

CELEBRATE THE CONSTITUTION!
Student Guide to the U.S. Constitution

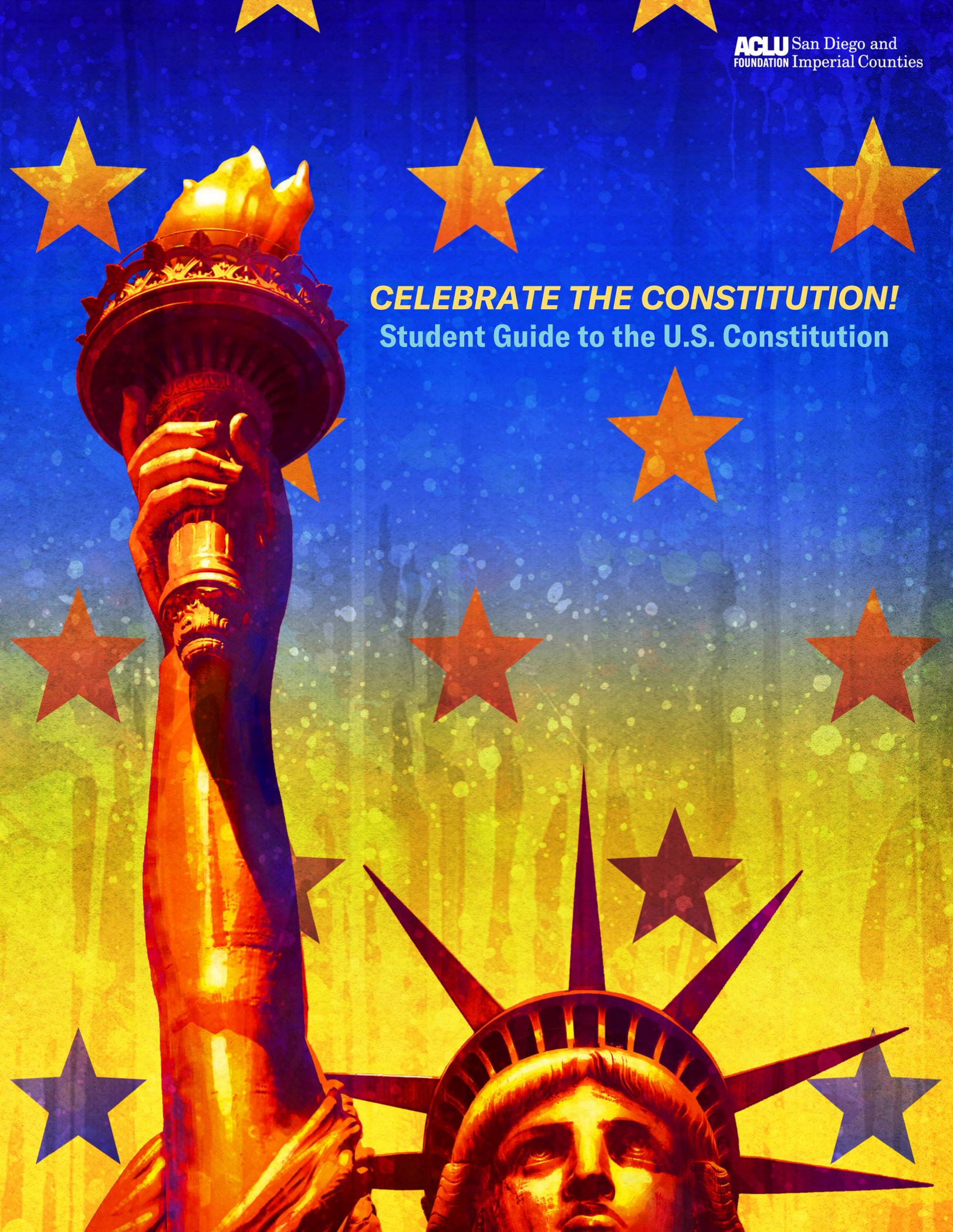




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DID YOU KNOW?

The Constitution doesn't list who has the right to vote. Instead, it lists who cannot be denied the right to vote.

In 1920, 133 years after the Constitution was adopted, the 19th Amendment of the Constitution was adopted, giving women the right to vote.

★—————★
As evidence of its continued flexibility (or limited flexibility, depending on your viewpoint), the Constitution has been amended 27 times.

What is the U.S. Constitution?

The United States Constitution was signed on September 17, 1787. It is the supreme law of the land, providing the framework for the organization of the government and its relationships with the states and its people.

