

Module 7: Civil Rights and Civil Liberties

Topic 1 Content: Due Process

Introduction

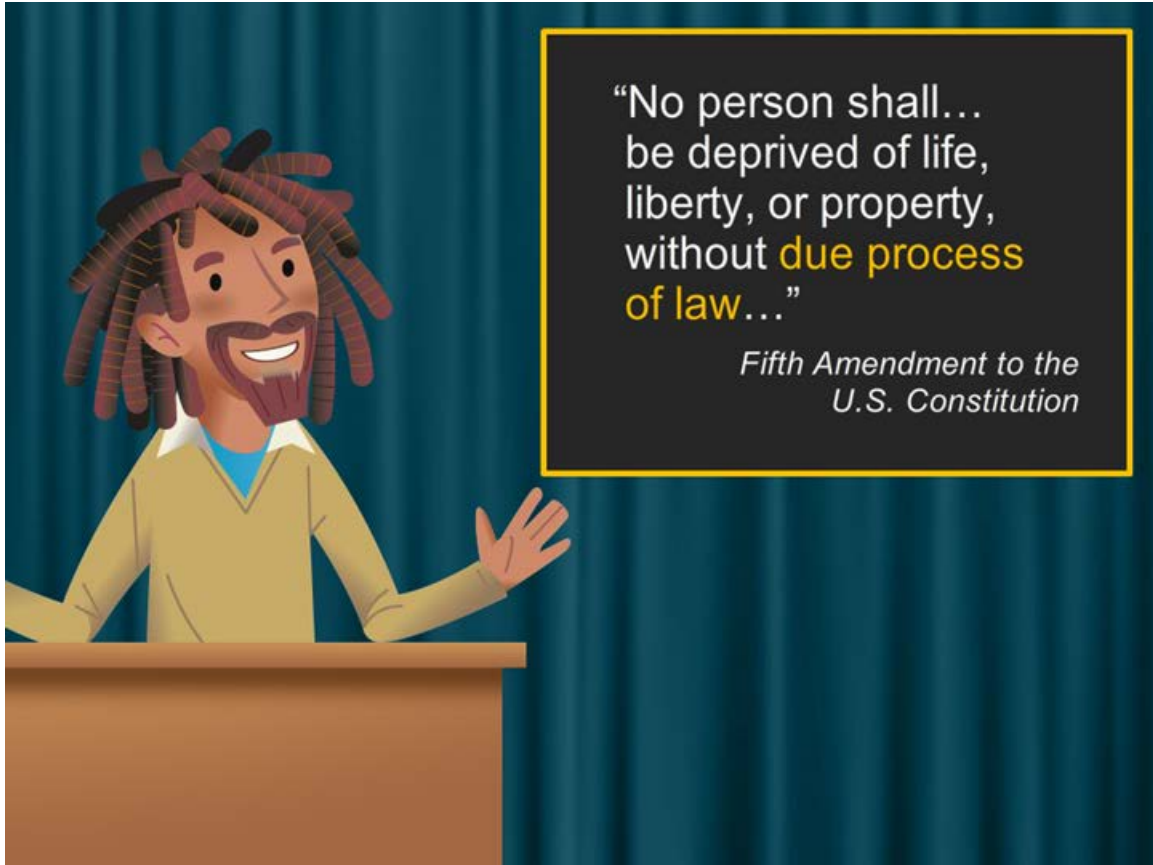


Glover Mint: Thank you for joining us. I'm Glover Mint, here with Demi Tracy. Today's episode will explore due process and how it protects the rights of Americans. Jamie, what information about due process are you able to share with our viewers?

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The Constitutional Connection



“No person shall...
be deprived of life,
liberty, or property,
without **due process**
of law...”

*Fifth Amendment to the
U.S. Constitution*

Jamie Madson: Thank you, Glover. The right to due process is guaranteed by the Fifth Amendment. It states that no citizen can “...be deprived of life, liberty, or property, without due process of law...” Due process of the law means that governments must act reasonably and apply the law fairly, in accordance with established policies. In the American judicial system, there are technically two types of due process.

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Procedural Due Process

Procedural Due Process

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- Government followed all required procedures before punishing a citizen for a crime
- Includes rules outlined in the Constitution and in legislation passed by Congress
- Examples: informing a defendant of the charges against him or her and allowing every defendant access to legal assistance
- Prevents the government from acting randomly when it deprives a citizen of life, liberty, or property

Next

Jamie Madson: The first type of due process of law is procedural due process. This means that the government followed all required procedures before it punished a citizen for a crime. This includes rules that are outlined in the Constitution and in legislation passed by Congress. Examples of due process being followed include informing a defendant of the charges against him or her and allowing every defendant access to legal assistance. Procedural due process prevents the government from acting randomly when it deprives a citizen of life, liberty, or property.

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Substantive Due Process

Substantive Due Process

Fundamental Rights

- Right to marry and procreate
- Right to buy and use birth control
- Right to custody of your children and to raise them as you see fit
- Right to refuse medical treatment
- Right to freedom of speech
- Right to travel freely among the states
- Right to vote

- Some rights are fundamental and the government cannot pass legislation that infringes on them
- Government must have a compelling reason to restrict a fundamental right
- Courts decide: is a right fundamental and is there a compelling reason to interfere

Jamie Madson: Substantive due process is the second type of due process in the American judicial system. It refers to the idea that some rights are fundamental and the government cannot pass legislation that infringes on them. Examples of some of these fundamental rights include:

- the right to marry and procreate;
- the right to buy and use birth control;
- the right to custody of your children and the right to raise them as you see fit;
- the right of mentally competent adults to refuse medical treatment;
- the right to freedom of speech;
- the right to travel freely among the states; and
- the right of legal voters to vote.

In order for the government to restrict one of these fundamental rights, it must have a compelling reason. The decision of what a fundamental right is and whether there is a compelling reason to interfere falls to the court system. That's it for this edition of *The Constitutional Connection*.

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Ending of Episode



Glover Mint: Thank you, Jamie, and thank you, America. Demi and I appreciate you stopping by for this episode of WUSG News. We will see you next time.