

Rights of the Accused

Article I Protections

Writ of Habeas Corpus- Writ of liberty that prevents unjust arrests & imprisonments

Constitution says it cannot be suspended unless in cases of rebellion or invasion

Recently, even Guantanamo Bay has allowed prisoners the writ of Habeas Corpus

Bill of Attainder- Legislative act that provides for the punishment of a person without a court trial

The background of the slide is a close-up, slightly blurred image of the American flag, showing the stars and stripes in warm, golden tones.

Ex Facto Laws

Ex Post Facto Law- law applied to an act committed before the passage of that law. They are...

1) It's a criminal law-one defining a crime &/or providing for its punishment

2) Applies to an act committed before its passage

3) Works to the disadvantaged of the accused

Grand Jury

Grand Jury- Formal device by which a person can be accused of a serious crime such as death or imprisonment

Indictment- formal complaint that the prosecutor lays before a grand jury

Presentment- Formal accusation brought by the grand jury on its own motion rather than the prosecutor

They are held in secret & no defense is given.

Information- affidavit in which the prosecutor swears there is enough evidence to justify trial

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Double Jeopardy

This is our first guarantee of protection in the 5th Amendment

Double Jeopardy- Once a person has be tried for a crime, he or she cannot be tried again for that same crime

If you break a state AND federal law you can have two separate trials

Going to Trial

The background of the entire slide is a close-up, slightly blurred image of the American flag, showing the stars and stripes in a warm, painterly style.

You have the right to a speedy trial, but how long is a delay too long?

4 ways to determine if delay has violated constitutional protection

1) Length of delay

2) The reason for the delay

3) The delay has harmed the defendant

4) Whether the defendant had asked for a prompt trial

The background of the entire slide is a close-up, slightly blurred image of the American flag. The stars are visible in the upper left, and the stripes flow across the bottom and right. The colors are somewhat muted, with a soft, painterly quality.

Public Trial

You have the right to a public trial, but it cant be too speedy or too public

Courtroom can be cleared for danger or to protect a witness

Trial by Jury

The jury has to be fair & sometimes a “change of venue” can be granted or even waive the right to a jury

Bench Trial- This is a trial where only a judge hears the case

Jury must be from a fair cross section of the community

This is to protect people from possible prejudice as well

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***Right to Adequate Defense**

6th Amendment says that a defendant has many rights such as...

1) To be informed of the nature & cause of the accusation

2) To be confronted with the witnesses against him & question in an open court

3) To have compulsory process for obtaining witnesses in his favor

4) To have the Assistance of Counsel for his defense

Guarantee Against Self Incrimination

**Plead the 5th, you are protected against
compelling to answer any question that
could lead to a criminal charge**

**Someone can still be required to speak about
you, 5th amendment applies to only
yourself**

**You may still have to comply with the law such as
finger prints, photographs, handwriting, etc**

Miranda Rule- Requirement that police must read a
suspect their rights before questioning

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Bail & Preventative Detention

You are protected against excessive bail or fines

Bail- sum of money that accused may be required to post as a guarantee that they will appear in court

Some cases will not have a bail dependent on the crime

Preventive Detention- Federal judge can hold you if reason to believe you will commit another crime

Punishment

The background of the entire slide is a close-up, slightly blurred image of the American flag, showing the stars and stripes in a draped or waving manner.

8th Amendment protects you from cruel & unusual punishment

Capital Punishment- This is the death penalty for a crime

Is the death penalty a cruel & unusual punishment?

Treason- Levying war on the U.S. or giving enemies of the country aid & support