The Constitution defines our responsibilities and rights as individuals, and the responsibilities of the government. It provides basic legal protections to all people within the United States. It explains how our government works so that we can participate effectively in its processes.

What is Constitution Day?

September 17 is "Constitution Day." Constitution Day was established as a federal holiday in 2004 by the U.S. Congress to commemorate the date the U.S. Constitution was signed in 1787 and recognize the importance of our nation's founding document.

Schools receiving federal funds are required to provide educational programming about the Constitution on or near the anniversary of its signing.

What is the ACLU of San Diego & Imperial Counties?

The ACLU Foundation of San Diego & Imperial Counties has advocated for civil liberties in our region for more than 80 years. We fight for individual rights and fundamental freedoms for all through litigation, public policy and community action.

Follow us on social media for up-to-date news in the fight for civil rights.



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What is Celebrate the Constitution?

The ACLU Foundation of San Diego & Imperial Counties' (ACLUF-SDIC) developed the Celebrate the Constitution! program (CTC!) in 2007 to educate students about their civil rights and freedoms and to help local middle and high school teachers meet this new law (see "What is Constitution Day?").

Since then, our volunteer presenters - judges, attorneys, elected officials and community leaders - have shared their knowledge and insights about the Constitution with students like you, both in-person and virtually.*

We Want to Hear from YOU!

This year, the ACLUF-SDIC invites you to share your knowledge and insights about the Constitution with us by self-producing a video, artwork or other digital content as part of this lesson.

Your teacher will then select up to five creations to submit to the ACLUF-SDIC where we will share on celebratetheconstitution.org and our social media channels.

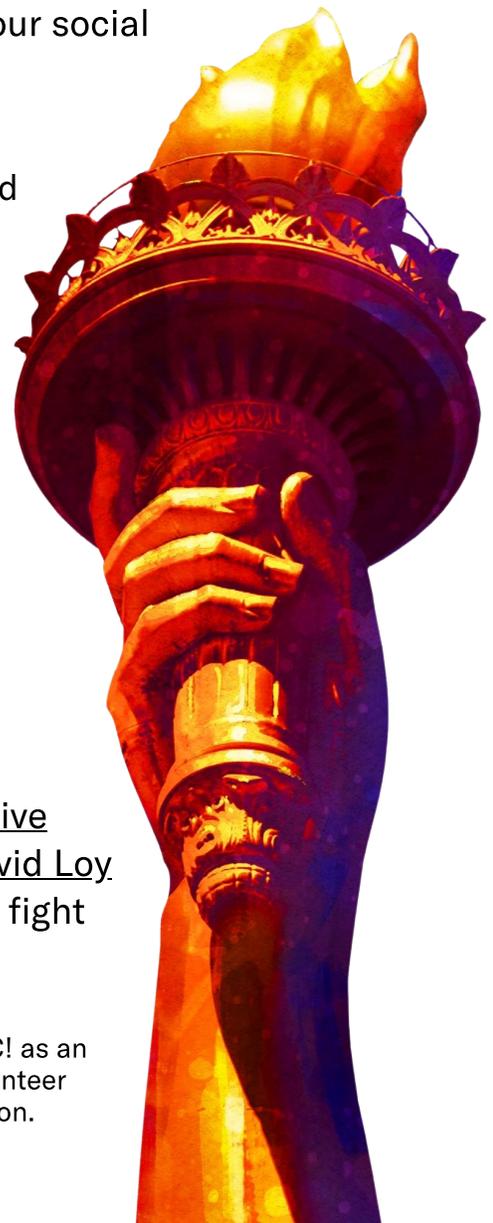
We encourage you to be creative in your production. We welcome all forms of digital content - art, poetry (written and video-recorded recitation), rap, music, interviews, puppetry, skits, etc.

More importantly, we ask you to not only celebrate the Constitution for what it is, we ask you celebrate it for what it can be. As your reading through the document, begin thinking about what you like or appreciate in the text, while also thinking about how it might be amended to create a more perfect Union.

All submissions will have an opportunity to win:

- ACLUF-SDIC t-shirts
- ACLUF-SDIC tote bags
- A 30-minute conversation with ACLUF-SDIC Executive Director Norma Chávez-Peterson, Legal Director David Loy or another key staff member about what it means to fight for a more equitable region.

*In 2020, the COVID-19 crisis prompted a reimagining of our in-person CTC! as an entirely digital initiative. Rather than visiting classrooms, we have asked volunteer presenters create non-partisan, educational videos about the U.S. Constitution.





