

# History of Law and Law Enforcement

■ L.E. Class

# Cave Dwellers

- Tribes or clans
- Customs and traditions
- Chieftains had executive, legislative and judicial powers
- Crimes committed handled by individual or family

# Justice System

- Punish the offender
  - There was no attempt at rehabilitation. Punishment was strictly to extract revenge and as an example to others
  - Some of the punishments included; Boiling in oil, Flaying, Impalement, Burning at the stake, Stoning, Branding, Mutilation, & Crucifixion

# When and why did law enforcement begin?

A system of law and law enforcement began earlier than 2000 B.C. as a means to control human conduct and enforce society's rules. Keeping the peace was the responsibility of the group.

## c. 2300 B.C. Lipit Ishtar, Sumerian Ruler, set standards for conduct.

1. If a man entered the orchard of another man and was seized there for stealing, he shall pay ten shekels of silver.
2. If a man cut down a tree in the garden of another man, he shall pay one-half mina of silver.
3. If a man married his wife and she bore him children and those children are living, and a slave also bore children for her master but the father granted freedom to the slave and her children, the children of the slave shall not divide the estate with the children of their former master.
4. If a man's wife has not borne him children but a harlot from the public square has borne him children, he shall provide grain, oil and clothing for that harlot. The children which the harlot has borne him shall be his heirs, and as long as his wife lives the harlot shall not live in the house with the wife. **\*This is the earliest known codified provision for child support.**

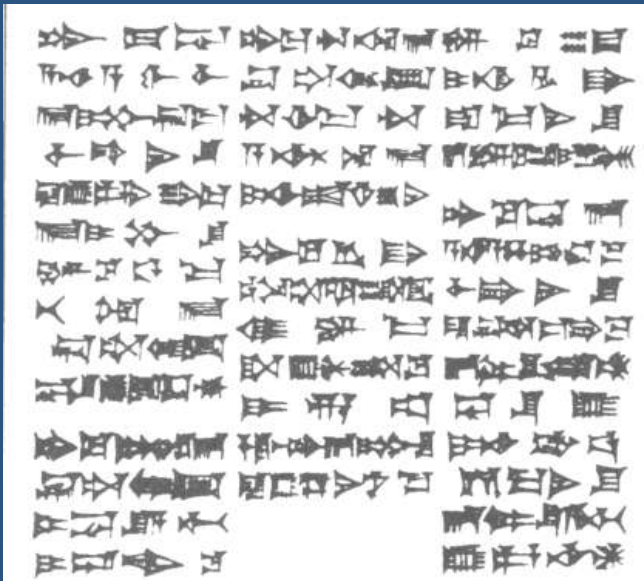
## c. 2250 B.C.

- Sumerian ruler Eshumma set standards on what constituted an offense against society.
  - debt bondage was limited to three years
  - maximum prices were established for basic commodities, including beer
  - Wages were fixed by law, as were fees charged by housebuilders, physicians, veterinarians, boat caulkers and leasers of work animals, wagons and boats...

# 2200 BC

- The code of Hammurabi
  - Set offenses and punishments
  - The original legal principal lex talionis (an eye for an eye)
  - “The strong shall not injure the weak”

# Figure 1-1 From the Code of Hammurabi (2200 B.C.)



If a builder builds a house for a man and does not make its construction firm and the house collapses and causes the death of the owner of the house—that builder shall be put to death. If it causes the death of a son of the owner—they shall put to death a son of that builder. If it causes the death of a slave of the owner—he shall give the owner a slave of equal value. If it destroys property he shall restore whatever it destroyed and because he did not make the house firm he shall rebuild the house which collapsed at his own expense.



