases federalized parts of the Bill of Rights:**
  + 1st – Freedom of Speech, Assembly, Petition, Religion
  + 2nd – Right to Bear Arms
  + 4th – Search and Seizure protections
  + 5th – Self-Incrimination, Double Jeopardy
  + 6th – Right to Counsel, Right to Bring Witnesses, Right to Confront Witnesses
  + 8th – Protection against Cruel and Unusual Punishment, Excessive Fines

The 14th amendment was created to p\_\_\_\_\_\_\_\_\_ the rights of the newly freed people from the states. It bestowed upon them US citizenship and full guarantees of the Bill of Rights. It was done to stop the J\_\_\_\_\_\_\_ Crow/ black c\_\_\_\_\_\_\_ of the post-civil war period. 14th am planted the seeds of the Civil Rights Movement

***McDonald v. Chicago* (2010)-SUPREME COURT *YOU MUST KNOW***

**Issue:** Does the Second Amendment right to keep and bear arms apply to state and local governments through the 14th Amendment and thus limit Chicago’s ability to regulate guns?

**Majority:** 2nd Amendment right to keep and bear arms for the purpose of self-defense is fully applicable to the s\_\_\_\_\_\_\_\_ under the \_\_\_\_th Amendment. The Court considered whether the right to keep guns “is fundamental to our scheme of ordered liberty and system of justice.” The Court determined that both the Framers of and those who ratified the 14th Amendment considered the right to keep and bear arms among the f\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ rights “necessary to our system of ordered liberty.” S\_\_\_\_\_\_\_-defense is a basic right, and that, under *Heller*, individual self-defense is the central component of the S\_\_\_\_\_\_\_\_\_\_\_\_ Amendment right to bear arms.

**The debate over the Second Amendment involves concerns about public safety and whether or not the government regulation of firearms promotes or interferes with public safety and individual rights.**

**Supreme Court:** *“Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem.*

*That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second*

*Amendment extinct.” -*Justice Alito

* **What was the significance of the ruling in *McDonald v. Chicago*?**
* **Have recent Supreme Court decisions on the Second Amendment leaned more toward individual liberty or public safety?**

**3.8 Amendments: Due Process and the Rights of the Accused**

**FOURTH AMENDMENT RIGHTS**

“The right of the people to be secure in their persons, houses, papers, and effects, a\_\_\_\_\_\_\_\_\_ u\_\_\_\_\_\_\_\_\_\_ s\_\_\_\_\_\_\_\_\_\_\_ and s\_\_\_\_\_\_\_\_\_\_\_\_, shall not be violated, and no Warrants shall issue, but upon p\_\_\_\_\_\_\_\_\_\_ cause, supported by oath or affirmation, and particularly d\_\_\_\_\_\_\_\_ the place to be s\_\_\_\_\_\_\_\_, and the p\_\_\_\_\_\_\_\_ or things to be s\_\_\_\_\_\_\_.” -*4th amendment US Constitution*

**Probable cause-** sufficient reason based upon known facts to believe a crime has been committed or that certain property is connected with a crime. Probable cause **m\_\_\_\_\_\_\_\_ exist** for a law enforcement officer to make an a\_\_\_\_\_\_\_\_ without a warrant, search without a warrant, or seize property in the belief the items were evidence of a crime. <https://www.law.cornell.edu/wex/probable_cause>

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. There are exemptions as in *exigent circumstances*.

– Ex: police use of sobriety checkpoints in enforcing drunk driving laws is ALLOWED.

*Mapp v. Ohio (1961)* - The Supreme Court ruled that evidence obtained unconstitutionally cannot be used in court against person from whom it was seized. EXCLUSIONARY RULE

Adopted mainly to p\_\_\_\_\_\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_\_ 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)*
  + *In plain view*

What is reasonable suspicion compared to probable cause?

**The Incorporation of the FOURTH AMENDMENT**

Which case(s) really brought this amendment into public debate?

*Weeks v. United States, 1914*

Police officers in Kansas City, Missouri went to the house of Mr. Fremont Weeks and used his hidden key to enter and search his home. While there, they took papers, letters, books, and other items. They did not have a search warrant. These items were used in court to find Mr. Weeks guilty of sending lottery tickets through the U.S. mail.

