

CHAPTER
15

CITIZENS AND THE LAW



NGSSS

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

ESSENTIAL QUESTION *How do laws protect individual rights?*

The members of the police department in Palm Beach, Florida, share a vision:

“ We, the members of the Palm Beach Police Department, are committed to achieving the highest possible quality of life for the community, of which **we are an integral part**, and are **resolved** to providing the highest levels of protection and service through community partnerships based on honesty, trust, fairness, compassion, respect, cooperation and shared vision. ”

MISSION STATEMENT, PALM BEACH POLICE DEPARTMENT



TEXT: Palm Beach Police Department

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we are an integral part

What does it mean to be *integral* to something?

resolved

What is another word for *resolved*?

DBQ BREAKING IT DOWN

What is the tone, or feeling, of this passage?

How would you feel, promising to follow this vision? Explain.

SOURCES AND TYPES OF LAW



Essential Question

How do laws protect individual rights?

Guiding Questions

1. What is the purpose of laws?
2. What early legal systems influenced the laws we live by today?
3. What types of laws exist in the American legal system?

Terms to Know

common law

law that grew from court decisions over many years

precedent

earlier ruling on which decisions in later cases are based

statute

law made by a legislature

lawsuit

a civil case brought before a court to collect damages for some harm that has been done

constitutional law

branch of the law dealing with forming and interpreting constitutions

case law

branch of law based on judge's decisions

administrative law

branch of law that includes all the rules the executive branch makes as it does its job

It Matters Because

Laws protect public safety and keep order in society.

What is an important law that affects your life? Write a sentence about the law. After you have read the lesson, write another sentence about it based on what you have learned.

What Do You Know?

Directions: In the first column, decide if you think the statement is true or false based on what you know in the "Now" column. Circle your answers. After the lesson, circle your answers in the "Later" column.

Now			Later	
True	False	Most of our laws come from Hammurabi, a Babylonian king.	True	False
True	False	The most important source of U.S. laws is English common law.	True	False
True	False	Roman law is a blend of English and French laws.	True	False

Why We Have Laws

Laws are sets of rules. They allow people to live together in peace and help prevent violence. Laws explain which actions are allowed in a society and which will be punished. If you break the law, you can expect to be punished. Punishments are used to discourage potential, or possible, criminals from breaking the law.

Some laws are better than others. The table below shows the four main qualities of good laws.

Fair	Reasonable	Understandable	Enforceable
A fair law treats people equally. Fair laws do not make different rules for different groups of people.	To be reasonable, a law must not be too harsh. Cutting off someone's hand for stealing a loaf of bread would not be reasonable.	They must be easy to understand. Otherwise people might break them without realizing it.	Laws that are hard for police and other officials to enforce are not good laws.

Development of the Legal System

Scholars think that there were laws even in the earliest societies. It is thought that prehistoric people had rules about behavior. The earliest laws were not written, they were spoken. Over time, people began to write them down.

In about 1760 B.C. King Hammurabi (HA•muh•RAH•bee) of the Middle Eastern empire in Babylonia created the oldest written law. It is called the Code of Hammurabi. A code is an organized collection, or set, of laws. The Code of Hammurabi was written in a wedge shaped script called cuneiform. The code included laws related to the family, such as marriage and slavery, as well as business practices. It also set prices for goods and services.

The Israelites were a people who lived near the eastern Mediterranean coast. They also followed a set of written laws. These laws outlawed such acts as murder and theft. Many of these acts are still considered crimes today.

The ancient Romans developed a set of laws that were the most important in the Western world. The first Roman laws were published in 450 B.C. As their empire grew the laws spread

Show Your Skill

1. Interpret Charts What are the four qualities of a good law?

2. Make a Connection How do laws help people live together peacefully?

Take the Challenge

3. Research some examples of Roman laws. Then choose one Roman law and illustrate it or cut out pictures to show its meaning and/or consequence if it is broken.



