

SS.7.C.2.4

Evaluate rights contained in the Bill of Rights and other amendments to the Constitution.

SS.7.C.2.4 Benchmark Clarification 3: Students will evaluate how the Bill of Rights influences individual actions and social interactions.

There are three categories of rights, freedoms and protections listed in the **Bill of Rights**. The first are individual freedoms as stated in the First Amendment: **free speech, press, religious exercise, peaceable assembly, and petition**.

The second category is the **rights of those accused** of a crime. **Search and seizure** occurs when police believe that a crime has been committed. Police conduct a search to seize (collect) evidence that may have to do with the crime. Protection from unreasonable search and seizure means that police must have a reason and in most cases a warrant from a judge to search a person's personal property, home or body that may include their car, home, locker, backpack or purse belonging to the accused person. Rights of those accused of a crime also include the right to **due process of law**. Due process means that one cannot have their life, liberty or property taken without appropriate legal procedures and protections. **Pleading the Fifth**, or protection against **self-incrimination**, means that those accused of crimes may refuse to testify against themselves in a court of law. Pleading the Fifth prevents anything that a person may say to be used as evidence against them to convict them of a crime. **Double jeopardy** is also protected by the Bill of Rights. If evidence is found after an accused person is found "not guilty" of a crime, that person cannot be brought back to stand trial for the same crime. The right to legal counsel (lawyer) allows all people accused of a crime to have legal representation in court. **Trial by jury** is an additional right protected by the Bill of Rights. Protection of trial by jury means that a judge and **jury** must decide the issue based on the facts and evidence of a criminal case. Further, persons accused of a crime are protected against **cruel and unusual punishment** which may include torture or other forms of punishment considered too harsh for the crime committed. The **constitutionality** of the death penalty has long been questioned as to whether it should be considered cruel and unusual punishment.

The third category is protection from government abuse of power. Such matters may deal with **property rights**, voting rights or the right to protect oneself. For example, the **right to bear arms** is included in this category. The right to bear arms means that one is able to own and carry weapons, such as owning and carrying a gun for self-protection. **Eminent domain** allows the government to take private property (property owned by people organizations or companies) for public use although the owner must be compensated (paid) fairly for it. A good example of this is if a road needs to be expanded and someone's property is in the path of the road. The government must pay the owner for the land that will be taken by the government for expanding the road. The Ninth Amendment gives the people unenumerated rights or rights that are not be listed in the Constitution. Unenumerated rights include **privacy rights** which, while not listed in the Constitution, belong to the people. Equal protection under the law guarantees citizens protection from states treating them in a way that denies them their rights under federal law. The 15th, 19th, 24th and 26th Amendments each deal with **suffrage**. Each amendment deals with a different aspect of suffrage; the 15th Amendment protects the voting rights of African-American men, the 19th Amendment

guarantees women the right to vote in all federal, state and local elections and the 24th Amendment protects citizens from having to pay a poll tax as a condition of voting. The 26th Amendment guarantees citizens who are at least 18 years old the right to vote.

Bill of Rights - the first ten amendments to the U.S. Constitution

constitutionality - whether or not something is legal under the U.S. Constitution

cruel & unusual punishment - punishment prohibited by the Eighth Amendment to the U.S. Constitution; includes torture or other forms of punishment too severe for the crime committed

double jeopardy - the prosecution of a defendant for a criminal offense for which he has already been tried; prohibited in the Fifth Amendment to the U. S. Constitution

due process of law - a system of justice according to established rules and principles; based on the principle in the Fifth Amendment that a person cannot be deprived of life, liberty, or property without appropriate legal procedures and protections

eminent domain - the right of the government to take private property for public use; the Fifth Amendment requires that fair compensation be made when property is taken under eminent domain

freedom of peaceable assembly - the right to hold meetings and form groups without interference by the government; guaranteed in the First Amendment

freedom of press - the right of the press to write and print news and information free from government involvement; guaranteed in the First Amendment

freedom of religious exercise - the right for citizens to practice the religion of their choice without government involvement; guaranteed in the First Amendment

freedom of speech - the right for citizens to speak freely without government involvement; guaranteed in the First Amendment

freedom to petition the government - the freedom for citizens to engage in any nonviolent, legal means of encouraging or disapproving government action, directed to the judicial, executive or legislative branch; guaranteed in the First Amendment

jury - a group of citizens sworn to give a true verdict according to the evidence presented in a court of law

pleading the fifth - the act of a person refusing to testify under oath in a court of law on the grounds that the answers could be used as evidence against him to convict him of a criminal offense

property rights - the right to own property; mentioned in the Fifth and Fourteenth Amendments

right to bear arms - the idea in the Second Amendment that people have an individual right to own and carry weapons

rights of the accused - the rights included in the Fourth, Fifth and Sixth Amendments: protection from unreasonable search and seizure, double jeopardy, and self-incrimination, the right to due process, right to a speedy and public trial, trial by jury, the right to be informed of criminal charges, right to be confronted by adverse witnesses, right to an attorney, protection from self-incrimination

search & seizure - the process by which police or other authorities who suspect that a crime has been committed do a search of a person's property and collect any relevant evidence to the crime; protection from illegal search and seizure is in the Fourth Amendment

self-incrimination - the right in the Fifth Amendment that protects a person from being forced to reveal to the police, prosecutor, judge, or jury any information that might subject him or her to criminal prosecution

suffrage - the right to vote

trial by jury - a trial in which the issue is determined by a judge and a jury, usually with 12 members, whose job is to determine facts and make a judgment of guilty or not guilty; protected in the Sixth Amendment

Sources:

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