**Supreme Court Decision**

The judgment of the district court was reversed. The evidence collected during the illegal search was in violation of the 4th Amendment and was thus inadmissible at the trial. In a criminal investigation, in order for a search to be legal, there must be probable cause. The p\_\_\_\_\_\_\_\_\_\_\_ cause must be used to gain a search warrant. If not, the search will be illegal, and evidence collected as a result of the search can’t be used in court. The Weeks decision was the birth of a new legal doctrine – **The e\_\_\_\_\_\_\_\_\_\_\_\_ rule**. <https://judiciallearningcenter.org/your-4th-amendment-rights/>

**Rochin v. California, 1952**

Rochin was a suspected narcotics dealer. Acting on a tip 3 Los Angeles County deputy sheriffs went to his rooming house. They forced their way into Rochin’s room. There the deputies found him sitting on a bed and spotted two capsules on a nightstand. When one of the deputies asked, “who’s stuff is this?” Roachin popped the capsules to his mouth. Although all three officers jumped him, Roachin managed to have swallowed them.

Deputies took Roach to a hospital, where his stomach was pumped. The capsules were recovered and found to contain morphine. The state then prosecuted and convicted Rochin for violating the state’s narcotics laws.

**Did the police procedure forcing Rochin to vomit violate the Fifth Amendment privilege against self-incrimination and the *Due Process Clause* of the 14th Amendment? Explain**

Did the police procedure forcing Rochin to vomit violate the Fifth Amendment privilege against self-incrimination and the Due Process Clause of the 14th Amendment? Explain

**The Incorporation of the FOURTH AMENDMENT**

***Mapp v. Ohio, 1961***

A picture containing flower, plant

Description automatically generatedCleveland Police had gone to Dollree Mapp’s home to search for a fugitive. They entered her home forcibly, and without a warrant. Mapp and police got into a scuffle. Their very extensive search failed to turn up any fugitive evidence, but they did find some obscene books . Mapp was convicted of possession of obscene materials and sentenced to jail.

**4th Amendment The Fruit Of The Poisonous Tree Doctrine- The Exclusionary Rule**

A doctrine that extends the e\_\_\_\_\_\_\_\_\_ rule to make evidence i\_\_\_\_\_\_\_\_\_\_\_\_\_ in court if it was derived from evidence that was i\_\_\_\_\_\_\_\_\_\_ obtained. As the metaphor suggests, if the evidential "tree" is tainted, so is its "fruit."

The Exclusionary rule applies not only to evidence obtain indirectly as a result of improper police conduct but also to evidence obtained indirectly from the improper conduct.

Evidence derived initial improper conduct is usually called **F­­­­\_\_\_\_\_\_\_ Of The P\_\_\_\_\_\_\_\_ Tree**