Justinian I developed the Justinian Code.



Napoleon Bonaparte (Napoleon I) created the Napoleonic Codes.

PHOTO: (l) Pixtal/age Fotostock; (r) Foroteca Storica Nazionale / Photodisc / Getty Images

Think Critically

4. Summarize What contribution did the French emperor Napoleon make to the body of written law?

5. Contrast What is the difference between a precedent and a statute?

to parts of Europe, Asia, and Africa. In A.D. 533 the ruler of the Eastern Roman Empire, also called the Byzantine (BIH•zahn•TEEN) Empire, simplified the Roman laws into a body of rules. It was called the Justinian Code. Roman law also became part of the laws of the Roman Catholic Church. This part of church law is called canon law.

The Justinian Code was updated in 1804 by the French emperor Napoleon Bonaparte. He called it the Napoleonic Code. Napoleon spread his code to all the lands he conquered. The Louisiana Territory had been under French control before the United States bought it in 1803. As a result, Louisiana still has laws that were based on the Napoleonic Code.

The most important source for American laws is English **common law**. Common law is law based on court decisions and customs. It began after the Normans of France took control of England in 1066. Judges were sent into the countryside to hear cases. These judges based their rulings on **precedents**, or the rulings given earlier in similar cases. This practice of following precedent became part of the common law. Common law is considered judge-made law.

The English blended Roman law and canon law into common law. Common law included the basic principles of individual rights, such as the idea that a person is innocent until proven guilty. Over time the English added to the common law by allowing Parliament to make laws. Laws made by a legislature like Parliament are called **statutes**. When English settlers came to North America in the 1600s and 1700s, they brought their traditions of common law and individual rights with them. They are a key part of the United States judicial system today.

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Early Legal Systems	
Code of Hammurabi	Earliest example of a written code.
Israelites	Followed a written set of laws that outlawed acts such as theft and murder.
Ancient Roman law	Most important laws in the western world. Partly written by judges and adopted by the senate.
Justinian Code	Simplified Roman law into an orderly body of rules.
English common law after 1066	Law based on court decisions, not a legal code. Considered judge-made law.
U.S. laws developed 1600s–1700s	Principles of English common law and individual rights became key parts of the basic laws of the new nation.
Napoleonic Code 1804	Updated the Justinian Code to a new body of laws.

Types of Laws

There are three basic types of laws—criminal, civil, and public. Earlier you learned about public laws.

Criminal laws seek to protect public safety. These crimes are divided into two types:

1. Felonies These are serious crimes such as murder and robbery. They have serious penalties.

2. Misdemeanors These are less serious crimes such as vandalism. They usually involve a fine or jail time of less than one year.

Crimes against property are the most common type of crime. They can be either misdemeanors or felonies. They do not involve force or the threat of force toward other people. Examples include shoplifting, identity theft, and vandalism.

Civil laws handle arguments between people and groups. They often involve broken contracts. For example, if you order something from a store, but do not receive the item, the seller has broken a contract with you. You could sue them in court.

A civil case brought before a court is called a **lawsuit**. A lawsuit is legal action to collect damages, or money, for some harm that has been done. Individuals who think they have been wronged must file a lawsuit themselves. The government cannot bring such a case.

Show Your Skill

6. Interpret Charts How are Roman law, the Justinian Code, and the Napoleonic Code related?

Mark the Text

7. Underline which crime is more serious, felonies or misdemeanors.

Think Critically

8. Analyze Why would someone want to file a lawsuit in a felony?

Show Your Skill

9. Interpret Information

If you were to visualize the sources of law as a pyramid, which source would be at the bottom?

Think Critically

10. **Evaluate** What is the most important source of law in the United States?