# Roman Empire

- First police force established by Emperor Augustus.
  - Used Roman soldiers
  - Praetorian guard to protect the palace
  - Urban Cohort to patrol the streets

# Roman Empire

## ■ The Twelve Tablets c. 451-450 B.C.

- IV. 1 "A dreadfully deformed child shall be killed."
- IV. 2 "If a father surrender his son for sale three times, the son shall be free."
- V. 1 "Our ancestors saw fit that "females, by reason of levity of disposition, shall remain in guardianship, even when they have attained their majority."
- V. 8 The inheritance of a Roman citizen-freedman is made over to his patron, if the freedman has died intestate and has no natural successor.
- VI. 1 When a party shall make bond or conveyance, what he has named by word-of-mouth that shall hold good.
- VI. 2 Marriage by `usage' (*usus*): If a man and woman live together continuously for a year, they are considered to be married; the woman legally is treated as the man's daughter.
- VIII. 26 "No person shall hold meetings in the City at night."

# Early English Society

- Origins of American law and policing
- The middle ages
  - Crimes viewed as personal wrongs
  - Compensation was paid to victims families
  - Enforced by land owners
  - Punishment varied from local to local
  - Law designed to provide equitable solution
  - Only concern was to maintain the peace

# Prior to the Norman Conquest

- Protection of life and property was a personal responsibility
- The pledge system was in use
  - Each person pledged to protect the village against thieves and marauders
  - Expected to raise a hue and cry to warn of trouble

# Families banded together

- Ten families grouped together for protection was called a tithing
- Supervised by a tithing man who acted as mayor, council and judge
- Only two laws enforced – murder and theft

# Ten Tithing formed a hundred

- They were supervised by a constable
  - Could be considered the first real police officer
  - They dealt with serious breaches of the law

# Norman Conquest (1066 AD)

- Two separate courts established
  - Church courts handled cases considered to be sins
  - Courtleet (Manor Court) handled secular or crimes against the king

# Court Administrators

- Appointed by the King
- Used prior punishment to decide cases
- Used local rules and customs



# Created 55 military districts

- These were called *shires*
- Each district was presided over by a *reeve*
- Tithing system was modified into the *Frankpledge* system

# Frankpledge system

- Required loyalty to the King's law
- Mutual responsibility of all free Englishmen to maintain the peace
- Under the frankpledge system the shire-reeves were relieved of judicial duties

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# Henry I (1100 – 1135)

- ***Leges Henric*** – set certain crimes as being against the King's peace
- Government now was getting involved in crimes previously considered personal

# Henry II (1154 – 1189)

- Created position of Circuit Judge
- Juries made up of local landowners
  - Decided cases on evidence presented
  - Investigated crimes
  - Brought accusations against suspects
  - Gave testimony against suspects

# Judges start applying a common Law

- Applied to all the subjects of the land
  - (excluding the wealthy and the ruling class)

# Judges

- Made and enforced the law
- Consistently evolving legal code (every time a judge changed his mind)
- New laws were created to fit a particular case
- The new law could be and was frequently retroactive

# King Edward I

- Created the watch and ward system
  - Imposed a curfew – gates of the city were locked at curfew
  - Watch system more formal than the pledge system
  - Employed watchmen to protect property against fire and robbery
  - Watchmen were supervised by local constables
  - This system was in place for about 500 years in England



# 14<sup>th</sup> Century

- Shire-reeves replaced with the Justice of the Peace
- The increase in church power caused the Hundred to be the Parrish
  - Parish – an area which the church drew its members
  - Church appointed a parish constable to enforce laws and collect taxes

# 14<sup>th</sup> Century continued..

- Parish constables were in the rural areas
- Watch and Ward system used in urban areas

# 18<sup>th</sup> Century

- 1730 Charles Townshend introduced crop rotation system
- Jethro Tull invented the four-bladed plow
- Increased agricultural productivity allowed movement from the farms to the city.

# 18<sup>th</sup> Century

- Industrial revolution
- The Gin Craze
- Consumption of alcohol doubled between 1727 and 1743
- Public drunkenness and violence became widespread

# Bow Street Runners

- Created by Henry Fielding in 1748
- First police organization to actually patrol the streets
- Before watchmen stayed in their watch boxes
- Due to the increased mobility many more criminals were captured

# Bow Street Runners

- 1752 Fielding began publishing *The Covent Garden Journal* to circulate descriptions of wanted criminals.
- After Henry's death his brother John took over and Bow Street became a clearinghouse for crime information.

