C.2.4

• The student will evaluate rights contained in the Bill of Rights and other amendments to the Constitution.
The **Bill of Rights** includes the first ten *amendments* to the U.S. Constitution. The Bill of Rights was added to the U.S. Constitution in 1791, two years after the U.S. Constitution was *ratified*. These amendments define individual freedoms, rights of those accused of a crime, and protections from the federal government.
amendments - changes to the U.S. Constitution

Bill of Rights - the first ten amendments to the U.S. Constitution

ratify - to confirm by expressing consent or approval
**SS.7.C.2.4 Benchmark Clarification 2:** Students will recognize the five freedoms protected by the First Amendment.

The First Amendment includes five individual freedoms. Those freedoms are the right to free speech, press, religious exercise, peaceable assembly, and petitioning the government. Freedom of speech allows individuals to express their opinions. This includes speech that may criticize the government or government officials. Freedom of the press allows individuals to publish or print information. Freedom of religious exercise allows individuals to practice their religion freely or to choose not to practice a religion at all. Freedom to peaceably assemble is the ability to peacefully gather in groups. These groups can include those meeting to publicly demonstrate ideas or beliefs, such as a protest. Freedom to petition allows individuals to express their concerns with the government. A petition may formally ask the government for a policy change and may include the signatures of those who support those changes.
SS.7.C.2.4 Benchmark Clarification 3: Students will evaluate how the Bill of Rights influences individual actions and social interactions.

There are three categories of rights, freedoms, and protections listed in the Bill of Rights. The first are individual freedoms as stated in the First Amendment: free speech, press, religious exercise, peaceable assembly, and petition.
SS.7.C.2.4 Benchmark Clarification 3: Students will evaluate how the Bill of Rights influences individual actions and social interactions.

The second category is the **rights of those accused** of a crime. **Search and seizure** occurs when police believe that a crime has been committed. Police conduct a search to seize (collect) evidence that may have to do with the crime. Protection from unreasonable search and seizure means that police must have a reason and in most cases a warrant from a judge to search a person’s personal property, home or body that may include their car, home, locker, backpack or purse belonging to the accused person. Rights of those accused of a crime also include the right to **due process of law**. Due process means that one cannot have their life, liberty or property taken without appropriate legal procedures and protections. **Pleading the Fifth**, or protection against **self-incrimination**, means that those accused of crimes may refuse to testify against themselves in a court of law. Pleading the Fifth prevents anything that a person may say to be used as evidence against them to convict them of a crime. **Double jeopardy** is also protected by the Bill of Rights. If evidence is found after an accused person is found “not guilty” of a crime, that person cannot be brought back to stand trial for the same crime. The right to legal counsel (lawyer) allows all people accused of a crime to have legal representation in court. **Trial by jury** is an additional right protected by the Bill of Rights. Protection of trial by jury means that a judge and **jury** must decide the issue based on the facts and evidence of a criminal case. Further, persons accused of a crime are protected against **cruel and unusual punishment** which may include torture or other forms of punishment considered too harsh for the crime committed. The **constitutionality** of the death penalty has long been questioned as to whether it should be considered cruel and unusual punishment.
SS.7.C.2.4 Benchmark Clarification 3: Students will evaluate how the Bill of Rights influences individual actions and social interactions.

The third category is protection from government abuse of power. Such matters may deal with property rights, voting rights or the right to protect oneself. For example, the right to bear arms is included in this category. The right to bear arms means that one is able to own and carry weapons, such as owning and carrying a gun for self-protection. Eminent domain allows the government to take private property (property owned by people organizations or companies) for public use although the owner must be compensated (paid) fairly for it. A good example of this is if a road needs to be expanded and someone’s property is in the path of the road. The government must pay the owner for the land that will be taken by the government for expanding the road. The Ninth Amendment gives the people unenumerated rights or rights that are not be listed in the Constitution. Unenumerated rights include privacy rights which, while not listed in the Constitution, belong to the people. Equal protection under the law guarantees citizens protection from states treating them in a way that denies them their rights under federal law. The 15th, 19th, 24th and 26th Amendments each deal with suffrage. Each amendment deals with a different aspect of suffrage; the 15th Amendment protects the voting rights of African-American men, the 19th Amendment guarantees women the right to vote in all federal, state and local elections and the 24th Amendment protects citizens from having to pay a poll tax as a condition of voting. The 26th Amendment guarantees citizens who are at least 18 years old the right to vote.
Bill of Rights - the first ten amendments to the U.S. Constitution

constitutionality - whether or not something is legal under the U.S. Constitution

cruel & unusual punishment - punishment prohibited by the Eighth Amendment to the U.S. Constitution; includes torture or other forms of punishment too severe for the crime committed