GUIDING QUESTIONS & RESOURCES

GUIDING QUESTIONS INSTRUCTIONS: Choose one of the following questions to address in your digital creation based on the constitutional topic you/your group has chosen.

1. What were the framers' goals in creating the U.S. Constitution?
 - a. Were they successful? Why or why not?

2. Why do you think a Bill of Rights was necessary to include in the Constitution?

3. In what ways does the Constitution represent the times in which it was written?
 - a. Are there inconsistencies with present-day values such as equal justice and inclusion?

4. Which constitutional amendment do you think is the most important? Why?
 - a. What condition or concern does it address? How does it make us a stronger, fairer nation? In what way(s), if any, can this amendment be changed to expand civil rights and liberties?

5. How would you amend the Constitution to promote the general welfare, expand equity or create a more perfect Union?
 - a. Would you add a new amendment? Amend an existing one?
 - i. For example, you could address climate change, lower the voting age, expand youth rights, eliminate the electoral college, etc.

RESOURCES FOR PRODUCING YOUR DIGITAL CREATION

- [Video Best Practices Guide](#)
- [ACLUF-SDIC downloadable artwork for use in their digital creations.](#)
- Sample Video: [The 13th Amendment: Abolishing all Forms of the Enslavement of People](#)



ARTICLES OF THE U.S. CONSTITUTION

The first seven articles of the Constitution set forth how the U.S. (federal) government interacts with its populace and states.

Article 1:

Spells out the duties and responsibilities of the Legislative Branch. Congress is bicameral, that is, made up of two houses: the House of Representatives and the Senate.

Article 2:

Describes the Executive Branch's power to enforce laws and to make sure that the laws are being carried out as intended.

Article 3:

Explains the Judicial Branch's power - the power to judge - given to the U.S. Supreme Court and lower courts.

Article 4:

Governs relations between the states, and declares that states must respect one another's court decisions and laws even when they disagree with them.

Article 5:

Describes how the Constitution can be changed. The only way it can be changed is by adding an amendment. At least two-thirds of both houses of Congress must call for a proposed amendment. Once it is proposed, it must be ratified (approved) by at least three-quarters of the states. The president's signature is not required. Only 27 amendments have been added to the Constitution since 1787.

Article 6:

Declares that the Constitution is "the supreme law of the land." The laws and treaties within the Constitution are binding on every judge in every state - though at the same time, they protect many state powers. Our system of government is known as "federalist." This means that the national and state governments share power. This is a key feature of U.S. government.

Article 7:

Explains how many states were required to approve the Constitution as the supreme law of the land.



BILL OF RIGHTS

The Bill of Rights is the name for the first 10 amendments of the U.S. Constitution. These measures serve to limit the power of the federal government from infringing on individuals' "unalienable" rights.



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

Though the early colonies were founded by people who fled religious persecution, they did not extend freedom of worship to others. When the Constitution was adopted, people believed that religious liberty could only be preserved if the government had no role in promoting religion.

The freedom of speech, press, assembly and ability to criticize the government grew out of a centuries-long struggle in England against press censorship. By the end of the 17th century, it was possible to publish without government approval, but an author or publisher could be tortured and even executed for "seditious libel" (being critical of the king, church or other government officials). The American Revolution was made possible through the exercise of the freedoms of expression and assembly later preserved in the First Amendment.

Landmark Supreme Court Cases

FREEDOM OF RELIGION: In 1962, in *Engel v. Vitale*, the U.S. Supreme Court ruled that organized prayer in public schools violated the First Amendment's separation of church and state.

FREEDOM OF SPEECH: In 1969, in *Brandenburg v. Ohio*, the Court ruled that even (or especially) unpopular speech is protected by the First Amendment, including speech that advocates for the use of force and violence to bring about change.



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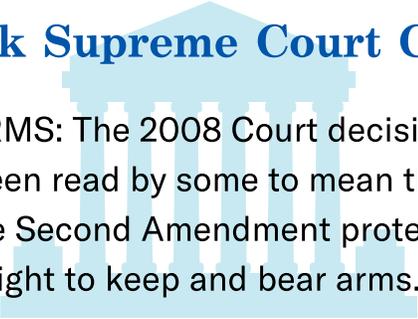
A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

During the colonial period, each colony had a militia in which citizens were required to serve and provide their own guns and ammunition. Many of the state militias fought in the American Revolution.