Take the Challenge

11. Make a diagram to show the different kinds of laws and give examples of each.

Military law is a set of statutes that people serving in the U.S. armed forces have to follow. Civilians who work for the military also have to follow those laws. However, people serving in the military do have to follow civil laws. Military laws cover crimes such as disobeying a superior officer and desertion. If the crime is serious a person can end up at a court-martial. That is the court that tries people accused of breaking military laws.

Criminal and civil laws come from several main sources. These include:

- the United States Constitution
- state constitutions
- ◆ statutes
- ◆ case law
- administrative agencies.

The Constitution is the highest law in the nation. If there is a conflict between it and one of the other sources of law, the Constitution is always followed.

Constitutional law deals with the structure and meaning of constitutions. It handles questions about the limits of government power. It also deals with individual rights.

A statute is a law written by a legislature. The United States Congress, state legislatures, and local lawmakers write thousands of statutes. Statutes control our behavior in many ways. For example, they set speed limits and minimum wages. Statutes are also the source of many rights. One example is the right to a free public education.

Case law is law that is based on judge's decisions. Some cases brought to court cannot be decided based on existing statutes. In these cases judges look to precedent to make their rulings. These rulings have the same weight as laws.

Administrative law involves all the rules the executive branch makes as it does its job. The federal and state constitutions give legislatures the power to create administrative agencies. For example, Congress created the Federal Aviation Administration. Any orders this agency hands down to airlines have the same weight as other laws.



NGSSS Check How did English law affect our laws today? **SS.7.C.3.10**

THE AMERICAN LEGAL SYSTEM



Terms to Know

writ of habeas corpus

court order that says officials cannot put a person in prison without explaining why he or she is being held

bill of attainder

a law that punishes a person without a trial

ex post facto law

a law that punishes a person for an action that was not illegal when it was done

due process

principle that says the government must act fairly and follow the law

search warrant

court order allowing a search

exclusionary rule

rule that says that evidence obtained by police illegally may not be used in court

Miranda Warning

list of rights that must be read to a suspect before questioning

double jeopardy

being tried twice for the same crime

bail

money that a person waiting for a trial may give the court in order to be set free from jail until the trial

Essential Question

How do laws protect individual rights?

Guiding Questions

1. What basic legal rights are provided to all Americans?
2. What legal protections does the U.S. Constitution offer a citizen who is accused of a crime?

It Matters Because

Under the American system of justice, the U.S. Constitution protects the rights of individuals.

Individual rights that are protected by the Constitution include which of the following? Place a check mark next to all that apply. If you do not understand the meaning of one of these rights, circle it and come back to it after you have read the lesson.

habeas corpus

right to a speedy public trial

no cruel and unusual punishments

due process

right to confront witnesses

no excessive bail

right to counsel

right to know the accusations

right to be tried by an impartial jury

no self-incrimination

no double jeopardy

In your opinion, which of these is the most important? Why?

What Do You Know?

Directions: Use the table below to answer the questions based on what you know in the "Now" column. After the lesson, write your answers in the "Later" column.

	Now	Later
What are your basic legal rights?		
How does the Constitution protect your rights?		

Mark the Text



1. Circle the main idea in the first paragraph.

Show Your Skill

2. **Compare and Contrast** What is the difference between the due process guarantees in the Fifth and Fourteenth amendments?

Think Critically

3. **Explain** How does the Constitution protect you from unlawful imprisonment?

networks™ Read Chapter 15 Lesson 2 in your textbook or online.

Basic Legal Rights

The U.S. Constitution includes many important protections for citizens. These protections prevent the government from using the law unfairly. One of the most important protections is found in Article I. It says that someone who is arrested has the right to ask for a **writ of habeas corpus** (HAY•bee•uhs KAWR•puhs). A writ is a court order. A writ of habeas corpus makes officials explain to a judge why they are holding someone in jail. The judge decides if their reason for holding the person is legal or not. This rule stops officials from putting people in jail unlawfully.

