


A.P. GOVERNMENT

Unit 3
The Judiciary, Civil Liberties and Civil Rights

“Civil Liberties Continued”
Mr. Ahlberg


Notes #3



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4th through 8th Amendments


- These Amendments protect the rights of criminals during the steps (due process) of the justice system
 - Gathering evidence and taking suspects into custody
 - Being charged, questioned and put on trial
 - Conducting the trial up to the verdict
 - Punishment



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4th Amendment


- Law enforcement must have a **SEARCH WARRANT** issued by a judge, based on **PROBABLE CAUSE** in order to conduct an unreasonable search
- **Exclusionary Rule**
 - Evidence found without a warrant cannot be used in a trial
 - *Mapp v. Ohio* (1961)
 - Extended the exclusionary rule to the states
- What is a “Reasonable” search?
 - Border checkpoints, sobriety checks, airport searches, “stop and frisk”, drug testing, student searches



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Exclusionary Rule Exceptions


- Police do not need a warrant...
 - During a legal arrest
 - If Consent is given
 - If the evidence is in “Plain View”
 - In an emergency situation
 - During hot pursuit
 - When looking at vehicles (less expectation of privacy)
- **Other Exceptions**
 - Good Faith (thought the warrant was valid)
 - Inevitable discovery (would be found eventually)
 - Honest mistake (wrong place is searched by mistake)



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5th Amendment


- Grants rights to those accused of a crime
 - Greatly expanded under Chief Justice Warren (60' s)
- **Self Incrimination**
 - A defendant doesn't have to testify
 - *Miranda v. Arizona* (1966)
 - A defendant must be notified of their right to remain silent and have a lawyer present during questioning
- **Grand Jury in serious criminal cases**
- **Double Jeopardy** (put on trial twice for same crime)
- **Eminent Domain** (gov' t must fairly compensate for taking land)



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6th Amendment

- Guarantees criminal defendants rights during a trial
 - **Speedy Trial**
 - 100 days from arrest to trial is the maximum
 - **Public Trial**
 - **Jury Trial**
 - Group of peers that determine guilt or innocence
 - **Confront witnesses against you**
 - Cross examination
 - **Help from a lawyer**
 - *Gideon v. Wainwright* (1963) – Created the public defender office used in all criminal cases




7th Amendment

- Jury Trials are guaranteed in civil cases
- Anything over \$20 qualifies
- States have come up with their own ways of addressing these types of trials
- Most involve the litigants signing a waiver of this right




8th Amendment

- Prohibits cruel or unusual punishment and excessive fines or bail
- Death Penalty
 - In recent years, the Court has made it easier to be carried out by limiting the number and nature of appeals by convicted murderers
 - » Furman v. Georgia (1972)
 - » Death Penalty was unconstitutional
 - » Gregg v. Georgia (1976)
 - » Death Penalty reinstated
- Bail Reform Act (1984)
 - Allows federal judges to deny bail to defendant considered dangerous or flight risks



9th Amendment

- Protects individual rights not specifically mentioned in previous Amendments
 - Right to Privacy
 - Right to own property
 - Right to work
 - Right to a family
- *Griswold v. Connecticut* (1966)
 - Overruled a state law banning the use of contraception
 - Court ruled that there is an "implied right to privacy"
- *Roe v. Wade* (1973)
 - Court extended Griswold to include abortion



10th Amendment

- Gave states their "Reserved Powers" and protects the states right to those powers
 - Power over Marriage
 - Power over Schools
 - Power over Elections
 - Power over Cars/Roads
 - Power over Legal age of adulthood
- Constant struggles continue over the power of the states versus the power of the Federal governments