Following the Revolution, independent state militias were viewed as a defense against the federal government as there were fears that the government's power could become unchecked and it could use its national army against the states and the people.

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Landmark Supreme Court Case



BEARING ARMS: The 2008 Court decision in *D.C. v. Heller* has been read by some to mean that for the first time, the Second Amendment protects an individual's right to keep and bear arms.



3

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

DID YOU KNOW?

Thomas Jefferson did not sign the Constitution. He was in France during the Constitutional Convention, where he served as the U.S. minister. John Adams was serving as the U.S. minister to Great Britain during the Convention and did not attend either.

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When the Constitution was signed, the U.S. pop. was 4 million. Philadelphia was the nation's largest city, with a pop. of 40,000. The total U.S. pop. is now more than 332 million, and Philadelphia's pop. is now over 1.6 million.



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.

Before the American Revolution, British soldiers carrying documents called "writs of assistance" could barge into private homes to search for smuggled goods, political troublemakers or documents critical of the government.

Colonial anger over this invasion of privacy was a major grievance in the Declaration of Independence. The Fourth Amendment states that "persons, houses, papers, and effects" can be searched only if there is a specific reason - backed by evidence ("probable cause") - for suspecting a particular person of criminal activity.

Landmark Supreme Court Cases

SEARCHES AND WARRANTS: In 1928, in *Olmstead v. United States*, the Court ruled that police could wiretap a phone without a warrant.

- In 1967, in *Katz v. United States*, the *Olmstead* ruling was reversed. The Court ruled that a warrant based on evidence of criminal behavior is needed for a wiretap, just as for a physical search. The 1967 ruling was one of the first cases in which the Court addressed the "right to privacy" and provided a clear definition of a "search."
- In 2014, the Court held unanimously in *Riley v. California* that the warrantless search and seizure of digital content of a cell phone during an arrest is unconstitutional.

EXCLUSIONARY RULE: In 1961, in *Mapp v. Ohio*, the Court held that evidence illegally seized by local or state police could not be introduced in court because it violated the Fourth Amendment's protections against "unreasonable searches and seizures."

- *Mapp* was the first case in which the Warren Court (Chief Justice Earl Warren) reviewed nearly every aspect of the criminal justice system by using the 14th Amendment to extend constitutional protections to all courts in all states. The process is known as the "incorporation of the Bill of Rights."



No person shall be held to answer 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 offense 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.

The Fifth Amendment establishes rules for how a person is to be treated if charged with a crime. It says people cannot be "compelled" to confess to a crime or testify against themselves. They can't be arrested on little or no evidence and repeatedly tried by the government for the same offense. Fair procedures ("due process of law") must be followed before a person can be found guilty and sentenced.

Landmark Supreme Court Case

RIGHT TO REMAIN SILENT: In 1966, in *Miranda v. Arizona*, the Court ruled that a person being held in police custody must be informed of their rights before being questioned.

DID YOU KNOW?

At first, the Fifth Amendment only applied to federal courts. The 14th Amendment expanded it to apply to state courts too.

"Due process" is the only phrase that appears twice in the Constitution, once in the Fifth Amendment and later in the 14th Amendment.



6

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.

British officials would often arrest, detain, try and convict colonialists of a crime without informing them of the charges. The additional due process of the law procedures in this amendment - including the right to a speedy criminal trial, to examine witnesses and to be represented by an attorney - were intended to ensure that the new federal government would not act in the same way.

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Landmark Supreme Court Case

RIGHT TO COUNSEL: In 1963, in *Gideon v. Wainwright*, the Court guaranteed the right to a lawyer when being tried for a serious crime in a state court.

- In 1967, the Court ruled that these protections extend to minors in a case involving 15-year-old Gerald Gault who was sentenced to state reform school for six years after being accused of making an obscene phone call. Prior to sentencing, he was not given an opportunity to have a lawyer nor was he informed of the exact charges. The Court decided that minors, like adults, have the right to remain silent, to be represented by an attorney, to know what the charges are and to cross-examine witnesses who testify against them.



7

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

The Seventh Amendment guarantees a jury trial for civil cases in the federal courts.



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

Gruesome forms of physical torture were used to punish people and to force confessions until the early 18th century when these methods began to be regarded as barbaric. This amendment was added to put an end to torture. It was also meant to prevent the government from keeping people in prison indefinitely by making bail or fines impossibly high. In *Trop v. Dulles* in 1958, Chief Justice Earl Warren invoked the notion of using "evolving standards of decency" to apply to what forms of punishment could be considered "cruel and unusual."

