

The Statue of Liberty is shown from the waist up, holding the torch in her right hand. She is wearing her iconic crown with seven spikes and a tablet in her left arm.

We the People of the United States, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and our Posterity, do ordain and establish this Constitution for the United States of America.

ACLU

CELEBRATE THE CONSTITUTION!

The Constitution of the United States was originally signed on September 17, 1787. It is the supreme law of the land, providing the framework for the organization of the U.S. government and its relationships with the states, citizens, and all people within the U.S. The Constitution defines our responsibilities and rights as individuals and the responsibilities of government officials. It provides legal protections to citizens and non-citizens alike. It explains how our government works so that we can participate effectively in its processes.

In 2004, Congress established "Constitution Day" to commemorate the signing of this important founding document. All public schools are required to provide educational programming about the Constitution on or near its September 17 anniversary.

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 they 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," in which the national and state governments share power. This is a key feature of American government.

Article 7 explains how many states are required to approve the Constitution as supreme law of the land.

BILL OF RIGHTS

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

1 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, when they arrived, they did not extend **freedom of worship to others**. By the time the Constitution was adopted, people had come to believe that religious liberty could only be preserved if the government had nothing to do with promoting religion. The freedom of speech, press, assembly, and ability to criticize the government grew out of a centuries-long struggle in England against censorship of the press. By the end of the 17th century, it was possible to publish without government approval, but an author or publisher could still 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 those freedoms of expression and assembly later preserved in the First Amendment.

Supreme Court Cases:

- **FREEDOM OF RELIGION:** In 1962, in *Engel v. Vitale*, the 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 the use of force and violence to bring about change.

2 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 its own militia in which citizens were required to serve. They had to provide their own guns and ammunition. Many of the state militias fought in the American Revolution. Afterwards, independent state militias were seen as a way of protecting liberty if the new federal government became power hungry and used its national army against the states and the people.

Supreme Court Case:

- **BEARING ARMS:** In 2008, the 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 The Third Amendment prohibits the government from housing soldiers in private homes without the consent of the home owner.

4 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.

(Amendment 4 continued)

Prior to the American Revolution, British soldiers carrying documents called "writs of assistance" could barge into any private home looking 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.

Supreme Court Cases:

- **SEARCHES AND WARRANTS:** In 1928, the Court ruled that police could wiretap a phone without a warrant. In 1967, in *Katz v. United States*, the previous ruling was reversed. The Court declared that a **warrant based on evidence of criminal behavior** was needed for a wiretap, just as for a physical search. This was one of the first Court cases addressing the **"right to privacy"** and providing a concrete 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 search 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 Fourteenth Amendment to extend constitutional protections to all courts in all states. The process is known as the **"incorporation of the Bill of Rights."**

5 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.

This 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 punished.

Supreme Court Case:

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

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.

Colonial Americans were often arrested, detained for long periods of time, tried and convicted of a crime without being informed of the charges. The additional "due process of the law" procedures laid down 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 national government would not act in the same way.

Supreme Court Cases:

- **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

(Amendment 6 continued)

was sentenced to state reform school for six years after being accused of making an obscene phone call. Prior to sentencing, he had been given no 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

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

8

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 also was 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.”

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: 1) sentencing guidelines must provide **objective criteria to direct and limit death sentencing discretion** and 2) they must allow the judge or jury to **take into account the character and record of the defendant**. Today, 19 states and the District of Columbia have abolished the death penalty.

9

The Ninth Amendment protects people's and states' rights not explicitly specified in the Constitution.

10

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.

This amendment was meant to guard against the new national government getting so much power that it overwhelms the authority of the states and personal liberty. It means that **all powers not given to the federal government are reserved to the states or people.**

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.

The original ten amendments provided protections for white men only. This is because the Constitution, when first signed in 1787, did not guarantee equal rights to African Americans, Native Americans, women and others. 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 - and the 14th Amendment - guaranteeing African Americans (and others) the right to due process and equal protection. The 15th Amendment extended voting rights to African American men; and the 19th Amendment extended voting rights to women.



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 African Americans did not have full citizenship rights. With the Fourteenth Amendment, **all states are theoretically required to provide equal protection to all persons**. In the mid-20th century, this was used to **dismantle legal segregation**, and its due process clause has been the basis of much important case law regarding privacy rights.

The Fourteenth Amendment is often considered part of the Bill of Rights because it allowed for many of the rights of the first ten amendments 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. It says that no state can take away “the privileges and immunities of citizens” or deprive “any person of life, liberty or property, without due process of law” or deny citizens “the equal protection of the laws.” For most of a century, though, the U.S. Supreme Court refused to take these words at face value. Under pressure from the **civil rights movement of the 1950s and 1960s**, the Court at last acted to fulfill the original promise of the Fourteenth Amendment.

Supreme Court Cases:

- **EQUAL PROTECTION:** The Court ruled 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 woman’s right to choose whether to terminate her 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.

To learn more about your RIGHTS and RESPONSIBILITIES:

www.aclusandiego.org/resources



STAND UP FOR YOUR RIGHTS

As a resident of the United States—even if you are not a citizen—you enjoy certain “unalienable” rights. These are rights that cannot be taken away. You can only stand up for your rights if you know what they are. If you think your rights are being or have been violated, talk to an adult you trust. Learn more at:

ACLUsandiego.org/resources

MY SCHOOL MY RIGHTS KNOW YOUR RIGHTS

ALL California students have rights when it comes to:

HARASSMENT & BULLYING
IMMIGRATION & STUDENTS
SCHOOL DRESS CODES & UNIFORMS
SEARCHES OF STUDENTS
STUDENT EXPRESSION
SEX ED

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



What to Do If You Are 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.

- **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."
- **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?"
- **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 You Are 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 the 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 their badge numbers and names to file a complaint.

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KNOW YOUR RIGHTS

cut. fold. save.

Educational Equity is a priority for the ACLU of California because education is the foundation of a functioning democracy. Here in California, students have a fundamental right to equal education opportunity. Students have rights when it comes to being suspended or expelled, dressing for school, expressing opinions and ideas, during school searches, using cell phones and social media, and being pregnant or an LGBTQ student.

But student rights mean nothing if students don't understand them, or are afraid or unwilling to speak up and assert them.

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 American 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, and 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 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).

YOUR LOCAL ACLU

The ACLU Foundation of San Diego & Imperial Counties has been advocating 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.

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