

Policing and the constitution

[Law](#), [Criminal Justice](#)



The Fourth Amendment of the United States Constitution states: Prohibits unreasonable searches and seizures and sets out requirements for search warrants based on probable cause. This amendment impacts law enforcement because police need a warrant to make arrests and searches. This is not applicable if the officer has first-hand knowledge of an event and the evidence is likely to be destroyed or the subject will abscond if time is taken to get a warrant. If a warrantless search is made by the police that should have been made only after a warrant was issued, then all knowledge gained by that evidence is not allowed in testimony.

The Fifth Amendment of the United States Constitution states: Set out rules for indictment by grand jury and eminent domain, protects the right to due process, and prohibits self-incrimination and double jeopardy. This means that the officer does not determine innocence or guilt. She or he only determines probable cause of belief of guilt. Also, an officer cannot force a person to bear witness against himself. If a person is tried and a verdict is given, that person cannot be tried again. Accused persons cannot be forced to say anything.

Eminent domain is the power of a government to take private property for public use, usually with compensation paid to the owner. The Sixth Amendment of the United States Constitution states: Protects the right to a fair and speedy public trial by jury, including the rights to be notified of accusations, to confront the accuser, to obtain witnesses and to retain counsel. This means the subject has the right to counsel before, during, and after questioning. Should the subject request the presence of an attorney, questioning should cease until counsel arrives.

Probable cause is one of the fundamental protections built into the criminal justice system by the founding generation of the United States. Probable cause is the standard by which an officer or agent of the law has the grounds to obtain a warrant for, or as an exception to the warrant requirements for, making an arrest or conducting a personal or property search, etc. when criminal charges are being considered. This term comes from the Fourth Amendment of the United States Constitution.

The exclusionary rule is a rule in which any evidence that is obtained in violation of the accused's rights under the Fourth, Fifth, and Sixth Amendments, as well as any evidence derived from illegally obtained evidence, will not be admissible in criminal court. The exclusionary rule has been controversial for decades because many people believe that it is unconstitutional and not helpful the finding the truth in criminal proceedings. The name fruit of the poisonous tree is thus a metaphor: the poisonous tree is evidence seized in an illegal arrest, search, or interrogation by law enforcement.

The fruit of this poisonous tree is evidence later discovered because of knowledge gained from the first illegal search, arrest, or interrogation. The poisonous tree and the fruit are both excluded from a criminal trial. The fruit of the poisonous tree doctrine is an offspring of the exclusionary rule. The Miranda rights, also known as Miranda warning, is a warning given by police in the United States to criminal suspects in police custody before they are interrogated to preserve the admissibility of their statements against them in criminal proceedings.

Your Miranda rights are your rights as per being under arrest. If you are not under arrest they may detain you, but cannot lock you up unless by reasonable evidence they can prove that you are guilty of the crime in which they would more than likely arrest you. Questioning is not a reasonable excuse to lock you up without circumstantial evidence. They do not need to notify you unless they search your property, or person in which they would need a warrant and also do not need notification with accurate evidence against you. Your Miranda warning reads as followed: You have the right to remain silent.

If you give up that right, anything you say can and will be used against you in a court of law. You have the right to speak with an attorney and to have an attorney present during questioning. If you so desire and cannot afford one, an attorney will be appointed for you without charge before questioning. An arrest is the taking into custody of a citizen for the purpose of detaining him or her on a criminal charge. Frisking is a search of a person's outer clothing wherein a person runs his or her hands along the outer garments to detect any concealed weapons or contraband.

A stop takes place when a law enforcement officer has reasonable suspicion that a criminal activity is about to take place. An interrogation is the direct questioning of a suspect to gather evidence of criminal activity and to try to gain a confession. A custodial interrogation occurs when a suspect is under arrest or is deprived of his or her freedom in a significant manner. A reading of the Miranda warning is only required before a custodial interrogation. An

interrogation is when you are not in custody, and a custodial interrogation is when you are in custody.