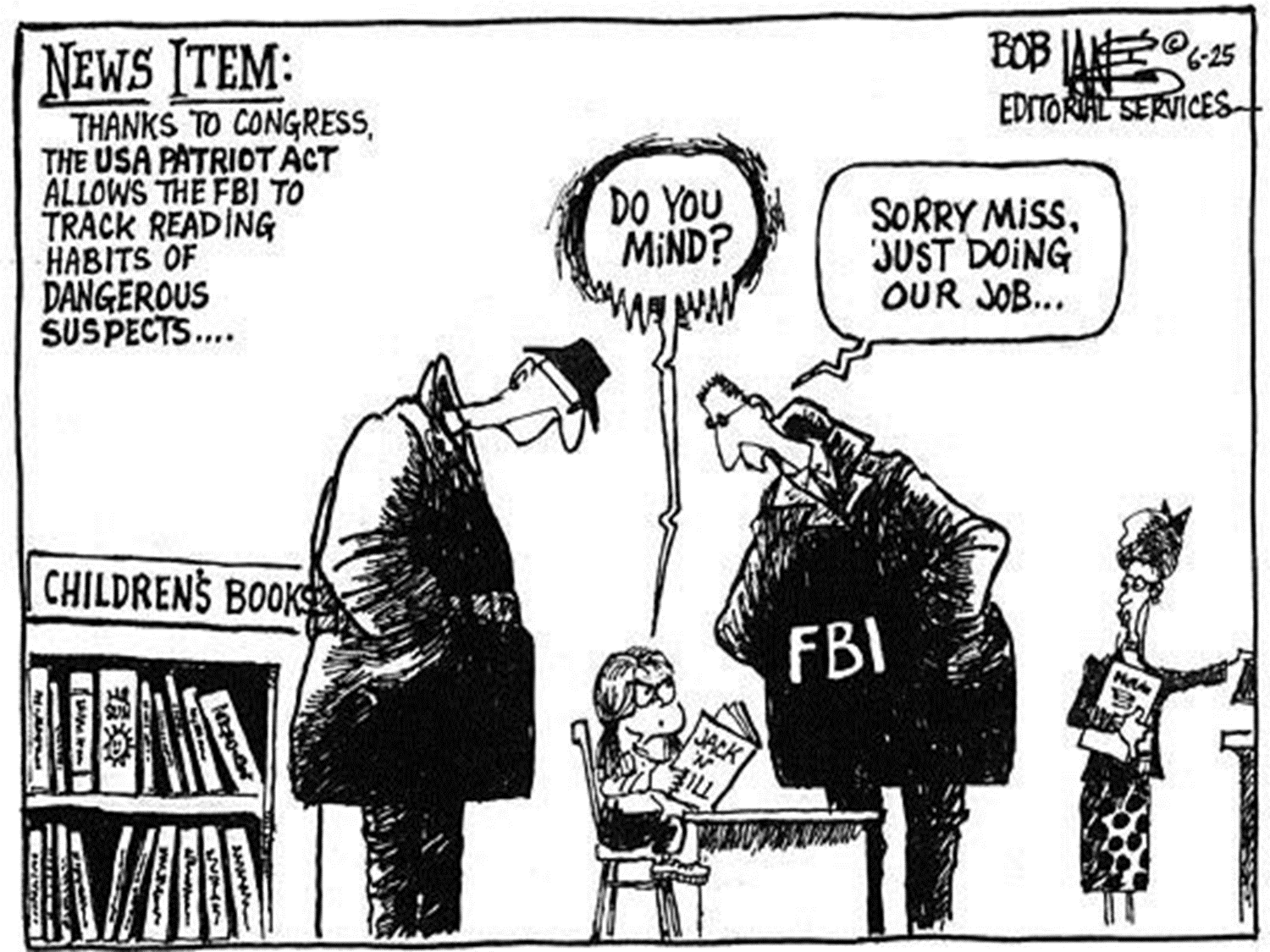
**14th Amendment**: All persons b\_\_\_\_\_\_\_ or n\_\_\_\_\_\_\_\_\_\_\_\_ in the United States, and subject to the jurisdiction thereof, are c\_\_\_\_\_\_\_\_\_\_\_ of the United States and of the state wherein they reside. No s\_\_\_\_\_\_\_\_\_\_ shall make or enforce any law which shall a\_\_\_\_\_\_\_\_\_\_ the privileges or i\_\_\_\_\_\_\_\_\_\_\_\_\_ of citizens of the United States; nor shall any s\_\_\_\_\_\_\_\_\_ d\_\_\_\_\_\_\_\_\_\_ any person of l\_\_\_\_\_\_, l\_\_\_\_\_\_\_\_\_\_, or p\_\_\_\_\_\_\_\_\_\_\_\_, without d\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_ of l\_\_\_\_\_\_\_; nor deny to any person within its jurisdiction the e\_\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_\_\_ of the l\_\_\_\_\_\_\_\_\_.

