

3.8 Amendments: Due Process and the Rights of the Accused



ESSENTIALS

1. The Miranda rule involves the interpretation and application of accused persons' due process rights as protected by the Fifth and Sixth Amendments.
2. Pretrial rights of the accused and the prohibition of unreasonable searches and seizures are intended to ensure that citizen liberties are not eclipsed by the need for social order and security.
3. The due process clause has been applied to guarantee the right to an attorney and protection from unreasonable and searches and seizures.

1. What is the underlying idea of this cartoon?
2. Are the Miranda rights a mere formality or do they actually mean something?

Pretrial rights of the accused and the prohibition of unreasonable searches and seizures are intended to ensure that citizen liberties are not eclipsed by the need for social order and security, including:

- The right to legal counsel, speedy and public trial, and an impartial jury – **Is right to counsel enough? Should it be competent counsel? Look for examples. Explain the VOIR DIRE process. Do you think all courts should be televised? Explain.**
- Protection against warrantless searches of cell phone data – **What have the courts said? Find examples. What would you say if you were a judge?**
- Limitations placed on bulk collection of telecommunication metadata (Patriot and USA Freedom Acts) – **Investigate what the most current law and interpretation is on the collection of metadata.**

The due process clause has been applied to guarantee the right to an attorney and protection from unreasonable searches and seizures, as represented by: Gideon v. Wainwright (1963), which guaranteed the right to an attorney for the poor or indigent

The exclusionary rule that stipulates evidence illegally seized by law enforcement officers in violation of the suspect's Fourth Amendment right to be free from unreasonable searches and seizures cannot be used against that suspect in criminal prosecution.

- **FIND EXAMPLES of the EXCLUSIONARY RULE in action. How has the court recently STRENGTHENED/WEAKENED the exclusionary rule?**

The Miranda rule involves the interpretation and application of accused persons' due process rights as protected by the Fifth and Sixth Amendments, yet the Court has sanctioned a "public safety" exception that allows unwarned interrogation to stand as direct evidence in court.

- Review the Miranda rule. What does it guarantee?
- Find "public safety" exceptions that allow unwarned interrogations. What has the court said?

QUANTITATIVE ANALYSIS

Partisan Groups' Ratings Over Time of Job the FBI is Doing

Republicans	Excellent%	Fair%	Poor%
2003	62	59	48
2014	26	29	23
2019	7	7	28

Democrats	Excellent%	Fair%	Poor%
2003	45	61	64
2014	34	26	24
2019	17	6	10

Use the chart to answer the following questions.

- Identify the political party that has overtime held more favorable views of the FBI.
- Describe a difference between Democrats and Republicans and their favorability of the FBI.
- Draw a conclusion about why the party's favorability of the FBI differs.
- Explain how the information in the chart could be used by the Senate when considering evidence in an impeachment trial.