

Civil Liberties

- **Freedoms people have to protect them from the government and others**

What then are Civil Rights?

- Civil Rights positive acts of government taken to protect your Civil Liberties

Bill of Rights

□ **Amendment I**

- 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 peaceably to assemble, and to petition the government for a redress of grievances.

□ **Amendment II**

- 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.

□ **Amendment III**

- No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.
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Bill of Rights

□ **Amendment IV**

- 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 V**

- 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.
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Bill of Rights

□ **Amendment VI**

- 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.

□ **Amendment VII**

- In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

□ **Amendment VIII**

- Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
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Bill of Rights

□ **Amendment IX**

- The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

□ **Amendment X**

- 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.
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The Incorporation Doctrine: The Bill of Rights Made Applicable to the States

- Bill of Rights intended to limit powers of the national government
 - ***Barron v. Baltimore* (1833)**
 - Court ruled that the national Bill of Rights limited only the actions of the U.S. government and not those of the states.
 - But decision suggested the possibility that some or all of the protections might be interpreted to prevent state infringement of those rights.
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Due Process

□ 5th Amendment

- nor be deprived of life, liberty, or property, without due process of law

□ 14th Amendment

- 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.
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The Incorporation Doctrine: The Bill of Rights Made Applicable to the States

- 14th Amendment
- Due process clause
 - Substantive due process
 - The laws that congress passes must apply to everyone equally
 - Procedural due process
 - Procedures used to enforce laws must always be fair and apply equally



The Incorporation Doctrine: The Bill of Rights Made Applicable to the States

□ Incorporation Doctrine

- An interpretation of the Constitution that holds that the due process clause of the Fourteenth Amendment requires that state and local governments also guarantee those rights.

□ Selective Incorporation

- A judicial doctrine whereby most but not all of the protections found in the Bill of Rights are made applicable to the states via the Fourteenth Amendment.



□ Fundamental Freedoms

- Those right defined by the Court to be essential to order, liberty and justice.
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Incorporation Cases

1 st	Freedom of Press	<i>Gitlow v NY</i>	1925
	Freedom of Religion	<i>Engle v Vitale</i>	1962
2 nd t	Right to bear Arms	<i>McDonald v. City of Chicago</i>	2010
3 rd	Not Incorporated		
4 th	Illegal Search	<i>Mapp v. Ohio</i>	1961
5 th	Double Jeopardy	Benton v. Maryland Overturned Palko v	1969
6 th	Attorney at Trial	<i>Gideon v. Wainwright</i>	1963
8 th	Cruel Punishment	<i>Robinson v CA</i>	1962

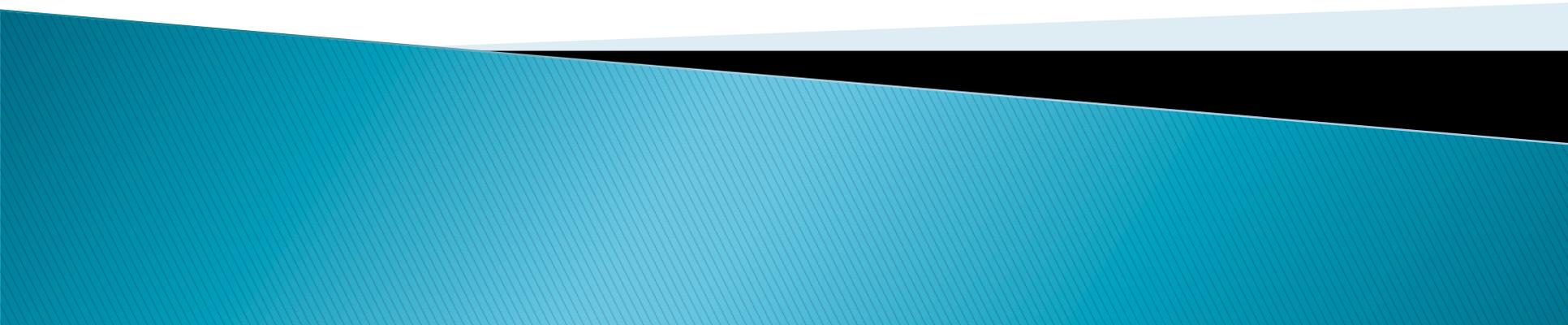
Selective Incorporation

- Since *Gitlow* court applies Bill of Rights to state law on a case-by-case-basis; Process is called Selective Incorporation
 - Following Rights have NOT been incorporated
 - Third (quartering troops in private homes)
 - Fifth (provision: right to indictment by grand jury)
 - Seventh (right to a trial by jury for disputes >\$20.)
 - Eighth (provision against “excessive bail and fines”)
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Right to Privacy

- The right to be left alone.
- A judicially created doctrine encompassing an individual's decision to use birth control to secure an abortion.
- Birth Control
 - *Griswold v. Connecticut* (1965)
- Abortion
 - *Roe v. Wade* (1973)
 - Court found a woman's right to an abortion was protected by the right to privacy that could be implied from specific guarantees found in the Bill of Rights applied to the states through the Fourteenth Amendment.
- Homosexuality
 - *Lawrence v. Texas* (2003)
 - State sodomy laws found unconstitutional.

What is the Police
power of the state?



The Police Power

The police power is the authority of each State to act to safeguard the well-being of its people

To promote health:

- ▶ States can limit the sale of alcohol and tobacco, make laws to combat pollution, and require vaccination of school children.

To promote safety:

- ▶ States can forbid concealed weapons, require the use of seatbelts, and punish drunk drivers.

To promote morals:

- ▶ States can outlaw gambling, the sale of obscene goods, and prostitution.

To promote the general welfare:

- ▶ States can enact compulsory education laws, provide to the needy, and limit profits of utilities.

The 5th and 14th Amendments

▶ The 5th Amendment provides that:

“no person ... shall be deprived of life, liberty, or property without due process of law...”

Equal protection under Federal Law.

▶ The 14th Amendment extends that restriction to State and local governments:

“No state shall ... deprive any person of life, liberty, or property, without due process of law...”

Equal protection under State and Local Law.