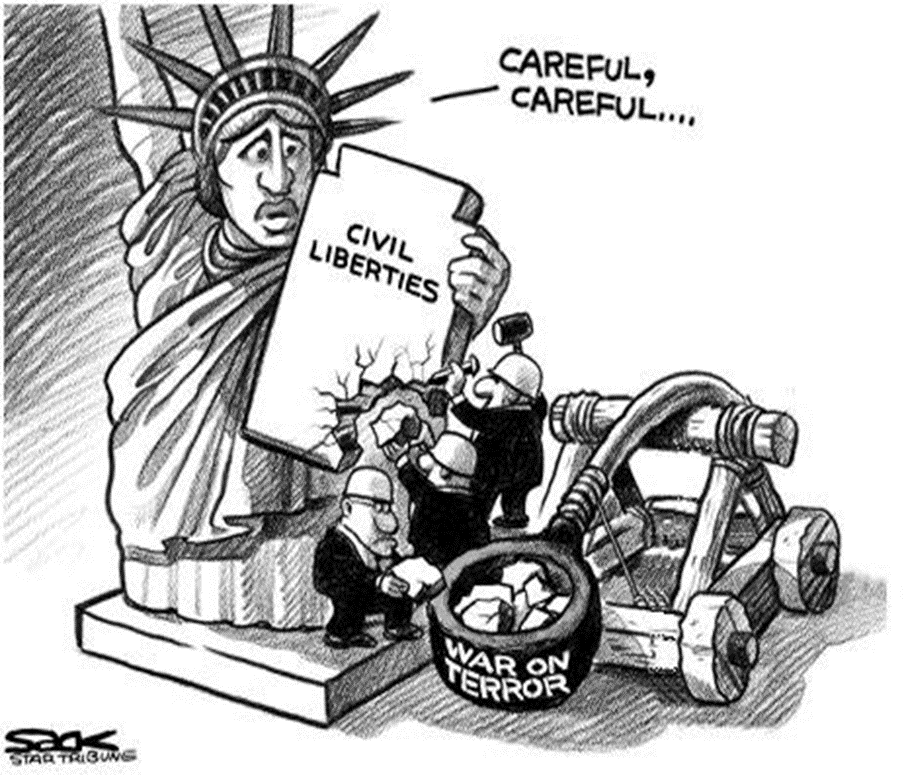
**14th amendment was meant to protect citizens from the states. Passed in 1868 to protect the newly freed citizens of the Republic, the former slaves.**

**USA PATRIOT ACT (U**niting and **S**trengthening **A**merica by **P**roviding **A**ppropriate **T**ools **R**equired to **I**ntercept and **O**bstruct **T**errorism**) 2001**

The law covered intelligence gathering and sharing by executive branch agencies, points of criminal procedure, and border protection. It also widened authority on tapping suspects’ phones.

* Soon, people began to question the law's constitutionality and its threat to c\_\_\_\_\_\_\_\_\_ l\_\_\_\_\_\_\_\_\_\_\_\_\_.
* Some of the most controversial parts of the Patriot Act surround issues of privacy and government surveillance. The Fourth Amendment to the U.S. Constitution protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures . . . ." It requires law-enforcement officers to obtain w\_\_\_\_\_\_\_\_\_\_\_\_ before making most searches.
* Does the government have the right to collect phone and internet data from individuals?

**Is metadata collection on the part of the gov allowed without a search warrant? Explain. *AMSCO pg. 305***

**Did the government violate the 4th Amendment with the Patriot Act?**

**5th Amendment to the US Constitution-Protects us from the federal government.**

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or i\_\_\_\_\_\_\_\_\_\_\_ of a g\_\_\_\_\_\_\_\_\_\_ j\_\_\_\_\_\_\_\_\_\_ 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 s\_\_\_\_\_\_\_\_ for the same offense to be t\_\_\_\_\_\_\_\_\_ put in j\_\_\_\_\_\_\_\_\_\_\_ of life or limb; nor shall be compelled in any criminal case to be a w\_\_\_\_\_\_\_\_\_ a\_\_\_\_\_\_\_\_\_\_\_ himself, nor be deprived of l\_\_\_\_\_\_\_, l\_\_\_\_\_\_\_, or property, without d\_\_\_\_\_\_\_ process of law; nor shall private property be taken for public use, without just compensation.“—eminent domain

**eminent domain- \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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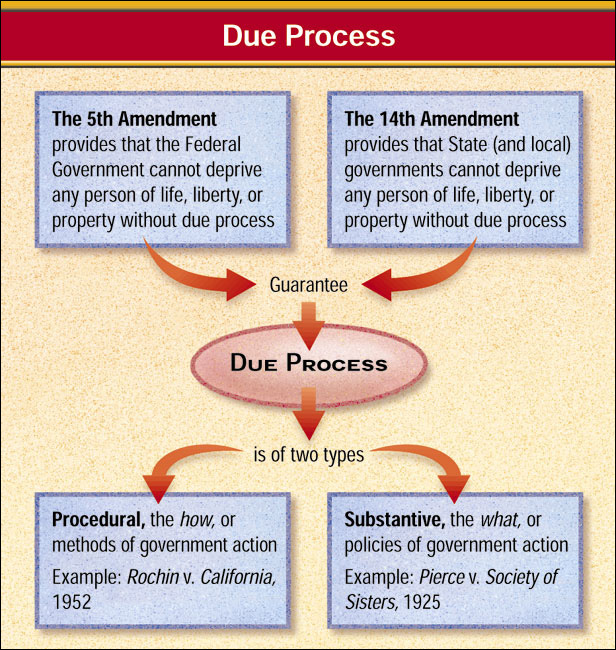
**FIFTH AMENDMENT RIGHTS – *DUE PROCESS RIGHTS***