double jeopardy - the prosecution of a defendant for a criminal offense for which he has already been tried; prohibited in the Fifth Amendment to the U. S. Constitution

due process of law - a system of justice according to established rules and principles; based on the principle in the Fifth Amendment that a person cannot be deprived of life, liberty, or property without appropriate legal procedures and protections

eminent domain - the right of the government to take private property for public use; the Fifth Amendment requires that fair compensation be made when property is taken under eminent domain

freedom of peaceable assembly - the right to hold meetings and form groups without interference by the government; guaranteed in the First Amendment

freedom of press - the right of the press to write and print news and information free from government involvement; guaranteed in the First Amendment

freedom of religious exercise - the right for citizens to practice the religion of their choice without government involvement; guaranteed in the First Amendment

freedom of speech - the right for citizens to speak freely without government involvement; guaranteed in the First Amendment
freedom to petition the government - the freedom for citizens to engage in any nonviolent, legal means of encouraging or disapproving government action, directed to the judicial, executive or legislative branch; guaranteed in the First Amendment

jury - a group of citizens sworn to give a true verdict according to the evidence presented in a court of law

pleading the fifth - the act of a person refusing to testify under oath in a court of law on the grounds that the answers could be used as evidence against him to convict him of a criminal offense

property rights - the right to own property; mentioned in the Fifth and Fourteenth Amendments

right to bear arms - the idea in the Second Amendment that people have an individual right to own and carry weapons

rights of the accused - the rights included in the Fourth, Fifth and Sixth Amendments: protection from unreasonable search and seizure, double jeopardy, and self-incrimination, the right to due process, right to a speedy and public trial, trial by jury, the right to be informed of criminal charges, right to be confronted by adverse witnesses, right to an attorney, protection from self-incrimination

search & seizure - the process by which police or other authorities who suspect that a crime has been committed do a search of a person's property and collect any relevant evidence to the crime; protection from illegal search and seizure is in the Fourth Amendment

self-incrimination - the right in the Fifth Amendment that protects a person from being forced to reveal to the police, prosecutor, judge, or jury any information that might subject him or her to criminal prosecution

suffrage - the right to vote

trial by jury - a trial in which the issue is determined by a judge and a jury, usually with 12 members, whose job is to determine facts and make a judgment of guilty or not guilty; protected in the Sixth Amendment
The wording of the **Bill of Rights** is not entirely clear. What is “speech”? “What is the freedom of religious exercise”? What does it mean to guarantee the right to counsel? The U.S. Supreme Court has been asked to evaluate situations where individuals have questioned whether their rights guaranteed under the U.S. Constitution have been violated (abused) by a federal, state or local law or other government regulation. Through evaluating these situations, the U.S. Supreme Court has interpreted what the Bill of Rights and other amendments to the Constitution mean. Through these interpretations, the U.S. Supreme Court has recognized violations (abuses) of citizen and individual protections. And, these decisions have established **precedents** for future case decisions.
One key example is *Tinker v. Des Moines* (1969). Tinker v. Des Moines is a case that interpreted the First Amendment right to free speech to include “symbolic speech”. John and Mary Beth Tinker, who attended public school in Des Moines, Iowa, wanted to wear black armbands to school to protest the Vietnam War in 1965. The school did not allow students to wear black armbands, and the Tinkers were suspended. Their parents sued and the case was eventually heard by the U.S. Supreme Court. The Court decided that the wearing of black armbands was a form of “symbolic speech” or “political speech” that was protected by the “free speech” right in the First Amendment. The U.S. Supreme Court stated that denying students the right to wear the black armbands violated their free speech rights under the Bill of Rights.
SS.7.C.2.4 Benchmark Clarification 5: Students will use scenarios to recognize violations of the Bill of Rights or other constitutional amendments.

*Miranda v. Arizona* (1966) dealt with protection from self-incrimination or the right to *plead the fifth*. The police did not tell Miranda that he did not have to say anything to police when they questioned him. He confessed to a crime and the confession was used against him in court. The U.S. Supreme Court stated that his confession could not be used against him in court because the police did not inform him of his protection from self-incrimination. As a result of this case, police must inform a person of their rights if they are arrested for committing a crime. These rights are now called Miranda Rights.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tr>
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<td><strong>Miranda v. Arizona</strong></td>
<td>U.S. Supreme Court cases that upheld the Fifth Amendment protection from self-incrimination</td>
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<td><strong>pleading the fifth</strong></td>
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<td><strong>precedent</strong></td>
<td>a court decision in an earlier case with facts and legal issues similar to those in a case currently before a court</td>
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<td><strong>symbolic speech</strong></td>
<td>action that expresses an idea</td>
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<tr>
<td><strong>Tinker v. Des Moines</strong></td>
<td>U.S. Supreme Court case that upheld a student’s First Amendment right to engage in symbolic speech in school</td>
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