

**Presenting Constitutional Issues in a Non-adversarial Mode**  
**by Marylee Martig Johnson**

**Students will:**

1. Learn about the Fourth, Fifth, Sixth, Eighth Amendments through research, review, and application in a friendly competition.
2. See and seek alternative hypotheses, values, and problem solving approaches.
3. Note and respect different points of view.
4. Analyze concepts into components, understand multiple relations among ideas, differentiate concepts and concerns.

**Materials needed:** Copies of:     **Student Handout: INTRODUCTION**  
  **Student Handout: GROUP CHECK OF THE BASIC**  
  **FIVE**  
  **Student Handout: YOU HAVE THE RIGHT TO**  
  **ASSEMBLE HERE!**  
  **Student Handout: PARTNERS-IN-CRIME**  
  **Student Handout: RAP 2 THE BILL O RIGHTS**  
  Deck of playing cards

**Grade level:**           9th - 12th grades

**Procedure:**

1. Introduce students to the amendments of the Bill of Rights that provide protection in criminal prosecutions. These amendments are the Fourth, Fifth, Sixth, and Eighth Amendments.
2. Have students number off so that each student has a number of one of these four amendments.
3. Assign the following questions to the students. (**Student Handout: INTRODUCTION**)
  - A. What does your right guarantee?
  - B. Why is your right important?
  - C. Give an example from history of a case involving your right.
  - D. Give a personal or contemporary example of your right.

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#### Procedure cont.

4. Have students meet in groups (all Fourth Amendment students meet together, etc.) to make sure that everyone on the team pursues and researches the questions. Assign a specified amount of time depending upon the degree of research and complexity of the answer desired. Students may wish to use a law library for research. (Contact the county law library or a local law school.)
5. After research is completed, teacher asks students to report their findings by calling one of the numbers. Students with the number called share information from group exchange-work.
6. Review lesson by having students complete **Student Handout: GROUP CHECK ON THE BASIC FIVE** and **Student Handout: YOU HAVE THE RIGHT TO ASSEMBLE HERE**. Discuss.
7. Explain to students that the enforcement of these rights sometimes limits the ability of the police officers to "*put the guilty parties away.*" For example, if police officers do not obtain a search warrant as required by the Fourth Amendment, the evidence seized may be inadmissible in court. Tell students that they are going to explore some of these issues.
8. Have students individually think to themselves on a topic of controversy concerning crime. (They may select their topics from the list provided in **Student Handout: PARTNERS-IN-CRIME** or produce one of their own from newspaper stories, current cases, quotations, etc.)
9. After giving some thought to the issue, pair students together into "**Partners-in-Crime**" to discuss the issues.
10. Have students share their thoughts and exchange process with the entire class. Note any variations on positions on the issues. Discuss.
11. An alternative method of presenting the issues and involving the students in discussion is with "*It's in the Cards! Evaluation Strategy.*" Have students select a card from a deck of cards. They are assigned perspectives by receiving a card with a certain suit. For example, in evaluating different methods of dealing with crime (cultural attitudes across time and place) have students select from:
  - A. Clubs-representing strong law enforcement, crime control
  - B. Spades-representing Middle East, eye for an eye
  - C. Diamonds-representing individual rights and due process
  - D. Hearts-representing Native Americans and inter-connectedness

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**Procedure cont.**

- 12.** Have students move to a corner of the classroom representing a pre-determined suit. Within their groups, students discuss and evaluate the model presented.
- 13.** Have the groups from each corner share their ideas with the others. All students should listen to and be able to paraphrase the ideas from the other corners. Discuss.
- 14.** Explain the exclusionary rule to students. Tell them that in order to regulate the behavior of the police, the U.S. Supreme Court has decided that evidence obtained in violation of the Bill of Rights will be excluded from the trial. Have students discuss whether the exclusionary rule is a good idea.
- 15.** Encourage students to consider other perspectives. To do this, use an inside-outside circle. Students stand in pairs in two concentric circles. The inside circle faces out. The outside circle faces in. The students share their perspectives (position statements) with their opponents. Students rotate to listen to new perspectives. Perspectives that can be used are: the perspective of the victim, the perspective of the defendant, the perspective of the police, the perspective of the public.
- 16.** Have students consider complicated issues concerning the application of the rights of the accused. This can be done through a "*Judicial Jigsaw*." Divide the class into the same number of groups as you have issues. Each group is assigned an issue. The group members become "experts" on the issue by researching and interviewing experts. Each member is then grouped with a member from each of the other groups. In their new group configurations, the students share their expertise with their classmates. Review as a large group. An example of issues concerning the Fourth Amendment would be:
  - A.** Should there be an expanded category of exceptions to the warrant requirement, which would allow police officers more latitude in solving crimes?
  - B.** Should the level of suspicion necessary to justify police investigation be reduced?
  - C.** Should the requirement of probable cause be eliminated?
  - D.** Who determines what the definition of reasonable is? What is its current meaning? When is it used?
- 17.** Conclude the lesson by have students develop a "*Bill of Wrongs*." Ask students:
  - A.** Wouldn't it be easier if we had a Bill of Wrongs?
  - B.** What would your Bill of Wrongs look like? Your group may consider a broad bill or one which only encompasses a classroom or a group in the classroom.