# Metropolitan Police of London

- Established in 1829
- Recognized as the worlds first organized police force
- Created by Sir Robert Peel
- Composed of over 1000 officers or "Bobbies"
- Used a military command structure
- First force to have special uniforms

# The principles of Peelian Reform stated:

- Police must be stable, efficient and organized militarily.
- Police must be under governmental control.
- The deployment of police strength by both time and area is essential.
- The securing and training of proper persons is at the root of efficiency.
- Public security demands that every police officer be given a number.
- Police headquarters should be centrally located and easily accessible.

(continued . . .)



# The principles of Peelian Reform stated:

- Policemen should be hired on a probationary basis.
- The duty of police is to prevent crime and disorder.
- The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with these problems.
- The power of the police to fulfill their duties is dependent on public approval and on their ability to secure and maintain public respect.
- The police should strive to maintain a relationship with the public that gives reality to the tradition that the police are the public and the public are the police.

# Colonial Policing

- Colonial police similar to those in England
- The county sheriff was the primary law enforcement agent
  - Paid for each arrest
  - Investigated complaints, ran the jail and collected taxes

# Town Marshall

- Used in urban areas
- Very individualistic policing

# Modern American Police Departments

- Philadelphia- 1833 First Paid daytime Police Force (ended 3 years later)
- New York- 1844 (put into effect 1 year later)
- Chicago- 1851
- New Orleans and Cincinnati- 1852
- Baltimore and Newark- 1857

# Modern American Police Departments

- American officers refused uniforms feeling they made them easy targets for harassment and made them look like servants.
- Uniforms did not become widely accepted until after the American Civil War.

# Local Politics and Politicians

- Controlled urban police department
- Getting hired and promoted depended on who you knew rather than what you knew

# Early American policing

- Primitive in nature
- Most patrolled on foot
- Corruption and brutality common
- Very little training or supervision
- The major role was to maintain order

# The Three Eras of Policing

- The Political Era (1840-1930)
- The Reform Era (1930-1980)
- The Community Era (1980-Present)



# The Political Era (1840-1930)

- Police forces characterized by:
  - broad social service function
  - a decentralized organization
  - intimate relationship with community
  - extensive use of foot patrol
- The spoils system
- The Pendleton Act and civil service system
- African-American officers – discriminated against, kept segregated
- Women officers –protective and nurturing role, not crime-fighting

# The Reform Era (1930-1980)

- Police forces characterized by:
  - authority coming from the law and professionalism
  - crime control as primary function
  - centralized, efficient organization
  - professional remoteness from community
  - emphasis on preventive motorized patrol, rapid response to crime
- The Equal Employment Opportunity Act
- Minorities and women officers – obtained legal equality but still often encountered discrimination

# The Community Era (1980-Present)

- Police forces characterized by:
  - authority coming from community support, law and professionalism
  - provision of a broad range of services, including crime control
  - decentralized organization with more authority given to patrol officers
  - intimate relationship with the community
  - use of foot patrol and a problem-solving approach

# Police problems Then and Now

- Bribery
- Lack of training
- Lack of control
- Political control
- Lack of education
- Brutality (no back up)

# 20<sup>th</sup> Century Reforms

- Police uniforms first used in the US in 1853
- First telegraph boxes used in 1867
- 1910 first police car was introduced in Akron Ohio
  - Used by supervisors
  - Easier to get backup

# Reforms continued

- Substantial increase in pay for police officers
- Administrative review boards first established in early 1900s
  - Removed control of police from politicians and put it in the hands of the bureaucrats

# Administrative Review Boards

- Lessened the political influence on hiring and promotions
- Held police accountable for their actions

# Professionalism In Policing

- International Chiefs of Police (IACP)  
founded 1893
  - Advocated centralized organizational structures and record keeping
  - Curbed the power of precinct captains who were under political control



# August Vollmer

## Police Chief of Berkeley CA

- Strong proponent of police professionalism
- Strict department rules
- High levels of training and education
- Strict discipline
- Military type organization

# Results

- Chief Vollmer's department had a reduction in corruption
- There was increased control over the police officers
- This created incorruptible crime fighters who did not question the authority of the central command

