

U.S. Constitution and the Bill of Rights

In this video we'll get back to discussing laws that you'll need to know in forensics. Let's go back and take another look at the U.S. Constitution, as there's one amendment that you must know about.

Remember that the Constitution is the main framework for our system of government. In addition to providing this framework the Constitution also contains the Bill of Rights which lists individual rights that cannot be taken away by government. These rights were not included in the first version of the Constitution as many of the authors felt that they were implied and didn't need to be written down. Others wanted to be sure that the Federal government was prohibited from creating laws to take away these rights so James Madison drafted 17 amendments to the Constitution guaranteeing several individual rights. Ten of the seventeen were finally approved. Hopefully you know your Constitutional rights, but just in case you're not sure here's the list of the first ten amendments.

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.

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.

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.

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.

In forensics the one item that is critical for you to understand from the Bill of Rights is the Fourth Amendment. The Fourth Amendment provides “[t]he 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.” This is typically called the right to privacy, and it has a major impact on forensics investigations as it requires any agent of law enforcement to obtain a search warrant before gathering evidence in most cases. Any evidence gathered without a search warrant cannot be used at a trial, so it essentially becomes worthless.

The right to privacy and the requirement for a warrant applies to most *legal* investigations, or investigations for criminal or civil cases, but it doesn’t apply to corporate investigations. A *corporate* investigation is one that involves violations of company policies instead of violations of the law.

And notice that warrants are required for *most* legal investigations, which means there are actually some exceptions to the warrant requirement in criminal and civil investigations. These exceptions provide the definitions for something called a warrantless search. The exceptions include things like situations when someone does something in a public place and should not have an expectation of privacy. For example, if criminal shoots someone and then throws the gun in a public place like a lake, then agents of law enforcement do NOT need a warrant to search the lake. While warrantless search requirements are interesting, they are beyond the scope and time we have in this class. For this section just make sure that you know that the law that requires a search warrant for legal cases is the 4th Amendment in the Bill of Rights.