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**Procedure cont.**

**C.** On what could your group agree? What did it discard? What are the positives and the negatives in your proposal?

**D.** Now using the Student Handout: Rap 2 the Bill o Rights as a guide, present your Bill of Wrongs in musical style to the class.

**E.** How do the Bills of Wrongs compare?

**18.** For more information on cooperative learning methods, consult *Learning Together and Alone: Cooperation, Competition, & Individualization* by D.W. Johnson and R. Johnson, published by Prentice-Hall.



## **Student Handout: GROUP CHECK ON THE BASIC FIVE**

What protection does the Bill of Rights offer Americans?

Picture this: It's the last two minutes of a TV thriller. The police have chased and caught the crook. One officer jumps out and snaps on the handcuffs. The other says, "*Read him his rights*"

The "rights" we hear about on shows like this are protected by the Bill of Rights--the first Ten Amendments to the Constitution. The table below summarizes some of these Amendments. After reading them here, you might want to check the original wording in a textbook or almanac.

### **HOW THE BILL OF RIGHTS PROTECTS US**

<b>AMENDMENT</b>	<b>WHAT THE AMENDMENT GUARANTEES</b>
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#### **First**

This amendment guarantees your right to **worship** as you choose and **express** your ideas freely. It also protects your right to **meet** with others in a group. And it protects your right to **complain** about the way the government acts.

#### **Fourth**

Under this amendment, **you** and **your house** are protected against "unreasonable searches and seizures" by the government. **Warrant** (permission) from a court to search for evidence of a crime, they must get a

#### **Fifth**

The Fifth Amendment forbids the government to put you on trial for a capital (serious) crime unless a **grand jury** has accused you. It forbids the government to try you **twice** for the same crime. It protects your right to be **silent** if you're asked to testify against yourself. And it bars the government from taking your life, liberty, or property without **due process of law** - a fair legal hearing.

#### **Sixth**

If you are arrested, this amendment guarantees your right to **know** what crime you are accused of. It also protects your right to a **lawyer** and a **speedy trial**.

#### **Eighth**

This amendment forbids the government to ask for unreasonable **bail**. (Bail is money a defendant gives a court as a pledge that he or she will come back for trial.) This amendment also bars the government from sentencing a convicted criminal to **cruel and unusual punishment**.

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**Student Handout: GROUP CHECK ON THE BASIC FIVE cont.**

*As a group come to a consensus and write the answer to each question on the line provided.*

1. What are the first Ten Amendments to the Constitution called?  
\_\_\_\_\_
2. What does the Fourth Amendment protect you against?  
\_\_\_\_\_
3. Which amendment bans cruel and unusual punishment?  
\_\_\_\_\_
4. Under the Fifth Amendment, which body must accuse you before you can be put on trial for a capital crime?  
\_\_\_\_\_
5. Which amendment says an accused criminal has a right to a lawyer?  
\_\_\_\_\_
6. **True or False.** A person can be tried twice for the same crime.  
\_\_\_\_\_
7. On trial for burglary, Carson refuses to answer question about his conduct. Which amendment protects his right to refuse?  
\_\_\_\_\_
8. Mo is charged with stealing a camcorder. The court set his bail at \$50,000. Which amendment is violated by this high bail?  
\_\_\_\_\_

As a **group of four**, write an additional amendment that you think should be included in the Bill of Rights.

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**Student Handout: PARTNERS-IN-CRIME**

*Areas of controversy in crime and possible topics for consideration:*

- 1.** Should we trust juries?
- 2.** Should we trust the police? What is police discretion? What about entrapment? Is it necessary?
- 3.** Is the Supreme Court too conservative? Too liberal?
- 4.** Capital punishment v. rehabilitation. Who is killing whom?
- 5.** Are sentencing guidelines an improvement?
- 6.** Is crime determined by culture? Does culture determine crime?
- 7.** Should the accused be able to confront accusers?
- 8.** Should the right to counsel be applied in all situations?