Article I also stops the government from delivering bills of attainder and ex post facto laws. A **bill of attainder** is a law that punishes a person without a trial. An **ex post facto law** punishes a person for doing something that was not illegal at the time it was done. *Ex post facto* means “after the fact.”

The Constitution guarantees individual rights as it carries out the law. After the Civil War, the Fourteenth Amendment gave civil rights to formerly enslaved people. This amendment says the states must treat all people equally under the law. It bans unequal treatment based on factors such as gender, race, and religion. It has been used to win rights for minorities and women.

The Fourteenth Amendment strengthened the Fifth Amendment right of **due process**. This right says that the government cannot take away our lives, liberty, or property without following the law. For example, a person has the right to a trial by jury.

The Rights of the Accused

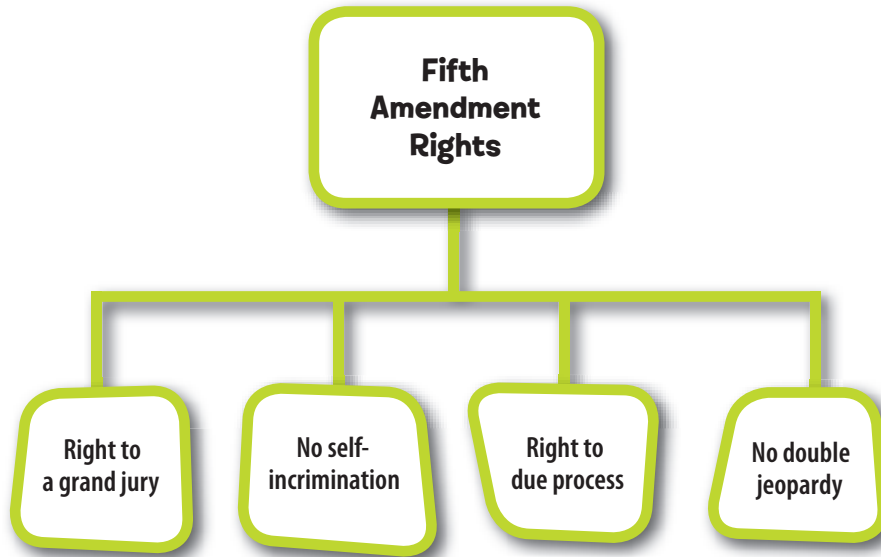
The Constitution makes sure that people accused of crimes are treated fairly. It also makes sure they have a chance to defend themselves. These rights are based on the presumption of innocence. This means a person is believed to be innocent until proven guilty in court.

One right of the accused is found in the Fourth Amendment. It protects us against “unreasonable searches and seizures.” That means a law officer cannot search your home or take your property without a sound reason. It says that police must get a **search warrant** before searching a person’s home or property. A search warrant is a court document that says a search is allowed. To get a search warrant, police must tell

a judge exactly what they are looking for. They must prove that they have a good reason, or probable cause, for the search.

If police find evidence without a warrant, that evidence cannot be used in court. This is true in both federal and state cases. It is known as the **exclusionary rule**.

The Fifth Amendment protects the rights of the accused. Those rights are listed in the graphic organizer below.



No self-incrimination means that a person has the right to remain silent. That means a person does not have to answer questions that might show they took part in a crime. This was decided in 1966 in the case *Miranda v. Arizona*. That year the Supreme Court said that police must issue the **Miranda Warning** to suspects.

It tells suspects that

- they have the right to remain silent.
- anything they say may be used against them.
- they have the right to an attorney; if they cannot afford one, the court will provide one.

Double jeopardy means to be tried twice for the same crime. The Fifth Amendment does not allow this. A person who was tried once and found not guilty cannot be tried again for the same crime.

The Fifth Amendment protects the right of an accused person to have his or her case brought before a grand jury. This is mainly used for federal crimes. A grand jury is a group of people who decides whether the government has enough evidence to hold a trial. If the grand jury believes there is enough evidence, it indicts the suspect. This means the suspect is formally charged with a crime.