When govt. denies life, liberty or property, it must use f\_\_\_\_\_\_ procedures:

* + Observe Bill of R\_\_\_\_\_\_\_\_\_
  + Provide reasonable n\_\_\_\_\_\_\_\_\_\_
  + Provide chance to be h\_\_\_\_\_\_\_\_

Procedural due process refers to the m\_\_\_\_\_\_\_\_\_\_ (process, the h\_\_\_\_\_\_\_ by which a law is e\_\_\_\_\_\_\_\_\_\_\_\_\_\_; pertains not to the law itself, but to the w\_\_\_\_\_\_\_\_ in which the law is a\_\_\_\_\_\_\_\_\_\_\_.

* + Examples of violations of procedural due process:
    - Illegal Searches.
    - Unfair Court Procedures.
* Substantive due process p\_\_\_\_\_\_\_\_ l\_\_\_\_\_\_\_\_\_ on what a government may do; pertains to the content (substance, the policies, the what) 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 (s\_\_\_\_\_\_\_\_\_\_\_) and police must generally obtain a warrant before conducting a search for narcotics in one’s home (p\_\_\_\_\_\_\_\_\_\_\_).

***…nor shall be compelled in any criminal case to be a witness against himself…***

**FIFTH AMENDMENT RIGHTS AND 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 r\_\_\_\_\_\_\_\_\_\_ s\_\_\_\_\_\_\_\_\_
  + Warned that what they say may be used a\_\_\_\_\_\_\_\_\_\_ them in court
  + Told that they have a right to have a\_\_\_\_\_\_\_\_\_\_ present during questioning
  + Informed that if they cannot afford to hire their own lawyer, attorneys will be provided for them
  + Permitted to t\_\_\_\_\_\_\_\_\_\_\_\_ any stage of the police interrogation

**6th Amendment**

In all criminal prosecutions, the accused shall enjoy the right to a s\_\_\_\_\_\_ and p\_\_\_\_\_\_ trial, by an i\_\_\_\_\_\_\_\_ jury of the S\_\_\_\_\_\_ and d\_\_\_\_\_\_\_\_\_\_ wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be i\_\_\_\_\_\_\_\_\_\_\_ of the nature and cause of the a\_\_\_\_\_\_\_\_\_\_\_; to be confronted with the w\_\_\_\_\_\_\_\_\_\_\_ against him; to have c\_\_\_\_\_\_\_\_\_\_\_\_\_ process for obtaining witnesses in his f\_\_\_\_\_\_\_, and to have the Assistance of C\_\_\_\_\_\_\_\_ for his defense.

**SIXTH AMENDMENT RIGHTS – “FAIR TRIAL”**

* Right to an a\_\_\_\_\_\_\_\_/counsel/lawyer- all are different terms for lawyers
* Government is obligated to give the defendant a s\_\_\_\_\_\_\_\_ trial
* Government is obligated to give the defendant a p\_\_\_\_\_\_\_\_ trial
* An i\_\_\_\_\_\_\_\_\_\_ jury consists of persons who represent a fair cross-section of the community= jury of your peers
* Defendant has the constitutional right to obtain w\_\_\_\_\_\_\_\_\_ in his/her favor

– Constitution gives accused persons the right to be c\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with the witnesses against them

**SIXTH AMENDMENT RIGHTS – “FAIR TRIAL” P\_\_\_\_\_\_\_\_\_ Due Process**

* **The Right to counsel**
  + Judges have an obligation to ensure that all persons subject to any kind of custodial interrogation are represented by l\_\_\_\_\_\_\_\_\_\_\_\_.
  + Right to counsel extends to all hearings for all offenses for which an accused could be deprived of l\_\_\_\_\_\_\_\_\_\_
  + In *G\_\_\_\_\_\_\_\_\_\_ v. Wainwright* (1963), the United States Supreme Court ruled that the S\_\_\_\_\_\_ Amendment right-to-counsel provision applies to those accused of major crimes under state laws and applies to the i\_\_\_\_\_\_\_\_\_\_\_\_.

|  |  |
| --- | --- |
| [**VIDEO: Gideon v. Wainwright (1963)**](https://www.youtube.com/watch?v=P-Ry5axDF40) | |
| **FACTS:** | |
| **Decision:** | **Constitutional Principle:** |
| **Why it matters?** | |

**Balancing Individual Freedoms with Public Order**

What are your rights according to those amendments?