(Adapted: Scholastic Search Skillmaster, May 1989)

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**Student Handout: YOU HAVE THE RIGHT TO ASSEMBLE HERE!**

Using the Bill of Rights, on a separate sheet of paper, state if the following situations are *constitutional* or *unconstitutional*. Judge the situation only on what appears in the statements. Do not assume something was not done on the case. If you decide the situation is unconstitutional, explain your reasoning. Cite the Amendment. Discuss whether you agree.

- 1.** The local police enter a house with an official search warrant, stating that they are to search the house for anything which might be illegal, since the neighbors are suspicious of illegal acts. They have reported lights burning in the house late into the night and "*something fishy going on.*"
- 2.** A man, actually innocent of murder, is indicted by a grand jury, brought to trial, convicted and executed in the gas chamber.
- 3.** Stan Smith is tried for murder and is acquitted. Three months later a star witness for the defense confesses that he lied at the trial, and that actually he saw Stan Smith commit the crime. Smith is brought back to trial, and this time convicted and sent up for life.
- 4.** A man is accused and indicted for the brutal hatchet slaying of a beloved and revered art teacher. The county attorney decides to hold the case up for a while because it is feared that the enraged public would cause such pressure as to make it impossible for a fair trial. The accused is held in jail for one year and then tried after the public cools off. He is convicted and given life imprisonment.

**As a group**, creatively and cooperatively write one hypothetical situation which tests one of the amendments in the Bill of Rights.

Adapted from the *American Dream* Activities, Scott, Foresman & Co.

## **Student Handout: RAP 2 THE BILL O RIGHTS**

When our grand Constitution was finally completed,  
A few of the framers said, "Wait! More is needed!"  
"This tells very well what the Congress can do,  
Let's write 'bout the rights of the people, though, 2!"  
And when the document passed 2 the states,  
A few citizens said, "Hold on, wait!  
This Constitution is not the solution,  
We want rights we earned in the Revolution!"  
The Federalists replied 2 the unsatisfied,  
:This Constitution is fine, everybody chill out!  
Why bother 2 list every obvious right,  
Like, "A man's free 3 sleep if he wants 2 at night?"  
The Antifeds countered, "We don't wanna guess  
'Bout freedom of speech and religion and press!"  
The Quakers agreed, "Don't mock fears of oppression,  
We used 2 get whipped 4 religious expression!"  
So a man named James Madison, in black tights,  
Decided 2 list people's most basic rights.

In the very first session Congress ever had,  
They gave a good listen 2 old Jimmy Mad.'  
They went through his points in the House and Senate;  
They picked out a dozen, approved them, and then it  
Was time 4 the states, who chose 10 that they ratified.  
When they were passed, Jimmy must have been gratified  
Cause this "Bill of Rights" then became, in conclusion,  
The first 10 Amendments 2 our own Constitution!  
The Amendment that's first grants free speech 2 each voice,  
And the freedom 2 worship the god of your choice.  
To gather in peace 2 express your beliefs,  
Or talk 2 the folks in command 'bout your beefs.  
The second says local defense can't be stifled;  
It guarantees people's new right 2 bear rifles.  
The third says troops can't stay on your floor;  
It outlaws that--even during a war.  
The police can't search your house, says number 4,  
'Less they show you a warrant 'fore they come through your door.  
Five through 8 concern the sort  
Of rights you need when you're in court.  
They gotta tell you your crime in a hurry,  
And bring you 2 trial with lawyer and jury.  
If they put you in jail, they can't set unfair bail;  
Though punishment may be feared, it can't be brutal or weird.  
Number 9 says of the rights the Constitution ignores,  
"Any right we didn't list, rest assured that it's yours!"  
The 10th Amend saved room 4 interpretation,  
Each state still has power in shaping the nation.

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**Student Handout: RAP 2 THE BILL O RIGHTS cont.**

In the years since then, more's been added 2 10.  
New rights 'been demanded; the Bill's been expanded.  
After the Union won the Civil War,  
Three new Amendments said, "Slavery no more!"  
Numbers 13 through 15 state, "In every case,  
Citizens are equal, regardless of race!"  
Amendment 19 is the next 2 note;  
It grants all women suffrage--and that means they can vote!  
Amendment 26 is our most recent 1;  
It brought the age of voting down from 21!

And the Bill of Rights will keep on defending  
Your freedom 2 make your own happy ending.

Billy Aronson