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# Law Enforcement Today

- 14,254 to 18,760 separate police agencies in the U.S.
- 3,100 Sheriff's departments
- Over 15,000 municipal police agencies
- 1,376 special police forces including; animal cruelty, beach, harbor, hospital, housing, port, railroad, sanitation, school, transit, and transportation authorities.
- More than 1,000,000 people are employed in policing

# L. E. today continued...

- 49 state police agencies (all but Hawaii)
- 50 federal law enforcement agencies
- 623 Texas Constables

# L. E. Today Continued...

- As of 2000 there were 675,734 sworn officers and 294,854 civilians
- annual budget of about \$51 billion
- NYPD is the largest with 39,520 officers with the rank of lieutenant and below
- The majority of city police departments are small – fewer than 50 employees and serve a population of less than 25,000

More than 1,000,000 people are  
employed in policing

- 675,734 sworn officers and  
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# Municipal Police

- Most police officers are city police
- NYPD is the largest with 39,520 officers lieutenant and below.
  - NYC P.D. 39,520
  - NYC Transit 4,600
  - NYC School 3,200
  - NYC Housing 2,700
  - NYC Port Authority 1,700
  - Total 51,720



# Municipal Police

- Most officers work for smaller towns
- Usually 50 or less officers
- Population of less than 25,000
- Over 800 departments have only 1 officer
- Minneapolis Police: Approximately 1200 officers

# Policing is expensive

- \$80,600 per year per officer (includes salary, benefits, and equipment)
- Annual cost to citizens – \$179 per person
- If you need four (4) officers to have at least one officer on duty 24 hours a day what will that cost?
- This dose not include vehicle costs

# Policing is expensive

- According to the FBI Uniform Crime Report 139 officers were killed in the line of duty in 2004.

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- Mr. Holden

# County Law Enforcement

- Usually a Sheriff's department, some have a county police department
- Except for Hawaii and Rhode Island county sheriff's are elected
- In small population counties the Sheriff is responsible for the jail and court services

# County Law Enforcement continued

- Law enforcement activities usually restricted to unincorporated areas of the county
- The cost of one deputy per year is \$107,900

# The first state police

- Texas Rangers established in 1835
- Colorado Mounted Rangers 1861
- PA Capitol Police 1895
- Arizona Rangers 1901
- New Mexico Mounted Police 1905
- Pennsylvania Constabulary 1905

# State Police

- 26 agencies called Highway Patrol and 23 agencies called State Police



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# Why have a state police?

- Most state police were created in the early 1900s.
- This was in response to the highly mobile criminal who now had access to automobiles
- Also created to help counteract corrupt county sheriff's departments

