

THE RIGHTS OF THE ACCUSED IN AMERICA



TEACHER'S GUIDE

Grades 7 to 12

PROGRAM OVERVIEW AND OBJECTIVE

In Colonial America, under British law, government officials were allowed to search and seize property from people and their homes for no specific reason. When the founders of our country wrote the constitution they were very sensitive to the rights of its citizens and the involvement of the government in citizens' lives. The fourth, fifth, sixth, seventh and eighth amendments address those concerns and outline the rights of people accused of a crime.

CHAPTER 1. The Fourth Amendment

In this segment students will learn about the fourth amendment. The amendment provides parameters of how, when and why law enforcement can conduct a search.

KEY VOCABULARY TERMS

Exclusionary Rule

Search Warrant

Reasonable Suspicion

COMPREHENSION QUESTIONS

1. Why does law enforcement need to obtain a search warrant to investigate a citizen's home or property? How does it protect citizens?
2. Explain in your own words why the fourth amendment does not necessarily apply to students? Do you think it's fair? Why or why not?
3. How does the exclusionary rule protect people accused of a crime?

ACTIVITIES

1. You're a news reporter for a newspaper. Write an opinion piece either for or against the Supreme Court ruling in the New Jersey v. T.L.O. Do you think school officials should be allowed to conduct a "suspicion-based" search?
2. Create an info graphic, chart or diagram that visually explains the meaning of the fourth amendment; "...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..."

CHAPTER 2. The Fifth Amendment

In this segment students will learn about the rights of the accused outlined within the Fifth Amendment.

KEY VOCABULARY TERMS

Due Process

Double Jeopardy

Grand Jury

Just Compensation

Miranda Rights

Self Incrimination

COMPREHENSION QUESTIONS

1. Explain what “self-incrimination” means? Why is it important to citizens accused of a crime?
2. What does “taking the fifth” mean?
3. What is due process?

ACTIVITIES

1. Miranda Rights

Read the following scenarios, then decide whether or not there has been a violation of the defendant's Miranda rights? Indicate whether you Strongly Agree, Agree, Can't Decide, Disagree, or Strongly Disagree with the court's decision.

- A. Jon was arrested by Seattle police officer and charged with the armed robbery of an Uber driver. Jon was put in jail waiting for his trial. A Seattle undercover officer was placed in same cell as Jon. The police officer didn't ask any questions, but Jon told him that he had robbed the Uber driver. Jon's statement was used against him at trial, despite his objection that he was not read his Miranda Rights, in violation of the Fifth Amendment. The court should allow the statement.

Strongly Agree Agree Undecided Disagree Strongly Disagree

- B. California State police officers arrested Sam on suspicion of shooting a local drug dealer and then putting the body in a dumpster. The police read Sam his Miranda rights. Sam indicated that he wished to speak to a lawyer. Driving to the station, the police began talking to each other about the murder. Sam listened to the discussion in the back seat. Then, without coaxing from the officers, Sam confessed to the murder. At his trial, Sam argued that the police had coerced him into admitting to the murder, and that his Fifth Amendment rights had been violated. The court should allow the statement.

Strongly Agree Agree Undecided Disagree Strongly Disagree

- C. Olivia was driving 60 mph in a 35 mph zone. She saw flashing lights of a police car behind her and pulled over to the side of the road. The officer approached her and asked her to step outside of the vehicle. When Olivia stepped out of the car, the officer asked her whether or not she was aware of how fast she was going. Olivia admitted to the officer that he had been speeding. At her hearing, Olivia argued that because she was detained and interrogated and did not receive her Miranda warnings, her confession could not be admitted. The court should allow Olivia's confession.

Strongly Agree Agree Undecided Disagree Strongly Disagree

Compare the students' poll answers to the rulings of the Supreme Court.

Scenario A:

The Supreme Court held that this was not a violation of the Fifth Amendment. They felt that unless the defendant could show that the police officer actually questioned the prisoner, instead of merely listening to him, then the discussion did not qualify as a custodial interrogation. A later supreme court case went even further, saying that Miranda warnings are not required if the defendant does not know he is speaking to a law enforcement agent.

Scenario B:

The Supreme Court said that this situation did not violate the defendant's Miranda rights because he had not been expressly questioned, nor had the police said anything that he knew would likely coerce the defendant into admitting guilt. The court did indicate in a later case that if, under the same circumstances, the officer's conversation was intended to produce a confession, then it would violate the defendant's Fifth Amendment, even absent express questioning.

Scenario C:

The Supreme Court ruled that Miranda warnings did not need to be given before roadside questioning of a motorist detained pursuant to a routine traffic stop. They did not feel that such stops impair a person's free exercise of his privilege against self-incrimination to require that he be warned of his constitutional rights.

2. Due Process

Divide the class into equal groups. Assign each group a component of the Fifth Amendment; right to remain silent, confessions given of free, no double jeopardy, indictment by a grand jury, or just compensation for private property taken for public use.

Tell each group to take the next 15-20 minutes to create a short skit portraying the meaning of their assigned component of the Fifth. Skits should be brief yet informative. Encourage students to be as creative as the class setting allows.

When all of the groups are ready, begin performing. When the skits have been completed, ask the students again, "What does due process mean?" Reinforce understanding by encouraging students to describe the rights of the accused and property rights in the Fifth Amendment. Finish the class by answering any questions.

CHAPTER 3. The Sixth Amendment

In this segment students will learn about the Sixth Amendment and the right to an attorney.

COMPREHENSION QUESTIONS

1. How does the Sixth Amendment help protect people accused of a crime?
2. How did the Supreme Court decision in *Gideon v. Wainwright* change the justice system?
3. What is role of a Public Defender? Why is Public Defender important to people accused of a crime?

ACTIVITY. The Right to an Attorney

Have students break up into small groups and have the students discuss then answer the following question: If you are accused of a crime, why do you need an attorney? Explain why. Encourage students to brainstorm the advantages to having a lawyer present and write them down in the handout below.

CHAPTER 4. The Seventh and Eighth Amendment

In this chapter students learn about the guaranteed rights provided under the seventh and eighth amendments.

KEY VOCABULARY TERMS

Capital Punishment

Civil Case

Criminal Case

Cruel and Unusual Punishment

Bail

COMPREHENSION QUESTIONS

1. What is the difference between a civil case and a criminal case?
2. Define “cruel and unusual punishment”.
3. What is the purpose of bail? Why is bail important to the American system of justice?

ACTIVITIES

1. Cruel and Unusual Punishment

Throughout history people accused of crimes were subjected to very cruel punishments. In this activity students will learn about the harsh and unjust punishments our Founding Fathers were trying to ban with the implementation of the Eighth amendment. Have students research the following devices: the coffin torture, dunking, iron maiden, the rack, thumb screw.

2. Capital Punishment

In this activity students will explore arguments for and against capital punishment in a murder conviction. To begin with, divide the students into small groups. Have each group come up with three arguments for using the death penalty and three arguments for not using the death penalty in a murder conviction.

Have an open classroom discussion about the most common arguments presented on this issue.