**Constitutional Amendments & The Death Penalty**

**Assignment 2**

After reviewing your study guide, answer the questions in the attached exercise and forward them to my email address, [rschwill@bartlettschools.org](mailto:rschwill@bartlettschools.org) .

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**Bill of Rights**

1. The first 10 Amendments to the U.S. Constitution are referred to as the Bill of Rights

2. These amendments were applicable ONLY in federal cases until the 14th Amendment was adopted

3. The 14th Amendment applies the due process rights found in the first 10 Amendments to state trials

**1st Amendment**

*4. “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.”*

**Importance of First Amendment**

5. Issues such as demonstrations and when law enforcement can contain a crowd or gathering

6. Issues of assembly in correctional facilities

7. Freedom of religion – in prison, inmates are allowed to practice any recognized religion and have meals that follow religious doctrine (Muslims and pork)

8. Most important is access to the courts for prison inmates

**4th Amendment**

*9. “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.”*

**Importance of 4th Amendment**

10. Issues of legal searches by law enforcement and correctional authorities

11. Issues of legal seizures for law enforcement

12. Warrant clause: based on probable cause, with particularity of persons and places to be searched

13. 4th Amendment rights are restricted in correctional facilities

**5th Amendment**

*14. “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.”*

**Importance of 5th Amendment**

15. Miranda v. Arizona - police to read a summary of defendant’s rights to persons interrogated

16. Right to a Grand jury

17. No double jeopardy (see juvenile section, Breed v. Jones)

18. No self-incrimination (see In re Gault)

19. Due process of law

**6th Amendment**

*20. “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.”*

**Importance of 6th Amendment**

21. Speedy and public trial

22. Impartial jury

23. Notice of charges

24. Right to confront witnesses

25. Provide witnesses in defense

26. Right to an attorney (Miranda v. Arizona, In re Gault)

**8th Amendment**

*27. “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”*

**Importance of 8th Amendment**

28. 8th Amendment claims are numerous in prison inmate lawsuits – cruel and unusual punishment

29. The 8th Amendment does not guarantee the right to bail, only that bail not be excessive

30. Fines cannot be excessive

**14th Amendment**

Section 1:

*31. “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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.”***

**Importance of 14th Amendment**

32. Applies the due process rights guaranteed in the Bill of Rights in ***state*** proceedings

**Capital Punishment**

33. Death penalty supported by the crime control perspective

34. Crime control perspective focuses on deterrence and retribution

35. Research, however, notes that the death penalty is a not a deterrent to murder

**Important Death Penalty Cases**

**36. Furman v. Georgia** (1972) – national moratorium on executions due to arbitrary, capricious, and discriminatory manner in which it was applied

**37. Gregg v. Georgia** (1976) – capital punishment reinstated with the following: bifurcated trial, one automatic appeal to the state supreme court, at least one aggravating factor, and proportionality review

**38. Coker v. Georgia** (1977) – death sentence for crime of rape is unconstitutional

**39. Atkins v. Virginia** (2002) – capital punishment unconstitutional for developmentally challenged defendants

**40. Ring v. Arizona** (2002) – juries, not judges, must provide sentence of death

**41. Roper v. Simmons** (2005) – no death sentences for youths under the age of 18 at the time of the crime

**42. Baze and Bowling v. Rees** (2008) – lethal injection as a method of execution is constitutional

43. Since the Baze and Bowling v. Rees decision, a number of states have experienced problems obtaining the lethal injection drugs from their European manufacturers.

44. This has caused states to alter their lethal injection protocols. Many European countries are against the death penalty and have stated that they will not supply drugs to be used in executions.

**Firing Squad**

48. A five person team, all shoot live rounds except for one person, who shoots a blank round.

49. All are sharpshooters.

50. Gary Gilmore, the first person executed after the Gregg v. Georgia decision, was executed by firing squad in Utah in 1977.

the chair to catch body fluids.

57. When an execution by lethal injection occurs in Tennessee, the electric chair is unbolted from the floor and removed. When an electrocution occurs, the lethal injection gurney is removed.

58. The governor of the State of TN has signed a bill authorizing the use of the electric chair if/when lethal injection drugs are not available.