**Fourth-**

**Fifth-**

**Sixth-**

**Eighth-**

**TOPIC 3.9 Amendments: Due Process and the Right to Privacy**

**Is There a Right to Privacy in the Constitution?**

Definition: The right to a private personal life free from the intrusion of government

* N\_\_\_\_\_\_ explicitly s\_\_\_\_\_\_\_\_ in the Constitution, but implied through the penumbras (implied rights) of the Bill of Rights
* Supreme Court agrees that a right to privacy exist
  + *Griswold v. Connecticut (1965)*
    - Overturned an 1879 Connecticut law that made the contraceptives illegal to married couples
    - Even though “privacy” doesn’t appear in the Constitution, specific guarantees in the 1st, 3rd, 4th, and 5th Amendments create a zone of privacy that is protected by the 9th Amendment

**The right to privacy or to be left alone is not mentioned in the constitution, it can be e can be inferred from the following amendments:**

1st amendment: Freedom of s\_\_\_\_\_\_\_\_\_ or the p\_\_\_\_\_\_\_\_ of your own t\_\_\_\_\_\_\_\_\_ or a\_\_\_\_\_\_\_\_\_\_\_\_\_ (a\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

3rd amendment: protects your home from the once used government practice of housing s\_\_\_\_\_\_\_ during peacetime in your house.

4th amendment: protects against i\_\_\_\_\_\_\_\_\_\_ searches, keeping your home or other areas p\_\_\_\_\_\_\_\_\_\_.

5th amendment: gives the accused the right to r\_\_\_\_\_\_\_\_\_ s\_\_\_\_\_\_\_\_\_ and thus keeping information p\_\_\_\_\_\_\_\_\_.

9th amendment: states that the p\_\_\_\_\_\_\_\_ have r\_\_\_\_\_\_\_\_ not s\_\_\_\_\_\_\_\_\_\_ l\_\_\_\_\_\_\_\_\_\_, i.e. p\_\_\_\_\_\_\_\_\_\_\_.

|  |  |
| --- | --- |
| [**Video Roe v. Wade (1973)**](https://www.youtube.com/watch?v=2n-fuH2Lq0w) | |
| **FACTS:** | |
| **Decision:** | **Constitutional Principle:** |
| **Why it matters?** | |

**A Woman’s right to privacy encompasses a woman’s decision whether or not to terminate her pregnancy**

1. In the first trimester of pregnancy (about three months), a State must recognize a woman's right to an abortion; it cannot interfere with medical judgments in that matter during that period.

2. In the second trimester, a State, acting in the interest o women who undergo abortions, can make reasonable regulations about how, when, and where abortions can be performed but cannot prohibit the procedure.

3. In the final trimester, a State, acting to protect the unborn child, can choose to prohibit all abortions except those necessary to preserve the li e or health o the mother. ***2009 Magruder’s pg. 581***

**Roe Revisited: *Planned Parenthood v. Casey (1992)***

The issue: Was the Pennsylvania Abortion Control Act of 1982 constitutional?

* Law required that a woman seeking an abortion meet several conditions
* Would Roe be overturned?
  + No… Justice O’Connor argued that stare decisis (precedent of the Court) required the Court to not overturn Roe.
  + “A generation of women had come to depend on the right to an abortion.”
  + The Court held that states cannot prohibit abortion prior to viability (before the fetus could live independently outside of the mother’s womb).
  + HOWEVER, the Court allowed certain restrictions on abortions
    - States can regulate abortions before viability as long as the regulation does not place an “undue burden” (substantial obstacle) on the access to abortion.
    - After fetal viability, however, states have increased power to restrict the availability of abortions to

protect the health of the woman and the potential life of the fetus.

* + - Thus, states can pass some laws that regulate abortion, but these laws cannot place a “substantial obstacle in the path of a woman seeking an abortion.”

**Dobbs *v.* Jackson Women's Health Organization (2021)**

**Concepts of American Government**

**Judicial Activism or Judicial Restraint, (stare-decisis)**

**Federalism**

**Checks and Balances**