

Name _____

Date _____

The Fifth Amendment

Use the text to answer each question below.

1. The Fifth Amendment is the first in a series of constitutional amendments addressing the rights of citizens facing prosecution. It reads:

Which of the following is true according to the passage?

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. The first clause of the Fifth Amendment ensures the right to indictment by a grand jury before being charged with a criminal offense. There are two main types of juries in the US court system: the petit jury, or trial jury, and the grand jury. The petit jury, usually composed of 6-12 people, decides whether or not the accused is guilty or not after considering the evidence provided. A grand jury, usually composed of 16-23 people, decides whether or not an accusation is worthy of criminal charges. If they believe charges should be brought, they prepare an indictment that outlines all charges.

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| A. Individuals are assumed to be guilty until proven innocent. | B. Individuals can be charged for the same crime more than once. |
| C. A trial jury is usually composed of more people than a grand jury. | D. A grand jury determines whether or not an accusation is worthy of indictment. |

- 2.** The Fifth Amendment also prohibits self-incrimination. The responsibility of proving guilt falls to the prosecution, not the person who is accused of the crime. This is where the famous phrase “I plead the Fifth” comes from. It translates to: “I decline to answer this question where the answer might incriminate me.” But why was this amendment added to the Bill of Rights? In the 15th to 17th centuries, some British courts were infamous for their inquisitorial method, which forced confessions out of the accused, who often didn’t even know what they were being charged with. By the 1700s, English law stated that coerced confessions could not be used as evidence because they were inherently unreliable. When the Framers drafted the US Constitution, they, too, included a clause protecting individuals from self-incrimination.

What does it mean when someone “pleads the Fifth”?

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| A. To refuse to answer questions that might incriminate themselves | B. To admit to their crimes to lessen the severity of their sentence |
| C. To ask for extra time to find witnesses to testify in their favor | D. To ask for the opportunity to change their legal counsel |

- 3.** Individuals are also afforded the right of due process under the Fifth Amendment. Due process ensures that proper legal procedures take place before depriving someone of their “life, liberty, or property.” The origin of due process can be traced back to the Magna Carta. This document, written in 1215, stated that the English monarchy was not above the law, ensuring that no one “shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed...except by the lawful judgment of their peers or by the law of the land.” These rights outlined in the Magna Carta later influenced the drafters of the Fifth Amendment to include the due process clause.

Which of these did the Magna Carta emphasize?

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| A. The king is not above the law | B. Individuals should be imprisoned if the king assumed they were guilty |
| C. A speedy trial is not effective | D. The jury pool should be selected by the accused |