Landmark Supreme Court Cases

RIGHT TO COUNSEL: In 1972, the Court held in *Furman v. Georgia* that capital punishment, as it was being applied, was not a credible deterrent to crime and that it can constitute cruel and unusual punishment.

- But in 1976, in *Gregg v. Georgia*, the Court said that states could reintroduce capital punishment if they rewrote their death penalty statutes to end arbitrary and racially-biased sentencing. The Court created two guidelines for state legislatures to follow in order to remain constitutional:
 - Sentencing guidelines must provide objective criteria to direct and limit death sentencing discretion; and
 - They must allow the judge or jury to take into account the character and record of the defendant. Today, 20 states and the District of Columbia have abolished the death penalty.

DID YOU KNOW?

It took three and a half months to create the Constitution. The Constitutional Convention convened on May 25, 1787. Delegates debated how the new government should be formed, and agreed on the final draft on Sept. 17, 1787.



9

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

The Ninth Amendment serves as a safety net to protect people's and states' rights not explicitly stated in the Bill of Rights. This amendment was born out of compromise between some framers who preferred a general declaration of rights rather than a bill of rights, and those who refused to ratify the Constitution without a specific list of protections.

Landmark Supreme Court Case

RIGHT TO PRIVACY: The first major Supreme Court test of reproductive rights came in *Griswold v. Connecticut* in 1965, challenging the state's 1879 prohibition against the prescription, sale or use of contraceptives, even for married couples.

- In a 7-2 ruling, the Justices struck down the law, holding for the first time that the Constitution guarantees a "right to privacy" when individuals make decisions about intimate, personal matters such as childbearing. Nearly a decade later, in *Eisenstadt v. Baird* (1972), the Court established the right of unmarried couples to obtain contraceptives as well.
- This landmark Supreme Court case expanded rights and paved the way for court cases like *Roe v. Wade* and *Obergefell v. Hodges*.

DID YOU KNOW?

There was initially a question as to how to address the President. The Senate proposed that he be addressed as "His Highness the President of the United States of America and Protector of Liberties." Both the House and Senate later compromised on the use of "President of the United States."



The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Tenth Amendment means that all powers not given to the federal government are reserved for the states or people.

Landmark Supreme Court Case

STATES' RIGHTS: In 2013, the Court cited the Tenth Amendment to support its controversial decision in *Shelby County v. Holder*. It struck down key provisions of the Voting Rights Act requiring certain jurisdictions with a history of discriminatory voting practices to secure advance approval from the federal government before changing their election laws.

DID YOU KNOW?

The Constitution was "penned" by Jacob Shallus, a Pennsylvania General Assembly clerk, for \$30 (\$830 today).

Of the spelling errors in the Constitution, "Pensylvania" above the signers' names is probably the most glaring.

The word "democracy" does not appear once in the Constitution.



CONSTITUTIONAL AMENDMENTS: EXPANDING RIGHTS & FREEDOMS

When the U.S. Constitution was signed on September 17, 1787, it did not guarantee equal rights to Black people, Native Americans, women and others - it only applied to white men.

Additional amendments and numerous Supreme Court decisions were required to extend rights to all U.S. citizens and, to a certain extent, to non-citizens as well. These amendments include the:

- 13th Amendment: Abolishing slavery;
- 14th Amendment: Guaranteeing Black people (and others) the right to due process and equal protection;
- 15th Amendment: Extending voting rights to Black men; and
- 19th Amendment: Extending voting rights to women.

The 14th Amendment is one of the most broadly applied amendments in the Constitution. Its "equal protection" clause requires that states guarantee the same rights, privileges and protections to all citizens.

Read more about the 14th Amendment on the next page.

DID YOU KNOW?

On October 3, 1789, George Washington issued his Thanksgiving proclamation, designating for “the People of the United States a day of public thanks-giving” to be held on Thursday, November 26, 1789. This marked the first national celebration of Thanksgiving.



14

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This important "Reconstruction Amendment" provides a broad definition of citizenship, superseding the Court's decision in *Dred Scott v. Sanford* that Black people did not have full citizenship rights. With the 14th Amendment, all states are theoretically required to provide equal protection to all persons. In the mid-20th century, this amendment was used to dismantle legal segregation, and its due process clause has been the basis of many important cases regarding privacy rights.

The 14th Amendment is often considered part of the Bill of Rights because it allowed many of those rights to be applied to state and local governments, though this did not happen until the 1960s.

