

2nd Amendment: Right to Bear Arms

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.

Two Schools of Thought

1. The first part of the 2nd Amendment forbids Congress to prohibit the maintenance of a state militia. This point of view assumed that the state has a right to protect against the federal abuse of power and protect the rights of its citizens.
2. The second part of the 2nd amendment says the founding fathers wanted to guarantee the basic right of individuals to to keep and bear arms.

The Gun Control Act of 1968- Banned the purchase/possession of firearms by:

1. convicted felons
2. fugitives
3. mentally incompetents
4. all persons dishonorably discharged
5. drug users
6. illegal aliens
7. those who have renounced their citizenship

Prohibits the sale of rifles to anyone under the age of 18, and handguns under 21.
Gun dealers must be federally licensed and must keep record of sales.

The Brady Bill of 1993

1. Minimum of 5 day waiting period and background check before a person can buy a gun
2. Federal firearm license fee of \$200
3. It is a federal crime to steal firearms from a licensed gun dealer

Self Defense- The right to use force (a weapon) in resisting an attack on his/her person, home, or property. Limitations: The attack must be

1. Immediate
2. Real
3. No opportunity for escape
4. Degree of force must be proportionate to the danger that is presented

3rd Amendment

“No soldier, in time of peace, be quartered in any house, without consent of the owner, nor in time of war, but in a manner to be prescribed by law”

- Is important because it establishes the idea that Americans have a zone of privacy (our homes) that the government cannot intrude.

4th Amendment: Search & Seizure

A. History

1. English maxim “Every man’s house is his castle”
2. Writs of Assistance- a general search warrant that lasted the lifetime of the suspect and 6 months thereafter

B. Security of Home and Person

1. Warrant- a court order particularly describing the place to be searched, and the persons or things to be seized.
2. Probable Cause- facts and circumstances that provide a reasonable basis for believing that a person has committed, is committing, or will commit a crime.
3. Exclusionary Rule- illegally obtained evidence (no matter how incriminating) cannot be used in court.
4. Wiretapping- authorities may use a wiretap if they obtain a warrant.
5. Arrest- police can arrest a person in a public place without a warrant provided they have probable cause.