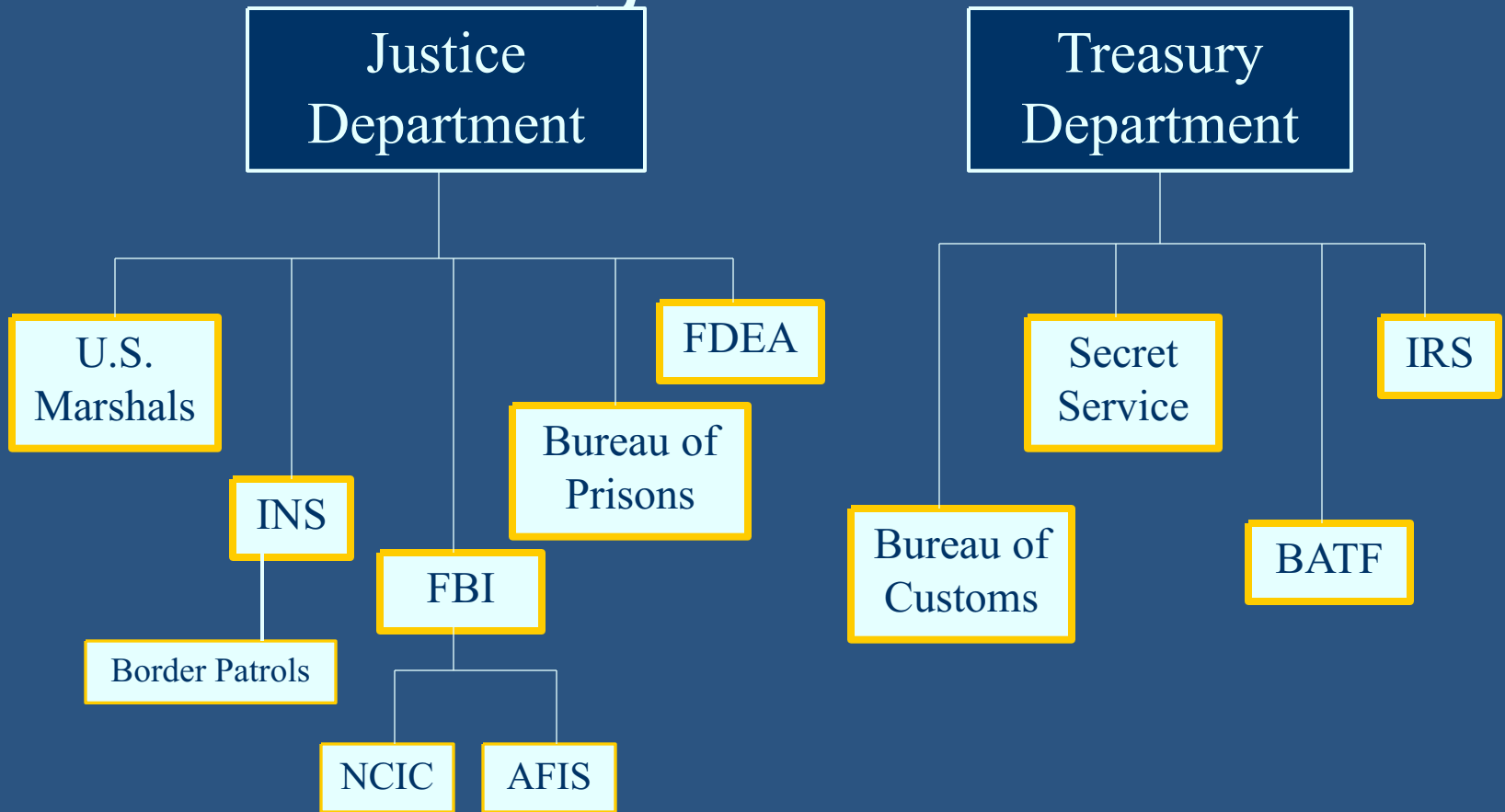
# Minnesota State Troopers

- Created and trained by Earl Brown at his farm in Brooklyn Center
- Primary duties are to enforce traffic laws and investigate traffic accidents
- They now have full police powers

# Federal Law Enforcement

- No particular rank or hierarchy
- Each Federal agency has been created to enforce specific laws

# Agencies\*



\* Reorganization may occur soon (7/11/02)

# Justice Department

- Headed by U. S. Attorney General \_\_\_\_\_.
- Justice Department agencies
  - FBI
  - DEA
  - U.S. Marshals
  - Immigration and Naturalization Service
  - Organized Crime and Racketeering Unit

# FBI

- Formed in 1908 to enforce the Mann Act
- They are limited to enforcing federal laws
- Fingerprint files
- Crime laboratory
- Compiles the Uniform Crime Reporting statistics – (UCR)

# FBI continued...

- NCIC – National Crime Information Center
- NCIC keeps records of **all individuals** convicted of a crime in the U.S.
- These records are available to all law enforcement agencies through out the U.S.



# DEA

- Drug Enforcement Administration
- Was the Bureau of Narcotics and Dangerous Drugs
- Formed in 1914 to enforce the Harrison act
- DEA established in 1973
- They investigate illegal importation and use of drugs

# U.S. Marshals

- Provide federal court services
- Transport prisoners
- Enforce court orders

# Organized Crime and Racketeering Unit

- Investigate mob and gang activity
- Enforce federal racketeering laws

# Treasury Department

- ATF
- IRS
- Customs Service
- Secret Service

# ATF - Alcohol Tobacco and Firearms

- Control sales of untaxed liquor and cigarettes
- Enforce firearms and explosives laws

# IRS

- Internal Revenue Service
- Enforces income, excise, stamp and other tax laws
- Investigate the unreported income of drug dealers, gamblers and other illegal businesses

# Customs Service

- Guards the U.S. ports of entry to insure no illegal or taxable goods enter the country

# Secret Service

- Created to enforce counterfeiting laws
- Today they are also responsible for the protection for the protection of the president, vice president, presidential candidates and ex-presidents



# Private Security

- 1.5 million security guards in the U.S.
  - Compare to 840,000 police officers

Over 1 billion dollars are spent on private security each year.