Originally, these rights were intended to apply only to actions of the federal government. For most of a century, though, the Court refused to take these words at face value. Though, under pressure from the civil rights movement of the 1950s and 1960s, the Court finally acted to provide extend the promises of the 14th Amendment to citizens.

Landmark Supreme Court Case

EQUAL PROTECTION: The Court ruled in 1967 in *Loving v. Virginia* that a law banning interracial marriage was unconstitutional under the "equal protection" clause.

- In 1973, in *Roe v. Wade*, the Court ruled that the 14th Amendment's protection of privacy extended to a person's right to choose to terminate their pregnancy.
- In 2015, in *Obergefell v. Hodges*, the Court ruled that fundamental rights and equal protection applied to same-sex couples seeking to marry and have their marriages recognized in every state.



KNOW YOUR RIGHTS!

As a resident of the United States, even if you are not a citizen, you enjoy certain "unalienable" rights - rights that cannot be taken away. You can only defend your rights if you know and understand them. If you think your rights are being or have been violated, talk to an adult you trust.

MY SCHOOL MY RIGHTS

In California, students have a fundamental right to equitable education opportunities. Students have rights when it comes to being suspended or expelled, dressing for school, expressing opinions and ideas, school searches, using cell phones and social media, or being pregnant as a student.

HARRASSMENT & BULLYING

IMMIGRATION

SCHOOL DRESS CODES & UNIFORMS

SEARCHES OF STUDENTS

STUDENT EXPRESSION

SEX EDUCATION

LGBTQ+ STUDENT RIGHTS

CELL PHONE PRIVACY

SOCIAL MEDIA RIGHTS

FOSTER YOUTH STUDENT RIGHTS

SCHOOL DISCIPLINE

PREGNANT & PARENTING STUDENTS

Learn more about your rights at: [MySchoolMyRights.com](https://www.myschoolmyrights.com)

DID YOU KNOW?

First Amendment rights are not based upon age or citizenship status. Even newborns have a right to exercise their freedom of speech, religion, press, assembly and petition.



YOUR RIGHTS: THE BASICS

The Constitution's framers wanted to protect new Americans from government abuse. They referred to natural, basic rights in the Declaration of Independence as "unalienable rights." Individual rights are the oldest and most traditional of U.S. values. The Bill of Rights was created to protect rights the founders believed were naturally theirs, including:

Freedom of Religion

The right to exercise one's own religion, or no religion, free from government influence or compulsion.

Freedom of Speech, Press, Petition & Assembly

Even unpopular expression is protected from government suppression or censorship.

Privacy

The right to be free from unwarranted and unwanted government intrusion into one's personal and private affairs, papers, possessions and body.

Due Process of the Law

The right to be treated fairly by the government whenever loss of liberty or property is at stake.

Equality Before the Law

The right to be treated equally regardless of social status (as well as race, gender identity, sexual orientation and national origin).





WHAT TO DO IF STOPPED BY LAW ENFORCEMENT

Police may stop and briefly detain you only if there is reasonable suspicion that you committed, are committing or are about to commit a crime.

- Stay calm. Don't run. Be in control of your words, body language and emotions. You should ask, "Am I under arrest? Am I free to leave?"
- **Keep your hands where the police can see them.**
- **Anything you say or do can be used against you.**
- You have the right to remain silent. To exercise this right, say, "I would like to remain silent."
- **If you are arrested, ask for a lawyer immediately.**
- You never have to consent to a search of yourself, your car, your house or your belongings unless you are on probation or other supervision. Police may pat down your outer clothing if they reasonably suspect you are armed and dangerous. Do not physically resist, but do say "I don't consent to this search." Police cannot arrest you simply for refusing to consent to a search.
- Find witnesses and write down everything you remember as soon as possible (badge and patrol car numbers, names, etc.).



WHAT TO DO IF STOPPED BY ICE OR BORDER PATROL

- You have the right to remain silent. You may tell the agents, "I wish to remain silent." If you are a U.S. citizen, you are not required to show any documents with your nationality or legal status. Regardless of your citizenship status, you have the right to remain silent and to decline to answer questions.
- **Ask to make a phone call or speak to a lawyer.**
- **Do not sign anything you don't understand!**
- Before opening a door, ask to see a warrant. If an officer/agent wants to enter your home, they need a warrant signed by a judge. If they don't have one, do not allow them to enter. Say, "I do not give you permission to enter my home." If they still enter, don't try to stop them. Restate clearly that you deny permission. Write down badge numbers and names.