Think Critically

4. Summarize How does the Fifth Amendment's guarantee of due process work?

Mark the Text

5. Underline the sentence that explains what a grand jury is. Circle the amendment that protects the right of an accused person to have his or her case brought before a grand jury.

Mark the Text



6. Chart Circle the amendment that guarantees the right to trial by jury.

Show Your Skill

7. Interpret Information

What is meant by the Eighth Amendment's guarantee that punishments should not be "cruel and unusual"?

Think Critically

8. Identify the Main Idea

Explain why illegally obtained evidence cannot be used in court.

Constitutional Rights of the Accused

Source	Rights
Article I	habeas corpus no bills of attainder no ex post facto laws
Fourth Amendment	no unreasonable searches and seizures
Fifth Amendment	guarantees due process no self-incrimination no double jeopardy guarantees grand jury in federal crimes
Sixth Amendment	right to counsel right to know the accusations right to a speedy public trial right to confront witnesses right to be tried by an impartial jury
Eighth Amendment	no cruel and unusual punishments no excessive bail
Fourteenth Amendment	requires the states to treat all people equally under the law guarantees due process

Some rights of the accused are also found in the Sixth Amendment. It says that the defendant is entitled to representation by a lawyer. The Sixth Amendment also promises that accused people

- have a right to know the charges against them.
- ◆ can question their accusers.
- ◆ have the right to be tried by an impartial jury.

An impartial jury is a jury made up of people who know no one in the case and have no opinion about it.

The Sixth Amendment also guarantees a speedy public trial. This protects people from being held in jail too long. It also means that trials should be open to the public or the media.

Other rights of the accused are found in the Eighth Amendment. This amendment prohibits, or does not allow, "cruel and unusual" punishments. A punishment may not be out of proportion to the crime. This means that a punishment must fit the crime. For example, a life sentence in jail for shoplifting would be too severe. Some people believe that the death penalty is cruel and unusual punishment. In 1972 the Supreme Court ruled on this matter. The Court did not agree that it was cruel, but it did find that it was not applied

equally to all persons. It targeted African Americans and poorer populations. The Court said that the death penalty was being used in a way that was not constitutional. State death penalty laws and Supreme Court guidelines were changed after this ruling.

The Eighth Amendment also says that a judge cannot set bail too high. **Bail** is money that a person may give the court in order to be set free from jail until the trial. It is like a security deposit. When the person shows up at the trial the money is returned. When determining bail, the judge looks at how serious the crime is and the criminal record of the accused.



Judge Krista Marx sits on the Florida 15th Judicial Circuit. One of the roles of a criminal judge is to set bail during hearings.

Think Critically

9. Analyze Why does the Eighth Amendment say that a judge cannot set bail too high?

Take the Challenge

10. Write an editorial explaining which right of the accused is the most important. Defend your choice.



NGSS Check List five basic legal rights that the Constitution guarantees to all American citizens. **SS.7.C.3.10**

MY REFLECTIONS

ESSENTIAL QUESTION *How do laws protect individual rights?*

Reflect on What It Means . . .

Many individual rights are protected by the U.S. Constitution. These rights are protected in the United States as well as other countries around the world.

Choose a topic that relates to an individual right protected by the U.S. Constitution. You will show through visuals and words how that right protects you and people in your community. Do research to find out if that right is protected in another country. Use the Internet or print resources to find photos and other images that relate to your topic. Print out the pictures or make photocopies, and then use them to create a collage. You may also use words or phrases in your collage. Jot down phrases below that you would like to use in your collage.

My Community

The World

To Me

TAKE THE CHALLENGE

Under the Constitution, anyone accused of a crime has the right to a “speedy” trial. In your opinion, how soon must a trial take place after someone is accused for it to be considered “speedy”? A week? A month? A year? Some other period of time? Explain your answer.