# Two types of private security

- Proprietary – a company that has its own security force
- Contractual – an organization or company who contracts with a security company to provide security

# Responsibilities

- Alarm response
- Misdemeanor investigation
- Parking enforcement
- Body guard

# Problems

- Questionable impact on crime
- Lack of training and standards
- Private security may cause additional problems for the police

# What is *law*?

- **Law** refers to all the rules of conduct established and enforced by the custom, authority or legislation of a group, community or country.
- Law implies both prescription (rule) and enforcement by authority.
- In the United States, those who enforce the laws are *not* the same as those who make them.

# Our Complex System of Laws

- *Form* – written or unwritten common law
- *Source* – constitutional, statutory, case
- *Parties involved* – public, private
- *Offense* – criminal, civil

# Order of Authority of Law

U.S. Constitution

Treaties with Foreign  
Powers

Acts of Congress

State Constitutions

State Statutes

Common Law/Case Law



# The First Amendment

*"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."*

- Freedom of Religion
- Freedom of Speech
- Freedom of the Press
- Freedom of Peaceable Assembly
- Freedom of Petition



# The Second Amendment

*"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."*

- Gun ownership issues
- The Brady Law

# The Fourth Amendment

*"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."*

- Requires probable cause
- Forbids unreasonable search and seizure
- Exclusionary Rule:
  - *Weeks v. United States*
  - *Mapp v. Ohio*

# The Fifth Amendment

*"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."*

# The Fifth Amendment

## ■ *Guarantees:*

- Due process: substantive & procedural

## ■ *Prohibits:*

- Double jeopardy
- Self-incrimination

# The Sixth Amendment

*"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."*

# The Sixth Amendment

Establishes requirements for criminal trials:

- A speedy public trial by an impartial jury of one's peers
- Be informed of the nature and cause of the accusation
- Be confronted with and able to cross-examine witnesses against one's self
- Subpoena witnesses in one's defense
- Be represented by legal counsel

# The Eighth Amendment

*"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."*

- Bail
- Cruel and unusual punishment – issues regarding the death penalty

# The Ninth Amendment

*"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."*

- Government powers are limited by the rights of the people
- The people have *zones of privacy* safe from governmental intrusion – the right of privacy is guaranteed by the Constitution



# The Tenth Amendment

*"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."*

Embodies the  
principle of  
*federalism*

# The Fourteenth Amendment

## ***Section 1.***

*"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."*

# The Fourteenth Amendment

## ■ Selective Incorporation Doctrine

- only those provisions of the Bill of Rights fundamental to the American legal process are applicable to the states through the due process clause
- the Second Amendment remains nonincorporated (i.e., not made applicable to the states)

## ■ Due Process

- duplicates the Fifth Amendment

## ■ Equal Protection

- “all people are created equal”

# Criminal Law



## **Felony:**

a serious crime  
generally punishable  
by death or  
imprisonment for  
more than one year

## **Misdemeanor:**

a minor offense  
generally  
punishable by a  
fine or a short term  
of confinement,  
usually less than  
one year

To prove a crime has been committed, it is usually necessary to prove:

- *Actus reus* – material elements of the criminal act
- *Mens rea* – criminal intent



# Criminal vs. Civil

## Crime

- Public wrong
- State prosecutes
- Seeks to punish
- Criminal intent required

## Tort

- Private wrong
- Individual prosecutes
- Seeks redress for injury
- Intent not necessary

# 42 U.S.C. § 1983



Anyone acting under the authority of local or state law who violates another person's constitutional rights – even though they are upholding a law – can be sued.  
(Section 1983 of 42 U.S. Code)